

October 30, 2017

Via Hand Delivery and Email

Rene Pelletier, PG
Assistant Director
Water Division
New Hampshire Department of Environmental Resources
29 Hazen Drive, PO Box 95
Concord, NH 03302-0095

Re: *Remaining Concerns Relative to DES Permit Applications/Eversource Seacoast Reliability Project and Suggested Conditions – Town of Durham/University of New Hampshire*

Dear Mr. Pelletier,

On behalf of the Town of Durham and the University of New Hampshire (UNH), included below are our comments and proposed conditions as a follow-up to the “Applicant’s Response to NHDES Status Letter of August 1, 2017”, dated September 19, 2017 with regard to the Seacoast Reliability Project (SRP) and the New Hampshire Department of Environmental Services’ (DES) review of Eversource’s permit applications. We appreciate DES’ willingness to consider these comments. We also believe that as part of its review of the permits submitted in conjunction with SEC Docket No. 2015-04, DES should consider alternatives to the Little Bay crossing that Eversource has proposed in the SRP. Some of those alternatives have been described in the testimony of Todd Selig on behalf of the Town of Durham, filed with the Site Evaluation Committee in SEC Docket No. 2015-04 on July 28, 2017, as well as the testimony of Denis Hebert filed with the SEC on behalf of the Town of Newington on July 28, 2017. Those alternatives include the Gosling Road Transformer and directional drilling. We would respectfully request that you give these alternatives, as well as the concerns and recommendations included below, serious consideration as you formulate the comments that DES will submit to the SEC.

After reviewing the prefiled testimony and reports submitted by Eversource, as well as the revised material submitted on June 30, 2017, joint testimony was prepared and submitted to the SEC on behalf of Durham and UNH by the GeoInsight, Inc. (GeoInsight)-Woods Hole Group technical team and Dr. Steve Jones of UNH on July 24, 2017, to present unresolved concerns. The technical team and Dr. Jones recently reviewed the new and revised material submitted by Eversource (the Applicant) on September 19, 2017. Our remaining concerns are summarized below. A more detailed presentation of our initial concerns is included in the July 24, 2017 joint testimony. In our opinion those concerns were insufficiently addressed in the Applicant’s September 19, 2017 submittal. We feel the concerns included in our July 24, 2017 testimony, as well as the concerns expressed below, must be addressed to adequately evaluate the risks and uncertainties for the Little Bay crossing component of the SRP. This document also presents conditions for DES consideration and possible incorporation into a permit, in the event that a permit is issued by DES.

Concerns

The Applicant did not revise the sensitivity analysis or present new sensitivity model scenarios in the sediment dispersion model. Instead, their September 19, 2017 response describes three studies completed in other areas of the country they claim did not include the “worst-case” sensitivity analysis that we requested. However, it is inappropriate to selectively present studies from other areas of the country and attempt to apply them directly to this project. In general, the need for a sensitivity analysis and the scope of the analysis varies at each project and is dependent upon several factors, including the degree of conservatism incorporated into the model and the likelihood of one or more scenarios occurring concurrently during operations. Projects that use models with high levels of conservatism or that have some scenarios that are unlikely to occur may have a relatively simple sensitivity analysis (or no sensitivity analysis, if the model is sufficiently conservative). Projects with models that incorporate less conservatism and/or that have multiple scenarios that could likely occur require a more robust sensitivity analysis.

As described in our previous testimony, the conservatism of the original model has been reduced by newer field data or modifications to the field work. These reductions in conservatism include the following.

- Reducing the proposed cable burial depth from 8 feet to 5 feet. The cable requires a minimum burial depth of 3.5 feet (42 inches). Although the proposed original burial depth was 8 feet, it was possible that the burial depth could be reduced in some locations. Therefore, the original modeling incorporated some conservatism because there was 4.5 feet of “play” in the burial depth and the amount of sediment generated by 8 feet of plowing would be reduced if the cable was buried at a shallower depth. The revised proposed burial depth of 5 feet reduces the degree of conservatism because it is likely that the final burial depth will ultimately be very close to 5 feet.
- High percentage of silt and relatively little clay. Because the sediments are mostly silt with very little clay, some of the conservative assumptions in the model about electromagnetic attraction of clays and flocculation are not expected to be present at significant levels for this project.
- Potential for Resuspension. The silty sediment is expected to be relatively incohesive after settling, resulting in a high likelihood of re-suspension due to the high tidal velocities in the project area.

The Applicant states they have explored reasonable “worst case” operational conditions and do not need to conduct additional model simulations that combine different variables. We have not suggested a “worst-case” analysis that includes the upper limits of all variables taken together, but believe additional model simulations should be conducted using combinations of variables that are probable to occur (i.e., varying tide, varying winds, resuspension of sediments, varying plow advance rate) with the higher sediment loss rate, which is an unknown variable. In addition, because the potential for sediment resuspension is high/likely, the resuspension model should be run for each of the completed sensitivity analyses. The results of the sensitivity analysis should be utilized in assessing the range of potential risks to Little Bay.

We disagree with the Applicant's contention that wind effects will be minimal, and therefore, not modeled. There is the potential for wind events to occur during the construction period and a sufficient fetch exists for winds to affect currents (and plume movement). The Applicant states that the maximum wind conditions suitable for the cable burial is 25 mph (11 meters per second [m/s]). Using the approximation that winds generate a surface current speed of about 3 percent of the wind speed, a 11 m/s wind would generate a surface current speed of 0.33 m/s, which would be sufficient to transport sediment, particularly in shallower tidal flat areas. Other research papers also indicate wind effects are not minimal in this part of the estuary.¹

Eversource has submitted a revised environmental monitoring plan (Revised Monitoring Plan), which established a mixing zone around the construction area that is designed to be permissive of water quality violations. In reviewing the documentation of the proposed mixing zone and the New Hampshire Surface Water Quality Standards, it is clear that Eversource has not adequately met the criteria for approval of mixing zones (Env-Wq 1707.01 and 1707.02). The Applicant has not provided "sufficient scientifically valid documentation to allow the department to independently determine that all criteria in Env-Wq 1707.02 have been met." Furthermore, the Applicant has not demonstrated that the proposed mixing zone meets the criteria in Env-Wq 1703.03I(1), which states that "all surface waters should be free from substances in kind or quantity that...produce...turbidity that is not naturally occurring and would render the surface water unsuitable for its designated uses."

As stated in the Revised Monitoring Plan, the basis for the mixing zone is the edge of the modeled suspended sediment plume with a total suspended solid (TSS) of 20 milligrams per liter (mg/L), which the Applicant roughly equates to a turbidity of 10 NTU. We do not believe that the 10 NTU turbidity to 20 mg/L TSS correlation is conservative enough for establishing the mixing zone extent. The only sample in the Applicant's study at/near 10 NTUs had a TSS of 31 mg/L and samples where the TSS concentrations were close to 20 mg/L had NTU values below 10 (range of 4.4 to 8.8). In addition, it is our belief that the model cannot be relied upon as the basis for defining the limits of a mixing zone, because, as described below, we believe the suspended sediment model is flawed.

The presence of three aquaculture grants within the proposed mixing zone violates two provisions in the DES rules: Env-Wq 1707.02 (b) "Do not interfere with biological communities or populations of indigenous species"; and (e) "Do not interfere with existing and designated uses of the surface water." Eversource should clearly and unequivocally demonstrate that the proposed mixing zone meets the Criteria for Approval (Env-Wq 1707.02).

Current information does not support a conclusion of no potential risk to ecological receptors in Little Bay due to SRP construction activities (jet plow and hand jet cable installation). The

¹ Ward, Larry G. and Bub, F L., "Temporal variability in salinity, temperature and suspended sediments in a Gulf of Maine Estuary (Great Bay Estuary, New Hampshire)" (2005). High Resolution Morphodynamics and Sedimentary Evolution of Estuaries. 164. <http://scholars.unh.edu/ccom/164/>

ecological risk framework used to evaluate the SRP is the *USACE Regional Implementation Manual for the Evaluation of Dredged Material Proposed for Disposal in New England Waters* (RIM), which was recommended by the GeoInsight/Woods Hole Group team, and agreed to by the Applicant.

USACE RIM Tier I Evaluation:

The Applicant compared project area sediment concentrations to available sediment quality guidelines (ER-Ls) in a Tier I Evaluation. The Tier I Evaluation showed that arsenic in sediments exceeded the ER-L. Due to the exceedance of arsenic, *the project fails the RIM Tier I Evaluation.*

USACE RIM Tier II Evaluation:

The Applicant used a numerical mixing model to estimate potential contaminant concentrations in the water column based upon sediment concentrations in a Tier II Water Quality Evaluation. The Tier II Water Quality Evaluation showed that there is a potential for copper to exceed the New Hampshire Marine Acute Water Quality Criterion for the Protection of Aquatic Life. Due to the potential exceedance of copper, *the project fails the RIM Tier II Evaluation.*

Despite Applicant claims of conservatism built into their ecological risk evaluation, they fail to demonstrate that analyses of composited sediment samples from 0- to 4-foot and 0- to 2-foot core intervals adequately represent potential contaminant concentrations in sediments that will be suspended into the water column during cable laying operations. It is our contention that sample composited from shorter intervals near the top of the core would likely be more representative of the sediment that will be suspended; therefore, contaminant concentrations that will be introduced into the water column could be under represented (diluted) because of the larger sample interval. A source of additional uncertainty in the mass balance model is that the contaminant concentrations used in these calculations may significantly underestimate the contaminant concentrations on the materials that are actually suspended from jetting activities. Since the heavier sands (which do not carry contaminants) included in the bulk sediment composites will rapidly fall out of suspension, it is the concentration of contaminants on the silt fraction that should be used in the mass balance model to achieve conservative water quality estimates.

SRP will cause increased nitrogen levels in Little Bay, which violates Env-Wq 1703.14(b) "Class B waters must not contain nitrogen in such concentrations that would impair existing/designated uses, unless naturally occurring." Because Little Bay is impaired for nitrogen already, new sources cannot be allowed since the goal of the Clean Water Act 303(d) listing is to reduce nitrogen from current levels in order to achieve attainment status where the uses are not impaired. In addition, SRP would violate the Antidegradation requirements of Env-Wq 1708. Because viable alternatives exist to the river crossing (i.e. Gosling Road Transformer and directional drilling), the requirements in Env-Wq 1708.01 are not met.

The Applicant asserts that nitrogen/arsenic/bacteria impacts are short duration and low volume, but our preliminary calculation demonstrates that nitrogen is potentially significant. The Applicant asserts that these impacts are minimal relative to anthropogenic sources; however,

comparison to existing sources is not valid or material to this review, which is focused on evaluating a potential new source.

Despite the Applicant's claims to the contrary, potential impacts upon oysters and other organisms in the Little Bay environment from bacterial contaminants has not been adequately addressed. *Escherichia coli*, *Salmonella spp.*, enterococci, *Giardia lamblia*, *Cryptosporidium parvum*, *Clostridium perfringens*, *Vibrio parahaemolyticus*, *V. cholerae*, and *V. vulnificus*, and *Aeromonas hydrophila* have been documented as being present in sediments, water, and shellfish in the Great Bay-Little Bay area and all can include pathogenic strains.

Although the Revised Monitoring Plan has been expanded and additional parameters have been added (copper, arsenic, nitrogen, and bacteria), questions pertaining to response actions and action levels remain. The Applicant's real-time responses are based upon turbidity readings only and ignore potential impacts from the other monitored parameters. As previously stated, the Applicant has not adequately demonstrated potential impacts from copper, arsenic, nitrogen, and bacteria. The Applicant's assertion that it will make data available to allow for comparison of observed turbidity to modeled TSS leaves it unclear who will be responsible for making these comparisons. The Revised Monitoring Plan needs to present a more robust decision-making framework to analyze all of the results of monitoring program and adjust parameters for subsequent passes.

The Applicant states on Page 4, Section 1.0 of the Revised Monitoring Plan that "...jet plow will occur over a discrete period of time (7-13 hours for each cable depending on jet plow advance rate)..." This statement is consistent with the originally assumed cross rate of 13 hours used in the first sediment dispersion model (December 14, 2015), but contradicts the revised most probable model cross rate of 7 hours used in the revised sediment dispersion model (June 27, 2017). As using a 7-hour cross rate would only encompass the ebb portion of the tidal cycle, and was modeled as such in the second model, extending into the flood portion of the tidal cycle was not modeled. Therefore, relying upon the faster cross rate to establish a mixing zone and environmental monitoring parameters is questionable. We requested a concise timeline for jet plow activities after the July 11, 2017 technical session; however, we are not aware of a response.

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Crossing time may also impact the proposed post installation benthic monitoring scheme (Section 3.0 of the Revised Monitoring Plan). It appears that monitoring stations are skewed to the north of the crossing location, likely reflecting a 7-hour crossing during an ebb tide (Figure 3-1). These monitoring stations may be inadequate to assess potential impacts to benthic communities to the south of the monitoring stations if the crossing time exceeds 7 hours.

The Revised Monitoring Plan states that fixed station monitors will be installed 3 feet above channel bottom to capture maximum plume effects in the deeper portion of the water column. However, the modeling report depth profile clearly shows that the highest turbidity is expected to occur near the bottom; therefore, the proposed 3 feet above channel bottom location is inadequate to monitor maximum turbidity impacts.

The Revised Monitoring Plan indicates that "sediment reduction measures" will be implemented with turbidity values exceeding the reference by more than 10 NTUs, consisting of "The most likely factors that could be changed are the advancement rate across the bay and the pressure directed through the water chambers on the plow blade." These action criteria are insufficient and inadequate – these limited action criteria suggest that work will proceed (albeit at a slower rate or pressure) regardless of the observed impacts, even if those impacts are detrimental to Little Bay.

The Monitoring Plan implies that work stoppages could potentially damage the cable or encounter construction difficulties (e.g., adverse weather, holding the barge position, maintaining water pressure in the plow), but this is not an excuse to continue the operations in the event that actual conditions are significantly different than those anticipated by the Applicant.

Based on our review of the information which has been submitted to date, we offer the following permit prerequisites and conditions for NHDES consideration.

Prior to issuance:

- 1) The Applicant shall prepare a detailed evaluation of the applicability of directional drilling for this project. The evaluation shall include a detailed cost description, including cost estimates from at least two directional drilling companies, and comparison to the expected costs of the jet plow installation method. In addition, the Applicant shall prepare a detailed evaluation of conducting directional drilling just in the shallow areas that are currently outside of the proposed jet plow areas (i.e., the areas where hand work is currently proposed) and prepare cost estimates for this limited directional drilling work. These evaluations shall be submitted to NHDES.
- 2) The Applicant shall conduct sensitivity model runs to assess impacts of wind effects on sediment plume dynamics. Simulations shall be conducted using representative wind events that are within allowable operating conditions (up to 25 mph) and with sediment resuspension activated in the model. Representative wind events should include those shown to have peak winds directed from NW to NE and from SW to SE, along the longitudinal axis of Little Bay. Simulations shall evaluate wind events occurring during and within six hours after cable

installation. Results from the sensitivity analysis should be used to determine whether wind effects should be accounted for in Condition 5 below.

- 3) The Applicant shall conduct additional modeling to reflect a more comprehensive evaluation of the potential sediment plume from jet plow cable installation and associated impacts. Simulations should be conducted for the range of probable jet plow advance rates together with the highest expected sediment loss rate (35 percent of trench volume) and with sediment resuspension activated. Results from these simulations will be compiled to define the maximum potential suspended sediment concentrations, plume extent, duration of exposure, and predicted deposition. Potential water quality impacts and risks within Little Bay (and connecting waterways) shall be evaluated using the compiled model results.
- 4) The Applicant shall submit for NHDES approval, plans detailing a jet plow trial run that shall be conducted prior to cable installation. The purpose of the trial run is to simulate jet plowing operations and refine operating conditions in order to achieve required burial depths and minimize suspension of sediments. The plan should include the proposed route for the trial run within representative sediments for an approximately 750- to 1,000-foot long segment of the cable route. Details of operating conditions for the jet plow and schedule for the trial run shall be provided along with environmental monitoring that will be conducted (in accordance with approved Revised Monitoring Plan). A jet plow trial run shall be conducted in accordance with the pre-filed jet plow trial plan and monitored as specified in the Revised Monitoring Plan, and must include an independent monitor. The jet plow trial run shall consist of operating the jet plow under expected conditions for a pre-identified and approved route. All in-situ suspended sediment and water quality monitoring data collected will be compiled, and documented in a report for submittal to NHDES. The report from the jet plow trial shall provide information on operating refinements identified and potential mitigation measures that could minimize the amount and extent of sediment suspension during subsequent cable laying activities. If jet plow trial shows higher than model predicted suspended sediment concentrations, the Applicant must evaluate and implement operational constraints and/or mitigation measures that would minimize future elevated suspended sediment levels during the jet plow cable installation, or utilize an alternative installation technology (i.e. directional drilling) if sufficient reductions are infeasible.
- 5) The Applicant shall perform RIM Tier III water column tests (suspended particulate phase, or elutriate, toxicity tests) to evaluate the potential toxicity of the dissolved and suspended portions of the sediments expected to be mobilized during SRP construction. The appropriate sediment sampling interval shall be determined, in coordination with NHDES, based upon the best available knowledge of the resuspension fractions due to jet plow and hand jet operations. These elutriate toxicity tests, using site water dilutions and appropriate organisms, shall be used to determine the minimum effluent dilution required to protect aquatic life, and compared to the results of the sediment dispersion model to evaluate the potential ecological risk of SRP construction in a representative and comprehensive manner.

- 6) The Applicant shall update the Application for Water Quality Certification to provide sufficient scientifically valid documentation to allow the department to independently determine that all criteria for approval of a mixing zone (Env-Wq 1707.02) have been met. The documentation shall include, as required by the EPA "Technical Support Document for Water Quality-based Toxics Control" reference in Env-Wq 1707.04, an evaluation of both the chemical specific-approach and the whole effluent approach for aquatic life protection.

Pre-Installation:

- 1) At least 60 days prior to construction, the Applicant shall identify additional sediment reduction measures beyond the two measures identified in the Application (i.e., advancement rate across the Bay and the pressure directed through the water chambers on the plow blade) that could be deployed to the immediate south of all aquaculture sites in Little Bay and to the immediate north of the Adams Point oyster beds in the event that environmental monitoring criteria are exceeded, and submit a plan for these additional sediment reduction measures to NHDES.
- 2) The Applicant shall develop a tiered water quality monitoring and adaptive management plan to ensure that conditions in the water column during SRP construction activities are protective of aquatic life. The plan shall be submitted for approval by NHDES and must be based on the turbidity compliance criterion which will have been developed from chemical-specific and whole effluent approaches. The monitoring plan shall be structured in order to clearly demonstrate to the public and NHDES that all water quality criteria are met during and after SRP construction, and that the turbidity criterion and mixing zone are protective of aquatic life. Therefore, monitoring shall include real-time monitoring of physical parameters (turbidity, dissolved oxygen), laboratory analyses of physical and chemical parameters (TSS, all contaminants), and laboratory assessments of toxicity to aquatic organisms (acute and chronic). Toxicity testing is key to demonstrating that the proposed project has no detrimental effects on biotic communities in Little Bay and that the conditions of the water quality permit are adhered to and are effective (no acute toxicity shall occur within the mixing zone, and no chronic toxicity shall occur outside the mixing zone). The plan shall also present an explicit decision making framework for adaptive management of construction activities. This adaptive management plan shall rely on the real-time monitoring data to trigger the implementation of sediment control measures during construction as well as work stoppage, if necessary. This adaptive management plan shall also rely on the laboratory analyses (physical, chemical, toxicity) to inform the plans for subsequent SRP installation passes.
- 3) At least 60 days prior to the start of construction, the Applicant shall retain an Independent Environmental Monitor at the Applicant's expense. The selection of the Independent Environmental Monitor shall be approved by NHDES and the Town of Durham. The Independent Environmental Monitor shall be empowered to order correction of acts or conditions that violate the environmental conditions of this project and to order the temporary cessation of construction activities until corrective action has been implemented. Temporary cessation of construction

activities ordered by the Independent Environmental Monitor shall expire within 24 hours unless confirmed by NHDES.

- 4) The vessels involved in the construction contain fuel, hydraulic fluid, and other potentially hazardous fluids. The Applicant shall prepare a spill prevention and cleanup plan that describes responses to potential spills during field operations. This plan shall be submitted to NHDES at least 30 days prior to jet plow operation (including the jet plow pre-installation trial). During construction, vessels shall have the equipment necessary to implement the spill prevention and/or cleanup activities.
- 5) At least 10 days prior to the start of construction, the Applicant shall conduct a training program for construction staff, contractors, sub-contractors, NHDES staff, environmental inspectors, and the Independent Environmental Monitor. The training program shall include spill prevention and cleanup responses, a description of the allowable environmental conditions during construction, and the contingency plans that will be implemented in the event that these environmental conditions are exceeded.

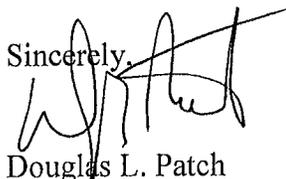
During Installation:

- 1) The Applicant shall implement the tiered water quality monitoring and adaptive management plan, as approved by NHDES.
- 2) Water quality shall be monitored at the mobile, sentry, fixed mixing zone, and aquaculture site stations as described in the Application.
- 3) Water samples shall be collected for field measurements of turbidity (results reported in NTU), dissolved oxygen, and salinity from the stations, as specified in the Application. Each sampling station shall be sampled in accordance with the sampling frequency specified in the Application, although each sampling station shall be sampled at least twice during each tidal cycle.
- 4) Water samples for laboratory analysis shall be analyzed for the following parameters:
 - a. total nitrogen, nitrogen, nitrate/nitrite, total Kjeldahl nitrogen, (TKN) and nitrogen, ammonia by Standard Method 4500;
 - b. TSS by Standard Method 2540;
 - c. dissolved copper and arsenic (filtered in the field using a 0.45-micron filter prior to collection) using ICP-MS methods;
 - d. total copper and arsenic (unfiltered) using ICP-MS methods; and
 - e. fecal coliform by Standard Method 9222.
- 5) Water samples shall be collected from each mobile and sentry station at the following depths:
 - a. one foot above the bottom;
 - b. approximate mid-depth in the water column; and
 - c. two feet below the water surface.Particular sampling depths may be eliminated if the water depth at that station is shallow enough so that the above sampling depths are within 1 foot of each other.
- 6) If two consecutive field turbidity measurements at an aquaculture station exceed 10 NTU above the reference station value, then the construction work shall immediately be suspended until the tides change or sediment reduction measures

- are implemented with the approval of the Independent Environmental Monitor and NHDES.
- 7) If three consecutive field turbidity measurements at a mobile or fixed station exceed 10 NTU above the reference station value, then construction work shall immediately be suspended until the tides change or sediment reduction measures are implemented with the approval of the Independent Environmental Monitor and NHDES.
 - 8) If sediment reduction measures are implemented, then additional water quality testing shall be conducted to evaluate the effectiveness of the sediment reduction measures. If such testing indicates exceedance of water quality standards or measurements consistent with those that necessitated the sediment reduction measures, then all construction activities shall immediately cease until an alternative strategy is approved by the Independent Environmental Monitor and NHDES.
 - 9) If two consecutive field turbidity measurements at a mobile, fixed, or aquaculture station exceed 30 NTU above the reference station value within the mixing zone, then construction work shall immediately cease until an alternative strategy is approved by the Independent Environmental Monitor and NHDES.
 - 10) Laboratory data from samples collected during the individual cable installation runs shall be received and distributed to NHDES and the Independent Environmental Monitor before subsequent cable installation runs.
 - 11) If, at a minimum of 12 hours prior to planned cable installation activities, the latest NWS weather forecast for Great Bay, Adams Point predicts sustained wind speeds in excess of 15 mph, consultation shall be made with the Independent Environmental Monitor up until the planned commencement of in-water work on whether construction activities will be allowed. The commencement of planned activities will be at the discretion of the Independent Environmental Monitor in conjunction with NHDES based upon predicted and observed conditions within Little Bay.
 - 12) To limit combined impacts of construction activities, hand-jetting shall not occur during jet plow cable installation, within the six-hour window prior to or after jet plow cable installation or within six hours of a turbidity criterion being exceeded.

We very much appreciate DES's willingness to give serious consideration to these concerns and proposed conditions. Please let us know if you have any questions.

Sincerely,



Douglas L. Patch

Counsel to the Town of Durham and the University of New Hampshire
SEC Docket 2015-04

cc. Pam Monroe, SEC Administrator (for distribution in SEC Docket No. 2015-04 and posting to the website)

Barry Needleman, Counsel to Eversource in SEC Docket No. 2015-04