



**SENT BY EMAIL**

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RE: **EOEA #14346**/ Comments on the Environmental Notification Form; Comments on  
Scope for the Environmental Impact Statement for the U. S. Army Corps of  
Engineers

Dear Ms. Eglinton and Mr. Anacheka-Nasemann,

Thank you for the opportunity to comment on the Executive Office of Transportation's (EOT) Environmental Notification Form (ENF) for the South Coast Rail project, as well as scoping comments on the proposed Environmental Impact Report (EIR) and Environmental Impact Statement (EIS). Public Employees for Environmental Responsibility (PEER) is a Washington D.C.-based non-profit, non-partisan public

interest organization concerned with honest and open government. Specifically, PEER serves and protects public employees working on environmental issues. PEER represents thousands of local, state and federal government employees nationwide; our New England chapter is located outside of Boston, Massachusetts. PEER has been attending the Southeastern Massachusetts Commuter Rail Task Force meetings on this project since their inception.

PEER is very troubled by the way in which this environmental review process has been handled by the Commonwealth, and also by the content of the ENF. Our specific comments are set forth below.

**Project purpose and need.** The ENF appears to incorrectly state the Section 404 basic project purpose. On April 30, 2008, the Commonwealth's Phase 1 Final Report stated that the Basic Project Purpose was "to more fully meet the existing and future demand for public transportation between Fall River/New Bedford and Boston, Massachusetts." However, in the November 19, 2008 Environmental Notification Form (ENF), the Commonwealth states that the Basic Project Purpose is "to more fully meet the existing and future demand for public transportation between Fall River/New Bedford and Boston, Massachusetts *to enhance regional mobility*" (emphasis added). While the addition of that phrase may seem minor, it may result in certain alternatives being rejected because they do not "enhance regional mobility." The EIR should be changed to reflect the true Basic Project Purpose.

In addition, PEER is troubled by the fact that the state and federal agencies have different project purposes, and believe that this will result in different practicable alternatives. Although 40 CFR Section 1506.4 allows lead federal agencies to combine agency documents to reduce duplication and paperwork, doing so in this case will almost certainly lead to conflicting preferred alternatives. Specifically, the Commonwealth's stated purpose and need for the project is to "more fully meet the existing and future demand for public transportation between Fall River/New Bedford and Boston, Massachusetts *to enhance regional mobility, while supporting smart growth planning and development strategies in affected communities*" (emphasis added). By including the purpose of supporting smart growth, certain alternatives that do not necessarily support smart growth, but do provide transportation between Boston and Fall River/New Bedford, will be eliminated from further analysis contrary to Section 404 of the Clean Water Act. For example, the Rapid Bus alternative, which appears to be the least environmentally damaging and the least expensive, will likely be rejected by the Commonwealth because "is anticipated to have the lowest potential for smart growth opportunities of all the build alternatives."<sup>1</sup> PEER cautions both the Corps and the applicant that this scenario could result in the Commonwealth's preferred alternative being unpermissible. Not only is the Corps required to issue a permit for the least environmentally practicable alternative (LEDPA), which appears to be the Rapid Bus Alternative, but it cannot issue a permit for an alternative that would cause or contribute to degradation of waters of the United States. The alternative that will undoubtedly be the Commonwealth's preferred alternative, the Stoughton Alternative, or Alternative 4, is

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<sup>1</sup> See page 6-16 of the ENF.

the most environmentally damaging, and would clearly cause or contribute to significant degradation, in violation of 40 CFR 230.10(c). Moreover, 40 CFR Section 1506.2(d) requires the EIS to “discuss any inconsistency of a proposed action with any approved State or local plan and laws ...[and] describe the extent to which the agency would reconcile its proposed action with the plan or law.” The EIR/EIS should discuss the discrepancy between the two project purposes, and explain how it will be reconciled.

**Arbitrary thresholds must be eliminated.** The Commonwealth’s arbitrary thresholds used to discard alternatives may eliminate otherwise practicable alternatives, and these should not be included in the EIR/EIS. In the ENF, the Commonwealth states that some alternatives are impracticable because they cannot be built by 2016, and therefore should be eliminated. In addition, they reject other alternatives because of longer travel times.<sup>2</sup> These arbitrary thresholds cannot be used to eliminate alternatives. As the basic project purpose does not include dates by which the project has to be complete, or maximum travel times, the Corps should be careful to include all these alternatives in the EIS alternatives analysis.

**Combined process for EIR/EIS.** PEER believes that the state process is moving more quickly than the federal process – *not* simultaneously - and is yielding results inconsistent with the federal Clean Water Act. The Commonwealth has publicly stated that it has already eliminated the Attleboro Alternative from consideration, and Governor Patrick called the bus alternative “unacceptable.”<sup>3</sup> Furthermore, the Commonwealth has stated that the remaining Middleborough Alternative does not provide what the state considers the necessary level of service. Thus, as far as the Commonwealth is concerned, it appears that only the Stoughton Alternative remains viable. PEER firmly believes that the Stoughton Alternative is unpermissible due to the fact that it would cause or contribute to significant degradation of waters of the U.S. The Corps must ensure that all alternatives, including the no build alternative and the bus alternative, are fully and fairly considered in the EIS.

**Smart growth.** As stated above, PEER objects to the inclusion of smart growth in the project purpose. However, if the Commonwealth persists in including smart growth as part of its project purpose, it must account for the environmental impacts from such growth. 40 CFR Section 1508.25(a) states that an EIS must consider connected actions. Actions are connected if they will not proceed without the action being considered, or are interdependent parts of a larger action. If the Commonwealth is going to take credit for “smart growth,” it must also be accountable for the negative effects of such growth.

Page 1-8 of the ENF states, “New transit service to the South Coast will bring new jobs and homes to the region. Uncontrolled, new growth can bring some unwanted changes,

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<sup>2</sup> These stated time limits of no more than 90 minutes are also used arbitrarily. For example, the Stoughton Alternative train ride is supposed to take approximately 83 to 88 minutes. If you include the time it takes to drive to the train station, park your car, and wait for the train, the commute will certainly be more than 90 minutes. Therefore, using the 90 minute threshold, the Stoughton Alternative should be eliminated from consideration.

<sup>3</sup> <http://www.southcoasttoday.com/apps/pbcs.dll/article?AID=/20081121/NEWS/811210357>

eating up farms, fields and forests, and eroding historic villages and cities.” Although the state claims that smart growth is part of the project for the region, it has not offered any concrete mechanisms that will help towns achieve smart growth. Specifically, while transit-oriented-development (TOD) in appropriate areas is desirable, TODs by themselves are not smart growth. Unless a municipality can preserve land elsewhere in its town, dense TODs will just speed up development – and sprawl – within that municipality. PEER understands that the Commonwealth and the regional planning councils will be offering technical assistance to affected communities. However, technical assistance will not lead to smart growth. Affected towns will need money and a legal mechanism to preserve open space in exchange for allowing dense development near the proposed train stations. The EIR/EIS must articulate precisely how this smart growth will occur, and the costs associated with it. If the Commonwealth is unable to provide details as to how open space will be preserved in each affected municipality, then the smart growth portion of the project purpose should be removed. Moreover, environmental impacts from the additional uncontrolled growth must be assessed and mitigated for.

**Ridership and definition of service area.** Ridership figures must justify the need for this project. As of the writing of this letter, the Commonwealth has not released any ridership figures, and it is difficult to understand how the process has come as far as it has. Page 2-4 of the ENF states, “The latent demand for transit (the number of daily work trips from the *South Coast region* to Boston), based on U.S. Census 2000 Journey-to-Work (JTW) data, is approximately 8,000” (emphasis added). According to the EOT, the “South Coast region” appears to include the following towns: Acushnet, Berkley, Dartmouth, Dighton, Easton, Fairhaven, Fall River, Freetown, Lakeville, Mattapoisett, New Bedford, Norton, Raynham, Rehoboth, Rochester, Somerset, Swansea, Taunton and Westport.<sup>4</sup> It is interesting to note that the Standard Times, the newspaper who coined the phrase “South Coast region,” considers the towns to only include Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, Marion, Mattapoisett, New Bedford, Rochester, Swansea, Somerset, Wareham, and Westport. Other entities define it differently – for example, UMass defines the South Coast to include Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, Lakeville, Marion, Mattapoisett, New Bedford, Rochester, Seekonk, Somerset, Swansea, Wareham and Westport.<sup>5</sup> Even the Southeastern Regional Planning and Economic Development District (SRPEDD) defines the southeastern region of Massachusetts as including Acushnet, Berkley, Carver, Dartmouth, Dighton, Fairhaven, Fall River, Freetown, Lakeville, Mansfield, Marion, Mattapoisett, Middleborough, New Bedford, North Attleboro, Norton, Plainville, Raynham, Rehoboth, Rochester, Seekonk, Somerset, Swansea, Taunton, Wareham, and Westport.<sup>6</sup> Regardless, it is important to note three things: 1) that the “South Coast region” is not a defined area that is agreed upon by all entities; 2) Easton is not included in any of the definitions; and 3) Wareham is included in everyone’s definition except for the EOT’s. Therefore, the EIR/EIS should justify why the EOT has chosen the definition of “South Coast region” that it did. PEER is concerned that by including the town of

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<sup>4</sup> See Table 5-24 of the ENF, page 5-73.

<sup>5</sup> <http://www.umassd.edu/southcoast/tourism/>

<sup>6</sup> [http://www.srpedd.org/cities\\_towns.asp](http://www.srpedd.org/cities_towns.asp)

Easton, but excluding towns like Wareham, the EOT and its consultant are skewing the alternatives analysis towards the Stoughton Alternative, and away from the Middleboro Alternative. Easton has far more commuters going into Boston than any other town on the EOT's list, yet Easton is already in close proximity to at least four existing train stations.

In fact, several of the towns EOT includes on its list of the South Coast region are already extremely close to train stations, and thus residents likely already commute via train. For example, the Town of Easton has 1,495 people who commute to Boston or Cambridge. Various areas of Easton are within approximately 5 miles of several train stations: Stoughton, Brockton, Sharon, and Mansfield. Moreover, many Easton people will drive to the Canton Junction Station or Route 128 to take advantage of the more frequent trains. Because these people are already serviced by rail, there is no "latent demand" for them to have a train. In other words, these would not be new riders. Similarly, people in Lakeville are only 3.3 miles from a train station. If you remove the towns that are less than 9 miles from an existing train station (a reasonable distance to drive), you would eliminate the commuters from Easton, Lakeville, Norton, Raynham, and Rehoboth. This is a total of 3,317 people who are already close to an existing train station. Therefore, of the 8,063 people from the South Coast region who commute to the Boston area, there are 4,746 people who are currently more than 9 miles from a station.

It is interesting to note that the Commonwealth's consultant states on page 2-17 of the ENF, "As noted previously, the U.S. Census (2000) estimates that 8,000 people from the Fall River and New Bedford area commute to Boston." This is misleading, disingenuous, and should be removed from the EIR/EIS. It is highly unlikely that people in Easton, Norton, Raynham, etc. consider themselves part of the "Fall River and New Bedford area." Rather, these 8,000 people commute from the South Coast region, some of which are much closer to Boston than they are to New Bedford or Fall River.

The Journey to Work data relied upon by the EOT states that 741 people from New Bedford commute to the Boston area, and 714 commute there from Fall River. This is a total of 1,455 commuting to Boston and Cambridge. PEER believes that the real impetus behind this project, aside from the fact that it has been a longstanding political promise that has yet to be fulfilled, is that many people think the train will cure the economic woes of Fall River and New Bedford. To reiterate, Fall River and New Bedford have only 1,455 people commuting to Boston and Cambridge for work, 1.8% and 2.0%, respectively, of the total workers. A train will not suddenly enable thousands of people to get jobs in Boston. In fact, 1,667 people from Fall River commute to New Bedford for work, with another 1,248 commuting to Somerset, and another 1,078 commuting to Swansea.<sup>7</sup> Similarly, 1,902 people living in New Bedford commute to Fall River, 2,145 to Fairhaven, and 3,761 to Dartmouth.<sup>8</sup>

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<sup>7</sup> <http://www.census.gov/population/www/cen2000/commuting/mcdworkerflow.html>

<sup>8</sup> Id.

Page 2-20 of the ENF concedes that, “The barriers to economic growth in the South Coast Rail corridor are access to labor, labor skill levels, quality of broadband service, and access to any intermodal freight rail yard.” However, pages 2-20 to 2-21 then state:

Improved access to employment markets in Boston would provide employment opportunities for the New Bedford and Fall River labor force that would provide economic benefits for these communities. Intercity rail service could also allow limited “reverse commutes” from area communities like Taunton to New Bedford and Fall River, which would thereby gain access to a larger labor pool within the southeastern Massachusetts region. Economic benefits are predicted based on data from other regions, which demonstrates that the introduction of commuter rail into previously unserved areas typically has a significant positive impact on residential property values.

These two statements do not seem to support one another. The EIR/EIS should clarify whether Fall River and New Bedford suffer from a lack of access to labor, which is stymieing their economic growth, or whether the train would allow them to commute to Boston for jobs. If the issue is getting people back and forth between Taunton and Fall River/New Bedford, then a much more limited rail or bus service between these communities should suffice.<sup>9</sup> Furthermore, the EIR/EIS should back up the statement regarding impact on residential property values with data.

At a cost of up to \$3 billion, and overwhelming environmental impacts, the Corps must ensure that this project is necessary. Despite the fact that the Massachusetts Bay Transportation Authority (MBTA) currently suffers from staggering debt,<sup>10</sup> the Commonwealth has still not determined the ridership figures that would justify increasing this debt. If the reason for constructing this project is truly to satisfy a need for transporting people from Fall River/New Bedford to Boston, then the ridership figures should support this contention. Furthermore, the Corps should ensure that the alternatives analysis evaluates both the environmental and financial impacts of this project relative to the MBTA commuter rail system as a whole. Therefore, the analysis of the Middleboro alternative must include a consideration of how improvements to the Quincy/Braintree section of line would benefit future expansions of the commuter rail system to Cape Cod. Finally, any ridership estimates developed by the MBTA must be looked at carefully. The MBTA estimated that the Greenbush line would be used by 8,400 riders each day. However, after a year of operation, there are approximately 2,118 riders per day, and many of these have been pulled off of other MBTA methods of

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<sup>9</sup> In fact, the Journey to Work data indicate that mass transportation between Fall River and New Bedford and Taunton might be more useful than Boston: 1,082 people commute from New Bedford to Taunton; 1,220 people commute from Fall River to Taunton, and 831 people commute from Taunton to Fall River, while 455 people commute from Taunton to New Bedford. However, this would also depend on the quality of transportation once someone arrives at their destination, as it is unlikely that everyone would work right next to the train or bus station.

<sup>10</sup> The deficit for fiscal year 2009 – 2010 is reported to be \$142 million, and one watchdog agency says the MBTA is near bankruptcy. See [http://www.boston.com/news/local/massachusetts/articles/2008/12/14/t\\_approaching\\_dire\\_financial\\_straits/](http://www.boston.com/news/local/massachusetts/articles/2008/12/14/t_approaching_dire_financial_straits/)

commuting.<sup>11</sup> The correct way to analyze these ridership figures is to determine how many *new* riders the project will attract – riders that move from one train line to another should not be counted, particularly with regard to greenhouse gas reduction estimates.

It is also extremely important for the EIR/EIS to figure out where people are actually traveling. Page 2-1 of the ENF states that, “The current transportation system serving the South Coast region is inadequate to meet the current needs of the region and will not meet the future demand placed upon it, as indicated by increasing traffic congestion and accidents.” However, the ENF does not accurately define where the traffic is going. Page 2-6 and 2-7 of the ENF state that:

On Route 24, the major north-south corridor in the South Coast area, the average daily traffic ranges from 28,900 vehicles per day in Fall River to over 122,000 vehicles per day in Randolph. Traffic congestion and long delays are common on the northern segments of this highway during weekday peak commuting periods.....Traffic volumes on Route 128 are approximately 135,000 vehicles per day north of Route 24 (towards I-95) and 185,000 vehicles per day to the south (towards I-93/Route 3).

What the ENF fails to say, despite repeated requests from members of the Task Force over the past year or longer, is how many of the vehicles traveling north on Route 24 bear left towards Route 128/95 northbound, and how many bear right towards Interstate 93 northbound. It is important to determine how many cars travel north on Route 24, then merge north onto 93, then stay on 93 into Boston or Cambridge. Without these data, the state has no way of knowing whether the proposed project will alleviate traffic or reduce accidents. The data provided in the ENF indicate that 185,000 vehicles drive towards Interstate 93/Route 3, but it does not say how many of those vehicles come from Route 24. The EIR/EIS must either present these data, together with a realistic estimate of how many cars will actually come off the road due to this project, or stop claiming that the proposed project will reduce traffic congestion. However, it is highly unlikely that this project would reduce traffic congestion. Even if there is an initial reduction of traffic,<sup>12</sup> it would be very small. In fact, a simple telephone call to the Massachusetts Highway Department (MHW) revealed that slightly less than half of the 125,000+ cars<sup>13</sup> on Route 24 in Randolph go north towards Boston, and slightly more than half go the other direction on Route 128/95.<sup>14</sup> For example, on average in October of 2008, 62,400 went towards Boston, and 63,000 went towards Dedham. Therefore, there are roughly 62,400 vehicles per day heading up Route 24 and going towards Boston. We still do not know how many of those bear off towards Quincy, Braintree, or even drive south on Route 3.

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<sup>11</sup> Specifically, since the Greenbush line was activated, the Hingham commuter boat (also run by the MBTA) lost 17% of its commuters, and the Quincy boat lost 22%.

<sup>12</sup> As will be discussed shortly, PEER believes that any traffic relief would be temporary due to induced traffic.

<sup>13</sup> <http://www.mhd.state.ma.us/traffic.asp?f=2&C=RTE.%2024>

<sup>14</sup> Personal communication, MHW, January 8, 2009

Regardless, for argument's sake, let's assume that all 63,000 go into Boston. Let's also assume that the ridership on the proposed South Coast rail is comparable to the Greenbush line. The MBTA predicted that there would be 8,400 riders per day on that line,<sup>15</sup> and they are predicting (probably incorrectly) that there is a demand for 8,000 riders in the South Coast Region. A year after operations began, Greenbush has approximately 2,100 riders per day.<sup>16</sup> If the proposed South Coast Rail enjoys the same success, and all these people drive alone (again, highly unlikely), 2,100 cars would come off the road. This would be a reduction of 3.4% of the cars coming off of Route 24 heading towards Boston.

This back-of-the-envelope analysis contains many assumptions, but most of the assumptions are conservative (and favor the Commonwealth's predictions). Even with these skewed assumptions, PEER does not believe that a temporary reduction of 2,100 cars per day will relieve congestion on Route 24, nor will it help prevent climate change.

**Cost of project.** The Commonwealth wants to spend no more than \$1.4 billion on this project.<sup>17</sup> PEER is concerned not only with the cost effectiveness of this project, but also with how it will be paid for. First, the \$1.4 billion is just a starting point. On June 20, 2007, Kristina Egan of the EOT acknowledged that cost of land for mitigation or the Transfer of Development Rights (TDR) is *not* included in this \$1.4 billion. Given the environmental impacts associated with several of the alternatives being considered for this project, mitigation costs are likely to be quite high. If the Stoughton Alternative is ultimately selected as a preferred alternative, the cost will likely be close to \$2 billion. If we assume that there will be 8,000 riders on this train (something that is highly unlikely), the construction alone would be \$250,000 per person. If, as PEER suspects, the ridership would be closer to 2,000 new riders, that would be a cost of ***\$1 million per person***.<sup>18</sup> In these times of financial uncertainty at a national, state, and municipal level, PEER does not think that this project is financially responsible.

In addition, the MBTA is in dire financial straits, and according to one watchdog group, near bankruptcy.<sup>19</sup> With a deficit in fiscal year 2009 – 2010 of \$142 million, it is difficult to see how this project will be paid for. Recently, numerous proposals have been floated to pay for this project. One involves getting tax money from the communities who would “benefit” from the train; another involves a tax on SUVs. Neither municipalities nor commuters can afford to shoulder this astronomical bill, and the Commonwealth should not consider its construction unless and until it knows how it would be paid for. Even former Secretary of Transportation Bernard Cohen did not believe that the train could pay for itself. Media reported that, “The secretary recently was reprimanded by the governor for publicly questioning his belief that economic development could recover the cost of

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<sup>15</sup> See [http://www.mbta.com/about\\_the\\_mbta/t\\_projects/default.asp?id=990](http://www.mbta.com/about_the_mbta/t_projects/default.asp?id=990)

<sup>16</sup> [http://www.mbta.com/about\\_the\\_mbta/news\\_events/?id=16033&month=&year=](http://www.mbta.com/about_the_mbta/news_events/?id=16033&month=&year=). But note that these are not all new riders – many came to the Greenbush line from other existing MBTA programs.

<sup>17</sup> Not surprisingly, this happens to be the exact estimate for the Stoughton Alternative.

<sup>18</sup> Note that this is for construction costs only – not operating costs, which would be additional money.

<sup>19</sup> [http://www.boston.com/news/local/massachusetts/articles/2008/12/14/t\\_approaching\\_dire\\_financial\\_straits/](http://www.boston.com/news/local/massachusetts/articles/2008/12/14/t_approaching_dire_financial_straits/)

the expansion of commuter rail to New Bedford.”<sup>20</sup> If the Commonwealth were truly taking a fresh look at this project, they would ask what the project purpose really is, and whether it is worth the projected costs.

On the other hand, the Rapid Bus Alternative would cost a fraction of the \$1.4 billion budget.<sup>21</sup> Given that the Rapid Bus Alternative would provide the fastest and cheapest commute to Boston, and has the least environmental impacts, the EIR/EIS should give this full consideration.

**Greenhouse gas emissions.** PEER is particularly troubled by the Commonwealth’s insistence that this project will reduce greenhouse gas emissions. Over the years, PEER has challenged this contention, and so far, the Commonwealth has not presented any data to support this contention. Page 2-11 of the ENF states:

There is currently only private bus service for South Coast commuters that would reduce the emissions of pollutants like nitrogen oxides, ozone, and carbon monoxide and greenhouse gases like carbon dioxide. A shift in travel from automobiles to rail could reduce vehicle emissions, improve regional air quality, and reduce the Commonwealth’s contribution to greenhouse gases and climate change.

Of course, the best way to reduce greenhouse gas emissions is to live where you work. Therefore, creating livable cities with employment opportunities would be a better way to reduce greenhouse gas emissions. Since the Commonwealth insists that this is a transportation project, and not an economic redevelopment project, that alternative will not be explored. However, before the EOT can claim that air quality would be improved, it must demonstrate that this is true. PEER believes that any relief of traffic congestion would be short-lived. The phenomenon of induced traffic shows that when cars do get diverted off a highway, within a relatively short time frame, more cars move in to take their place. Therefore, it appears that a diesel train will, after only a year or two, actually contribute *more* to greenhouse gas emissions than no train at all. The EIR/EIS must address this.

Even more troubling is the idea that this project would be so beneficial to air quality and reducing greenhouse gases that this project ought to receive credit for saving wetlands elsewhere, and perhaps even be forgiven the wetland fills associated with it. For example, at the December 10, 2008 Task Force meeting, Chairman John Bullard said:

[T]here is a tendency to measure projects by themselves, with the assumption that the status quo circumstances will continue, when they will not. Sea level rise will cause a loss of wetlands and there should be a focus on the significant contributors such as people driving cars; yet, there is no way to put the benefit of removing cars into the equation.<sup>22</sup>

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<sup>20</sup> <http://www.southcoasttoday.com/apps/pbcs.dll/article?AID=/20081216/NEWS/812160334>

<sup>21</sup> See Table 4-34 on page 4-66 of the ENF.

<sup>22</sup> See minutes of 12/10/08 Task Force meeting.

PEER does not believe that there will be *any* measurable reduction in greenhouse gases associated with this project. If the Commonwealth is going to continue to assert that this project would reduce greenhouse gas emissions – or prevent sea level rise – it must present hard data to back up that claim.

The Commonwealth’s consultant states on page 2-10 of the ENF that, “Globally, an estimated 36 percent of carbon dioxide emissions come from gasoline combustion, and an estimated 14 percent of the total greenhouse gas emissions come from transportation fuels.”<sup>23</sup> The EIR/EIS should directly compare diesel train emissions with car emissions once realistic ridership figures are determined. It is important to keep in mind that diesel trains are not innocuous. The Clean Air Task Force estimates that Diesel locomotives released almost 900,000 tons of NOx in the year 2002, which comprises 8% of all mobile source emissions.<sup>24</sup>

PEER is also troubled by the fact that the Commonwealth is contemplating investing \$1.4 billion – or more – on a fossil fuel technology. Given that burning fossil fuels contributes to global warming, it seems that all diesel alternatives should be eliminated. We do not know how many more years we have of readily available fossil fuels, but we do not that combustion of them is problematic. Therefore, considering the monetary investment is so large, it makes sense to build a system that can accommodate flexible fuels. The EIR/EIS should address this issue.

**Alternatives.** The Commonwealth constantly reiterates that it is giving all the alternatives a “fresh look,” and claims it will not be biased by the previous flawed work done on this project. On page 1-3 of the ENF, the Commonwealth states:

In 2002, a Final EIR, submitted by the MBTA, concluded that extending the Stoughton Line was the most practicable and feasible of the alternatives and EOT received state-level approval from the Secretary of Environmental Affairs to proceed with planning for the South Coast Rail project as an extension of the existing Stoughton Line.

What the ENF fails to state is that the 1995 ENF preferred the Attleboro Alternative. It was not until area legislators stepped in and mandated that the MBTA use the Stoughton Alternative that Stoughton became the favored route. Specifically, on June 30, 2000, the transportation bond bill contained the following language:

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<sup>23</sup> Please note that the citation for this statistic is Wikipedia. Middle school children in Massachusetts are not allowed to cite to Wikipedia in school because of all the errors contained therein. See, e.g., <http://www.nature.com/nature/journal/v438/n7070/full/438900a.html>. PEER is flabbergasted that the consultant on this case is relying on Wikipedia for its science.

<sup>24</sup> [http://www.catf.us/publications/factsheets/Diesel\\_Sources\\_and\\_Regulations.pdf](http://www.catf.us/publications/factsheets/Diesel_Sources_and_Regulations.pdf)

The Massachusetts Bay Transportation Authority *shall* use an extension of the Stoughton commuter rail route through the municipalities of Stoughton, Easton, Raynham and Taunton in order to provide commuter rail service to New Bedford and Fall River (emphasis added).

This legislation succeeded in bypassing all the environmental laws and mandating a specific route. Since that time, the Commonwealth has done nothing but justify a decision that has already been made. In fact, the ENF blatantly uses the past decision as a reason to choose the Stoughton Alternative again. For example, page 4-52 of the ENF states:

The design and permitting schedule for ... [the Stoughton] alternative is approximately six months to a year shorter than other alternatives due to the benefit of using some of the design concepts completed during the Final EIR phase in 2002.

In addition, the ENF touts the benefits of building through greenspaces as opposed to already developed areas. Specifically, page 6-12 states, “The majority of construction activities for this alternative would occur on rights-of-way with limited or no train activity. This will allow for a more expedient construction schedule.” If the Commonwealth truly wants to encourage smart growth, it should start by avoiding those easy to build on green spaces, and think more about developing brownfields. Moreover, if the Commonwealth were truly taking a fresh look at alternatives, it would have used a new consultant,<sup>25</sup> and it would not rely on the fact that previous flawed analysis chose the Stoughton Alternative. In fact, until a few months ago, the MBTA’s website contained a map showing the new rail line going through Stoughton to Fall River and New Bedford. It was only after PEER complained that this map was removed.

The current alternatives analysis is just as flawed as the one in the 2002 EIR. For example, page 3-3 of the ENF states that the applicant screened out alternatives by first evaluating whether an alternative met the project purpose. The ENF states, “Alternatives that did not meet the Step 1 criteria were dismissed from further consideration.” Unfortunately, the Commonwealth used the state’s project purpose, not the federal Basic Project Purpose. Since the federal project purpose is narrower than the state’s, it would seem logical to use the federal project purpose to avoid eliminating an alternative from consideration that may end up being the least environmentally damaging practicable alternative (LEDPA) for the federal agencies.

Step 2 of the process evaluated those alternatives surviving the flawed Step 1. The ENF states:

In Step 2, “practicable” was defined as capable of being constructed and operated after taking into consideration cost, *ridership*, construction impacts, existing technology, and logistics in light of the overall project purpose.

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<sup>25</sup> For a description of the consultant’s errors on the last EIR, see [http://www.peer.org/pubs/whitepapers/Science\\_Derailed.pdf](http://www.peer.org/pubs/whitepapers/Science_Derailed.pdf)

Alternatives that were not practicable were dismissed from further consideration (emphasis added).

The Commonwealth has not yet developed ridership figures. How then, could they have eliminated alternatives based on ridership?

Finally, the applicant asked whether the alternative “could be constructed without substantial impacts to the existing system and in a reasonable (four-year) timeframe.” As stated above, this four year time frame is arbitrary and should be removed.

One alternative aside from the Rapid Bus Alternative which appears to be the most promising is the Middleboro Simple alternative. The ENF makes numerous statements that indicate that the Middleboro simple is not sufficient. For example, page 4-38 of the ENF states that, “Additional trains cannot be added to the Old Colony Main Line without significant infrastructure improvements.” However, one thing the ENF did not contemplate is adding cars to existing trains. Currently, MBTA designs lines to accommodate nine cars per locomotive.<sup>26</sup> However, many locomotives pull only 5 to 6 cars. If the MBTA were to replace the cars on the Middleboro line with double-deckers, and pull as many cars as possible, the capacity of that line could be increased. New cars just purchased by MBTA hold approximately 158 people per car.<sup>27</sup> By adding three cars per locomotive, the MBTA could add 474 seats per train. The Middleboro line currently has four morning rush hour trains that stop at Middleboro/Lakeville, and another four during rush hour for the return trip. By adding three cars to each of the four trains, the MBTA could add 1,896 seats *to existing trains*. Since the line can accommodate one more (new) train, this could add another 1,422 seats, for a total of 3,318 new seats. If the platforms were not big enough to handle the increased number of cars, the platforms could be extended. The EIR/EIS should examine this alternative.

Cape Rail, Inc., a company currently running freight and passenger trains in south coast Massachusetts, owns and/or operates existing rail lines from Fall River and New Bedford.<sup>28</sup> Cape Rail has offered to enter a private public partnership with the Commonwealth, whereby the existing freight tracks are upgraded to accommodate passenger trains. Since the tracks from Fall River/New Bedford to Boston (via Middleboro) already exist, this alternative would be much cheaper than building new tracks through undisturbed landscapes, and would be less environmentally damaging.<sup>29</sup> Cape Rail has determined a method of easily bringing the train to the existing Middleboro/Lakeville station, - without the 15 minute delay contemplated by the ENF<sup>30</sup> – and adding another station in downtown Middleboro. This alternative also utilizes the suggestion stated above; that is, adding cars to the existing locomotives to increase

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<sup>26</sup> [http://www.mbta.com/about\\_the\\_mbtta/?id=13749](http://www.mbta.com/about_the_mbtta/?id=13749)

<sup>27</sup> <http://www.highbeam.com/doc/1P2-8110311.html>

<sup>28</sup> <http://www.masscoastal.com/map.php>

<sup>29</sup> See ENF page 5-14, which states that the Middleboro simple alternative would result in wetland fill of 3.6 acres, with no wetland fill in an ACEC, no work in proximity to certified vernal pools, no new stream/river crossings, and low indirect impacts to wetlands.

<sup>30</sup> See page 4-38 of the ENF.

capacity. This alternative could be implemented quickly and more cheaply than other alternatives. The EIR/EIS should examine this alternative in detail. Once realistic ridership figures are determined, if this modified Middleboro Alternative does not provide enough capacity, it could perhaps be combined with a Rapid Bus alternative. By offering several different modes of transportation in this way, the Commonwealth may have an opportunity to increase commuting via mass transportation.

PEER also urges the Corps to consider retaining the Middleboro Full alternative in its analysis. It is unfair to assign the full cost of this alternative to this particular project. The bottleneck at Quincy/Braintree will need to be broken in the near future. For example, the Commonwealth claims that it wants to extend rail to Wareham and Cape Cod. There has also been talk of using rail to get people to the proposed casino in Middleboro. If any meaningful rail traffic is to be added to this line, the bottleneck must be broken. Therefore, the EIR/EIS should examine the possibility of starting with the Middleboro simple alternative, and leaving the door open for the Middleboro full in the future.

Finally, PEER urges the Corps to look at the No Build Alternative very closely. As stated in the ENF, there is existing bus service to Boston. The EIR/EIS should examine enhancement of these buses, and buses to the nearest rail station.

**Environmental impacts.** PEER is extremely concerned about the environmental impacts associated with the Stoughton Alternative. Specifically, we are concerned with direct and indirect impacts to wetlands, degradation of municipal water supplies, stream crossings, fragmentation of the Hockomock Swamp, and impacts to vernal pools and rare species. The ENF states that the loss of wetlands associated with the various alternatives ranges from “1.3 acres for Alternative 5, to 9.9 acres for Alternative 3.” (However, page 1-4 of the ENF states that “up to 14 acres of fill material” will occur as a result of the proposed project. The EIR/EIS should use consistent numbers.) In order to construct this project, then, the Commonwealth must issue itself a variance. In order to properly obtain a variance, the Commonwealth must demonstrate that there are no reasonable alternatives that would comply with the Wetlands Protection Act regulations; that mitigation would result in protection of interests of the Act; and that the variance is necessary to “accommodate an overriding community, regional, state or national public interest.” 310 CMR 10.05(10). Moreover, the project must comply with the 404(b)(1) guidelines, the federal regulations pursuant to Section 404 of the Clean Water Act. Specifically, the Corps of Engineers can only permit the least environmentally damaging practicable alternative (LEDPA), and that LEDPA cannot cause or contribute to significant degradation of waters of the United States.

PEER believes that the Stoughton Alternative, due to the high impacts to the Hockomock Swamp and drinking water supplies, together with the existence of less environmentally damaging practicable alternatives, cannot possibly be issued a variance or a Section 404 permit. It will also be impossible for the Commonwealth to mitigate for impacts associated with bisecting the state’s largest freshwater wetland.

**Water quality.** Page 5-44 of the ENF states that, “All of the municipalities in and along the project alternatives have public drinking water supply wells that could be affected by future ground water contamination.” However, page 5-46 of the ENF goes on to say that “The *Massachusetts Drinking Water Program* classifies Transportation Corridors as a Lower Risk activity in an assessment of potential sources of ground water contamination.” However, when you look at page 23 of the document cited by the consultant, it actually defines transportation corridors as “road de-icing and materials transport.”<sup>31</sup> Since rail lines are not “road de-icing and materials transport,” we do not believe this conclusion is warranted. Rather, a better source would be the Massachusetts Department of Environmental Protection Source Water Assessment Program (January 1999), which provides a “Land Use Pollution Potential Matrix.” EPA requires states to “create an inventory of potential contamination sources and evaluate their likelihood to adversely impact source waters of public water supplies.” The table in the report lists “land uses and activities considered to be significant potential sources of contamination to drinking water. Each land use has been ranked relative to its threat to the water quality (high, moderate, low), considering the type of drinking water source (groundwater or surface water).” In this table, railroad tracks and yards are given “high” potential for both groundwater and surface water contamination.<sup>32</sup> The EIR/EIS should be changed to reflect this.

The ENF also incorrectly states:

Normal operation of rail or rapid bus does not result in impacts to water resources. Potential pollutants deposited on the railbed or on a dedicated bus lane are deposited in low concentrations because the vehicles are not stationary sources. Any pollutants deposited on railbed are trapped in the ballast... and do not migrate to surface or ground water.<sup>33</sup>

The purpose of ballast is to *drain* water. According to experts, “The granular material that supports crossties vertically and restrains them laterally is known as ballast. Ideal ballast is made up of hard, sharp, angular interlocking pieces *that drain well* and yet permit adjustments to vertical and horizontal alignment” (emphasis added).<sup>34</sup> Therefore, any pollutants that deposit on the ballast are not “trapped” – rather, they drain away with the water from precipitation.

The Stoughton Alternative would result in impacts to two Zone I municipal drinking water areas (in Easton and Raynham), and numerous acres of Zone II. Clean water will likely become a scarce commodity in the near future. Changing weather patterns, together with increased contamination of drinking water supplies, will undoubtedly lead to a scarcity of clean drinking water. PEER is particularly concerned about the potential impacts to the Hockomock Swamp, which was designated as an Area of Critical Environmental Concern (ACEC) partially because of its contribution to public water

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<sup>31</sup> <http://www.mass.gov/dep/water/drinking/whpguide.pdf>

<sup>32</sup> Id., page 2.

<sup>33</sup> ENF, page 5-46.

<sup>34</sup> McGraw-Hill Concise Encyclopedia of Engineering. © 2002 by The McGraw-Hill Companies, Inc.

supplies. Specifically, the Commonwealth's ACEC designation document states that "The value of the Hockomock Swamp resource area for public water supply is critical. .... the original area nominated for ACEC designation contains over one trillion gallons of water in groundwater storage....[DEP states that] the natural resources in these towns are of unquestionable value... Inappropriate development could threaten this critical public health and safety function of the ACEC."<sup>35</sup> The EIR/EIS must assess the risk to this drinking water resource and balance it against other alternatives. The fact that the Commonwealth is considering not only passenger trains on this line, but also freight, is of particular concern in these sensitive areas. The EIR/EIS must discuss the types of freight that would be carried, the potential impacts to all of these drinking water supplies, and emergency management in case of a spill or accident.

Moreover, as PEER commented in 2002, we conducted a water quality study comparing the water quality of vernal pools adjacent to the proposed rail line through the Hockomock Swamp with that of the pools adjacent to the existing active Attleboro line. The results showed that the dissolved oxygen in the vernal pools adjacent to the active rail line was significantly lower than undisturbed pools in the Hockomock. Since dissolved oxygen is necessary to support aquatic life, this is of great concern. The EIR/EIS should re-evaluate all blanket statements in the ENF claiming that trains do not lead to water quality degradation.

The ENF states that herbicides will be applied along the right-of-way.<sup>36</sup> This is also of concern to PEER, particularly in the Hockomock Swamp, the Assonet Cedar Swamp, near water supplies, and other sensitive areas. The EIR/EIS should discuss the impacts associated with this herbicide application.

**Wetlands.** The Stoughton Alternative proposes bisecting the Commonwealth's largest freshwater wetland, the Hockomock Swamp. The Hockomock was touted in its ACEC designation by the Commonwealth as "unique in all of Massachusetts...[its] uniqueness cannot be overstated ...the resource value of this area is immense...." The Commonwealth also stated that the Hockomock provides "the mass so necessary and essential to the protection and perpetuation of various plant and animal species .... as fragmentation occurs elsewhere, the 'Hock' will become one of the few places in eastern Massachusetts with relatively large and contiguous habitat." In addition, the Nature Conservancy states that the Hockomock is of "national importance based on its relatively undisturbed natural conditions." Finally, the Massachusetts Department of Environmental Management stated that "there is no other ecological area like it in southeastern Massachusetts, or in the rest of the Commonwealth. It is impossible to overemphasize the uniqueness or ecological value of the area."

Given these accolades, it is mind-boggling to PEER how the Commonwealth could now be contemplating running a train line through the middle of this ACEC. Given its uniqueness, mitigation will be impossible. Members of the Task Force claim that since a train ran through the Hockomock in the past, and it survived, then a train can run through

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<sup>35</sup> [http://www.mass.gov/dcr/stewardship/acec/acecs/designations/hock\\_des.pdf](http://www.mass.gov/dcr/stewardship/acec/acecs/designations/hock_des.pdf)

<sup>36</sup> ENF page 5-47.

it again without any deleterious effects. This is non-sensical. The trains that used to run through the Hockomock almost 50 years ago probably did have an impact on the resource. Unfortunately, there are no data from what the Hockomock was like before the train bisected it. One can just as easily postulate that the reason there are so many state-listed species in the Hockomock is that the old train endangered the species that were there. Because we have no data, we cannot speculate that there was no harm from that train. However, it is absolutely certain that bisecting the Hockomock today would have severe deleterious effects.

Moreover, contrary to what many people believe, there is only a flooded dirt path that runs along the right-of-way today. There is no ballast, no tracks, no ties. The Stoughton Alternative would not be a “reconstruction” or “rehabilitation” – it would be construction through a wilderness area.

Finally, PEER takes issue with the oft-repeated sentiment that the rail through the Hockomock would be mitigation in and of itself, because it would prevent ATVs from riding through the swamp.<sup>37</sup> This is analogous to amputating someone’s leg because they need stitches. PEER acknowledges that the illegal ATVs are problematic, but there are less drastic ways to deal with the situation than replacing the ATV trail with a railroad. In fact, PEER is working with other NGOs, the state, and the Town of Easton to address the ATV issue.

The ENF states that the wetland/water impacts associated with the Stoughton Alternative are: 6.7 acres of wetland fill; ten stream or river crossings; work in proximity to nine certified vernal pools (17 potential vernal pools); 6,400 linear feet of indirect impacts.<sup>38</sup> PEER believes that these impacts are severely underestimated. Specifically, the 6,400 linear feet of indirect impacts is ludicrous. Bisecting a forested wetland results in fragmentation and edge effects that can extend hundreds of meters on either side of the direct impact. The EIR/EIS must discuss these indirect impacts, and also look beyond the mere numbers of acres impacted to evaluate the functions and values of all the wetlands that would be affected.

Moreover, the assessment of impacts does not even mention impacts to riverfront areas, impacts to bank, or land subject to flooding. All of these impacts must be included in the EIR/EIS. Finally, as PEER pointed out in 2002,<sup>39</sup> a stream has relocated itself on the abandoned rail bed in the Hockomock Swamp. This stream flows much of the year, and is approximately a foot in depth. Impacts to this stream must be addressed in the EIR/EIS.

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<sup>37</sup> Even NHESP is starting to buy into this absurd concept. The minutes of the December 10, 2008 Task Force meeting state, “ Mr. Regosin admitted that reduced ATV use could benefit species and this benefit could be weighed.”

<sup>38</sup> ENF page 5-15.

<sup>39</sup> Our comments were ignored in 2002, and we hope this time the Commonwealth and its consultant will take the time to investigate this matter.

PEER is extremely concerned that the method proposed by the Commonwealth and its consultant for wetland impact determination is flawed. Specifically, Section 8-3 of the ENF states that the Commonwealth will rely on aerial photographs and mapping from such photographs in order to determine wetland resources and impacts. This is unacceptable, as it will likely underestimate the impacts associated with each alternative. The consultant should be required to do on the ground confirmations of any delineation from the air.

We note that the ENF states several times that the Rapid Bus Alternative would impact the Hockomock, and this is a detriment to that alternative.<sup>40</sup> Adding a lane along Route 24, even if it does impact the Hockomock, would be far less damaging than bisecting the contiguous, unfragmented part of the swamp. In fact, the Rapid Bus Alternative would have the least environmental impacts of all the alternatives. Specifically, page 5-16 of the ENF states that the Rapid Bus Alternative would have the following impacts: an estimated 1.3 acres of wetland fill; no wetland fill in the Fowl Meadow ACEC; no work in proximity to certified or potential vernal pools; no indirect impacts to wetlands; and no new stream/river crossings. Therefore, the EIR/EIS should explain the difference between the impacts to the Hockomock associated with the Rapid Bus Alternative versus the Stoughton Alternative.

Finally, we note that very little attention has been given to the Assonet Cedar Swamp. Like the Hockomock, this area is extremely valuable, of regional importance, and contains a number of rare species. The same attention given to the Hockomock must also be given to the Assonet.

**Wildlife impacts.** The Hockomock Swamp ACEC provides habitat for at least 13 species of state-listed rare wildlife. As conceded in the ENF, much of the ACEC is designated as BioMap Core Habitat. However, the ENF also states that the Stoughton Alternative would result in the loss of habitat for only three state-listed species.<sup>41</sup> The EIR/EIS should explain why the other 10 species would not be impacted by the proposed project. Moreover, the ENF discusses building a trestle through one mile of the Hockomock Swamp.<sup>42</sup> However, in 2002, the Commonwealth was required to build a two-mile trestle. The EIR/EIS should articulate why a one-mile trestle is sufficient for wildlife migration and passage, and precisely where this trestle would be located. Finally, the EIR/EIS must discuss impacts to other species of wildlife, including neotropical migrants, forest interior species, and breeding birds.

**Mitigation.** As stated above, PEER believes that it will be impossible to mitigate for some of the proposed impacts, particularly to areas like the Hockomock Swamp. Moreover, we are concerned that the current budget does not include any money for such mitigation. We also note that today, the deadline for comments on the ENF and scoping, the Commonwealth posted the “Regional Priority Preservation Areas and Priority

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<sup>40</sup> See, e.g., page 5-28 of the ENF, which states, “A portion of the Route 24 construction would be within the Hockomock Swamp ACEC.”

<sup>41</sup> ENF page 5-42.

<sup>42</sup> ENF page 4-51.

Development Areas.”<sup>43</sup> The Task Force was informed that the Rail Corridor Plan would identify Priority Protection Areas (PPAs) and Priority Development Areas (PDAs), and that this map would be used for determining mitigation sites. In fact, PEER was involved in one of the meetings where we identified those areas of concern for preservation. Therefore, we were disturbed to see that the proposed map does not even include the Hockomock ACEC as a PPA. By omitting such an obvious area for protection, the Commonwealth is once again demonstrating that it has already determined that the Stoughton Alternative will be its preferred route, and that this “fresh look” at alternatives is simply a façade. If the Commonwealth truly wants to conduct this analysis properly – and legally – it should include data that both supports and refutes its preferred alternative. To do otherwise is to make a sham of the whole process.

**Conclusion.** Page 2-2 of the ENF states, “There has been a repeated mandate from the Massachusetts Legislature to design and construct commuter rail extension to New Bedford and Fall River.” Unfortunately, this “mandate” has occurred without the demonstrated need for the project. In fact, pages 5-73 to 5-74 of the ENF state that:

The beneficial effects of the project can generally be characterized as: improved accessibility to jobs and educational opportunities; enhanced property values; increased population; increased attractiveness to employers (with increased tax revenues for communities); transit-oriented development opportunities and communities; controlled and managed growth in accordance with Smart Growth planning.

PEER takes issue with many facets of this statement, as some of these are not necessarily “benefits” (e.g., increased population); others can occur without a train (e.g., enhanced property values or increased attractiveness to employers); while still others have not been demonstrated results of a project such as this (controlled and managed growth in accordance with Smart Growth planning).

Given the huge costs of this project, together with estimated natural resource impacts, the Corps should carefully evaluate the purpose and need for the project, the alternatives, the true impacts, and any proposed mitigation. Moreover, we urge the Corps to steer the applicant away from any alternative that appears to be unpermissible pursuant to the Section 404(b)(1) guidelines as soon as possible. Thank you.

Please feel free to contact me if you have any questions.

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<sup>43</sup> See

[http://www.southcoastrail.com/documentframeset.asp?docname=https://www.commentmgr.com/projects/1212/docs/regional%20map\\_1alt.jpg](http://www.southcoastrail.com/documentframeset.asp?docname=https://www.commentmgr.com/projects/1212/docs/regional%20map_1alt.jpg)

Sincerely,

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