



CAPE COD COMMISSION

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E-mail: frontdesk@capecodcommission.org

Date: January 24, 2008

To: KeySpan Energy Delivery New England

From: Cape Cod Commission

RE: Development of Regional Impact
Cape Cod Commission Act, Section 12 and 13

Applicant: KeySpan Energy Delivery New England
C/o Mr. Ed Wencis
52 Second Avenue,
Waltham, MA 02451

Project: KeySpan Sagamore Line Reinforcement Project/Middle Segment Phase 2

Project #: DRI 06007

Book/Page: ~~Plan Book 193, Pages 61-63~~ **See Page 1A.**

DECISION OF THE CAPE COD COMMISSION

SUMMARY

In accordance with the Cape Cod Commission Act (Act), the Cape Cod Commission (Commission) hereby approves the application of Colonial Gas Company, doing business as KeySpan Energy Delivery New England (Applicant) as a Development of Regional Impact (DRI) pursuant to Section 12 and 13 of the Act, c. 716 of the Acts of 1989, as amended, for the Middle Segment Phase II of the Sagamore Line Reinforcement Project (Project) in the towns of Yarmouth, Dennis and Harwich, Massachusetts. The decision is rendered pursuant to a vote of the Commission on January 24, 2008.

PROJECT DESCRIPTION

The proposed project ("Middle Segment Phase 2") is the second element of the Sagamore Line Reinforcement Project (SLRP), which proposes to add 13.1 miles of new high



Layout Plan Title References:

High Bank Rd (aka Bridge Road) :
Plan Book 90, Page 73 (1949)
Plan Book 112, Page 49 (1953)
Plan Book 142, Page 107 (1958)

Upper County Rd:
Plan Book 45, Page 61 (1932)
Plan Book 333, Page 18 (1979)

Route 134:
Plan Book 124, Page 147 (1955)

Great Western Rd:
Plan Book 198, Page 73-79 (1965)
Plan Book 50, Page 107

Depot Street/Road:
Town of Harwich - "The New Book of Old Roads"
Page 3 (2/17/1847)
Page 9 (1/27/1849)
Page 49 (11/3/1857)
Page 110 (7/9/1878)
Page 74 (7/5/1866)

pressure gas pipeline along portions of KeySpan's existing high pressure Sagamore pipeline over the next several years. The entire project consists of three segments ("Middle," through Yarmouth, Dennis, and Harwich; "Western," through Sandwich and Barnstable; and "Eastern" in Harwich). The three pipeline segments will each tie back into and parallel portions of the existing Sagamore line. The purpose of the SLRP is to ensure reliability of the distribution line in terms of both maintaining system pressures and providing adequate supply. Construction of "Phase I" of the Middle Segment (12,000 feet of new pipeline along White's Path, North Main Street, and Great Western Road in Yarmouth) began in September 2007 and was completed December 2007.

Middle Segment Phase 2, the subject of the current DRI application, involves the construction of approximately 13,000 feet of 12-inch pipeline beginning at the Phase 1 terminus at the intersection of Great Western Road and Highbank Road in Yarmouth. The pipeline proceeds along Highbank Road to the Bass River Bridge and crosses the Bass River in an empty utility bay under the bridge. It continues on Highbank Road in Dennis, crosses Main Street and continues on Upper County Road to Route 134. The route crosses Route 134 approximately 50-100 feet north of the Route 134/Upper County Road intersection. It then proceeds on Great Western Way and continues onto Great Western Road. The route crosses into Harwich along Great Western Road and then travels north on Depot Street to a point just south of the intersection of Depot Street/Main Street.

Most of the pipeline will be located under pavement, beneath existing roadways. In one section of Great Western Road in Harwich, the alignment will be in the north shoulder of the road. The trench width is approximately three feet, and temporary work space between 20-25 feet is needed for construction. Depending on the location, either one lane of the existing roadway will be used for workspace or a portion of the workspace will extend onto the shoulder of the road.

PROCEDURAL HISTORY

The Secretary of Environmental Affairs issued a Massachusetts Environmental Policy Act (MEPA) Certificate on the Final Environmental Impact Report (FEIR) for the three segments of the SLRP on February 17, 2006. KeySpan sought approval of the Middle Segment Phase 1 and the SLRP master plan from the Commission as a DRI in March 2006. (The Applicant at that time had developed detailed engineering drawings only for Phase 1 of the Middle Segment and anticipated future DRI filings and public hearings for each of the later phases of the pipeline as detailed plans were developed for each.) The Massachusetts Energy Facility Siting Board (EFSB) approved the SLRP in May 2006. The Commission denied the Phase 1 Middle Segment DRI application in August 2006; the EFSB issued a Certificate of Environmental Impact and Public Interest for KeySpan to construct the Middle Segment, Phase 1.

The Applicant submitted the DRI application for the Middle Segment Phase 2 on November 29, 2007, and it was deemed complete on December 10, 2007. The public hearing period was opened on January 3, 2008 at the Dennis Council on Aging at a duly

noticed public hearing conducted by an authorized subcommittee of the Commission pursuant to Section 5 of the Act. The subcommittee voted at that hearing to recommend to the full Commission that the project be approved as a DRI, with conditions. The public hearing was continued to January 24, 2008 at the Cape Cod Commission meeting in the First District Courthouse in Barnstable Village. A final public hearing was held before the full Commission on January 24, 2008, where the hearing and record were closed. At this hearing, the Commission voted unanimously to approve the project as a DRI, subject to conditions.

MATERIALS SUBMITTED FOR THE RECORD

By the Applicant:

- Email dated 10/15/07 to P. Dascombe re: KeySpan Update
- Suggested agenda for meeting 10/29/07
- Email to M. Hevenor dated 11/28/07: re: plans mailed
- DRI application dated 11/29/07
- Revised DRI application cover page dated 12/14/07
- Email to M. Hevenor dated 12/17/07 re: application changes
- Email to M. Hevenor dated 12/21/07 re: NHESP exemption
- Letter to NHESP dated 12/27/07 re: request for information from NHESP
- Email to M. Hevenor dated 1/2/08 re: Great Western Road photos
- Email to M. Hevenor dated 1/2/08 re: NHESP map
- Email to M. Hevenor dated 1/4/08 re: EFSB conditions
- Emails (2) from K. Lesser dated 1/8/08 re: site visit
- Email with attachment from K. Lesser dated 1/14/08 re: NHESP exemption

By Cape Cod Commission:

- Email to K. Lesser dated 11/14/07 re: meeting time & RIF plan
- Email to K. Lesser dated 12/17/07 re: application receipt
- Letter dated 12/19/07 to K. Lesser re: application complete
- Email to subcommittee dated 12/21/07 re: public hearing
- Staff report dated 12/27/07
- Memo to subcommittee date 12/27/07 re: public hearing
- Email to K. Greene, S. Leven, R. Cannevazzi re: public hearing
- Emails to K. Greene, D. Fortier, and E. Hude, and S. Leven dated 1/11/08 re: zoning/LCP consistency
- Emails to K. Greene, D. Fortier, E. Hude/S. Leven, and L. Hooper dated 1/14/08 re: zoning/LCP consistency
- Email to subcommittee dated 1/16/08 and 1/17/07: re: draft decision
- Email to K. Lesser dated 1/16/08 and 1/17/08 re: draft decision

By State & Local Officials

- Letter from Massachusetts Historic Commission dated 12/17/07 re: determination of no significant impacts.
- Email from K. Greene dated 1/14/08 re: zoning/LCP consistency
- Email from D. Fortier dated 1/14/08 re: zoning/LCP consistency
- Email from T. Sylvia dated 1/15/08 re: zoning consistency

- Letter from NHESP dated January 17, 2008 re: rare species

By Interested Parties:

- No submittals

The application and notices of public hearings relative thereto, the Commission staff's notes, exhibits and correspondence, the transcript and minutes of meetings and hearings and all written submissions received in the course of our proceedings are incorporated into the record by reference.

TESTIMONY

A public hearing was held on January 3, 2008 at the Dennis Council on Aging. Ed Wencis of KeySpan introduced the project team. Katie Lesser of Epsilon presented the project on behalf of the Applicant. She described the route and roadways it follows, noting that it runs 2.5 miles from Yarmouth to Harwich. She said they would like to complete the project for the 2009-2010 heating season. Ms. Lesser also noted how the construction process works. She discussed the Environmental Construction Plan and traffic management plan as well as KeySpan's communications/outreach program. She explained that KeySpan held several consultations in the towns before submitting the DRI application.

Martha Hevenor presented a summary of the staff report. She provided background on the DRI review process and outlined staff comments in the various issue areas. She explained that the proposal is consistent with the RPP standards, but clarification is needed on the mapped rare species habitat along Great Western Road in Dennis.

Leo Cakounes asked how the Phase 1 of the Middle Segment went. Dennis Macalese explained that the work went very well, and that KeySpan received very few complaints. Mr. Cakounes asked whether the welds had been x-rayed, and Mr. Wencis said they had and that they are on file for interested parties to review if need be. Mr. Cakounes also explained that the intermittent stream in Dennis comes from a cranberry bog to the north. With respect to the Union Cemetery in Harwich, he noted that years ago some people could have been buried outside of it and that KeySpan should be aware of this when digging.

Bob Jones asked about the open space requirement. Ms. Hevenor explained that since the project is located within the paved roadway surface, an open space provision would not be required. For the piece along Great Western Road in Harwich that is located in the road shoulder, the applicant will restore and revegetate it. Mr. Jones discussed his concern about patches to the roadway surface. Mr. Macalese explained how the pavement will be installed and the types of material used in an effort to minimize the bumps and patchwork.

Ms. Hamman asked whether KeySpan will be responsible for inspecting the Highbank Road bridge. Mr. Wencis explained that the state inspects the bridge but that KeySpan inspects the pipeline. Ms. Hamman asked about White's Path closures during Phase 1. Mr. MacAleese said it was only closed for about 2 hours and acknowledged that the signs might have been confusing.

Brad Crowell asked how the rare species issue would be handled. Ms. Hevenor said that the first part is to receive written documentation from Natural Heritage that the project is exempt from their review as a utility project within 10 feet of paved roadways. She said the next step is to find out what species the area is mapped for and to determine whether the work would impact the

species or habitat. Mr. Cakounes asked about what areas were mapped, noting the amount of development along Great Western Road. Ms. Hevenor and Ms. Lesser showed the mapped areas, noting that they are general. Ms. Lesser noted that they would be able to provide box turtle protection measures during construction if necessary.

Mr. Crowell asked about the plans for the Route 134 crossing. Ms. Lesser explained that KeySpan is working with the town to decide how to cross, noting that the options are to drill under the road or cut through it.

Bill McCormick of South Dennis asked whether the roads and landscaping would be restored to their same condition. Mr. MacAleese said the South Dennis area would be restored to the way it is because of a state requirement with town involvement.

Ms. Hevenor noted that town officials had attended pre-application meetings, although they were not at the hearing. Ms. Hamman said that she sought input from Yarmouth officials but received no response, noting that she believed if they had problems with the proposal they would have replied or attended the hearing.

Mr. Cakounes asked about the complaint procedure and Mr. MacAleese confirmed that there is a cell phone number available for people to contact KeySpan at the work site.

The subcommittee voted all in favor to recommend approval and to direct staff to prepare a decision.

JURISDICTION

The Sagamore Line Reinforcement Project qualifies as a Development of Regional Impact under Section 12(i) and 13(b) of the Cape Cod Commission Act and Section (2)(d)(i) of the Cape Cod Commission Enabling Regulations Governing Review of Developments of Regional Impact as a project for which the Secretary of Environmental Affairs has required the preparation of an Environmental Impact Report (EIR).

FINDINGS

The Commission has considered the application of KeySpan Energy Delivery New England for the proposed Middle Segment Phase 2 of the Sagamore Line Reinforcement Project, and based on consideration of such application and upon the information presented at the public hearings and submitted for the record, makes the following findings pursuant to the 2002 Regional Policy Plan and Section 12 and 13 of the Act:

General Findings:

- G1. The proposed project was reviewed under the 2002 Regional Policy Plan, as the date of the first public hearing was January 3, 2008.
- G2. The proposed project is the second element of the SLRP. (See further details in "Project Description" above.) It involves the construction of 13,000 feet of 12-inch high pressure gas pipeline beginning at the Phase 1 terminus point at the

intersection of Great Western Road and Highbank Road in Yarmouth. The pipeline proceeds along Highbank Road to the Bass River Bridge and crosses the Bass River in an empty utility bay under the bridge. It continues on Highbank Road in Dennis, crosses Main Street and continues on Upper County Road to Route 134. The route crosses Route 134 approximately 50-100 feet north of the Route 134/Upper County Road intersection. It then proceeds on Great Western Way and continues onto Great Western Road. The route crosses into Harwich along Great Western Road and then travels north on Depot Street to a point just south of the intersection of Depot Street/Main Street.

Most of the pipeline will be located under pavement, beneath existing roadways. In one section of Great Western Road in Harwich, the alignment will be in the north shoulder of the road. The trench width is approximately three feet, and temporary work space between 20-25 feet is needed for construction. Depending on the location, either one lane of the existing roadway will be used for workspace or a portion of the workspace will extend onto the shoulder of the road.

- G3. In an email dated January 15, 2008, Terry Sylvia, Yarmouth Town Planner, confirmed that the project is consistent with Yarmouth zoning bylaws.
- G4. Yarmouth does not have an LCP that is certified by the Commission. Therefore, the portion of the Middle Segment Phase 2 in Yarmouth does not need to be consistent with the Yarmouth LCP.
- G5. According to an email from Dan Fortier, Dennis Town Planner, dated July 11, 2006 and confirmed in email dated January 14, 2008, the Middle Segment Phase 2 may require a Special Permit from the Town of Dennis and would be subject to review by the Dennis Board of Appeals. If a Special Permit is required, approval of the Special Permit would confirm the project's consistency with local zoning.
- G6. Dennis does not have an LCP that is certified by the Commission. Therefore, the portion of the Middle Segment Phase 2 located in Dennis does not need to be consistent with the Dennis LCP.
- G7. In email dated July 11, 2006 and in a telephone conversation on January 24, 2008, Susan Leven, Harwich Town Planner, confirmed that the Town of Harwich bylaws are silent on the installation of utilities in the right-of-way; a telephone conversation with Lincoln Hooper, Director of Harwich Highways and Maintenance, confirmed that there are no bylaws applicable to work in the right-of-way.
- G8. Correspondence from the Town of Harwich dated June 22, 2006 and a telephone conversation with Harwich Town Planner Susan Leven on January 24, 2008 confirmed that the future segments located in Harwich are consistent with the

Harwich LCP as the installation of natural gas pipelines are not addressed in the plan.

- G9. The proposed project is not located within a District of Critical Planning Concern.
- G10. The Middle Segment Phase 2 is consistent with the Minimum Performance Standards of the Regional Policy Plan.
- G11. The probable benefits of the project out weigh its probable detriments.

Transportation Findings

- T1. The minimum performance standards of the transportation section of the RPP deal with transportation impacts from uses that generate traffic or affect the transportation system for an extended period of time. As the proposed pipeline work would not generate traffic other than temporary construction trips, no MPSs are applicable to the proposed project.
- T2. KeySpan has committed to provide advance notification to the Commission for announcement on the Transportation Center Information website of the closure of any major roadway.

Water Resources Findings

- WR1. Middle Segment Phase 2 is not located in a wellhead protection area (MPS 2.1.1.2 A) or potential water supply area (MPS 2.1.1.2 F). The project is located within a marine watershed to Bass River (MPS 2.1.1.2 C) but does not entail wastewater generation. Treatment of storm water from the project as described in the project's Environmental Construction Plan (ECP) is consistent with MPS 2.1.3. It will be contained with best management practices including hay bales and stormwater filters for existing catch basins. The pipeline crossing at the Bass River will be accomplished by installing the line within the framework of the bridge on Highbank Road. Trenching for the project is not expected to penetrate into the water table.
- WR2. Although the project is located outside of a wellhead protection area and therefore not subject to the on-site hazardous materials use prohibition under MPS 2.1.1.2 A.2, Keyspan's Spill Prevention Control and Counter Contingency Plan includes a pre-caution to prohibit contractors from refueling and conducting maintenance on vehicles and equipment on site. The Applicant has also evaluated the potential existence of prior hazardous material spills along the work-corridor and based upon that assessment does not expect to encounter any previous hazardous material spills.

Natural Resources and Open Space Findings

- NR1. The proposed route passes within wetland resource areas in Yarmouth on its Bass River crossing and at a culverted stream crossing on Great Western Road in Dennis. While MPS 2.3.1.2 prohibits development within the 100 foot wetland

buffer area, MPS 2.3.1.3 makes provisions to allow for installation of new utility lines so long as impacts are minimized and disturbed areas restored. According to the DRI application, the pipeline will avoid vegetated wetland areas, as it will be located in an empty utility bay below the Highbank Road bridge at the Bass River crossing. The stream crossing on Great Western Road will occur within paved road. The project's ECP describes clearing methods and sediment and erosion control measures designed to minimize impacts to wetland resources from construction activities. The DRI application indicates that KeySpan intends to file Notices of Intent (and/or Requests for Determination) with the Yarmouth and Dennis conservation commissions for work within the wetland resource areas. The plans' wetland delineations have not yet been confirmed by the towns' conservation commissions.

- NR2. MPS 2.4.1.2 requires the clearing of vegetation and alteration of topography to be minimized, with native vegetation planted as needed to enhance or restore wildlife habitat. Most of the pipeline will be located beneath paved roadways, with the work occurring inside the roadway or along the shoulder area. Additional clearing appears to be minimal. Where revegetation is required in the wetland areas it will be done in consultation with the local conservation commission.
- NR3. A portion of the route adjacent to Great Western Road in Dennis is mapped for rare species habitat by the October 2006 Massachusetts Natural Heritage and Rare Species Program (NHESP) atlas. According to a letter dated January 14, 2008 from the Applicant's consultant and in accordance with a letter from NHESP July 1, 2005, the Middle Segment Phase 2 is exempt from NHESP review under the new Massachusetts Endangered Species Act (MESA) regulations as an "in road" utility project. In a letter dated January 17, 2008, NHESP indicated that Eastern Box Turtles have been found in the vicinity of the site and that the project may qualify for an exemption from MESA review.
- NR4. KeySpan has agreed to install silt fencing within the work areas along Great Western Road in Dennis mapped by NHESP for box turtles as a protective measure to keep them from entering the work areas. Consequently, the project is consistent with MPS 2.4.1.4 which does not allow for adverse impacts to rare species or their habitat.
- NR5. Under MPS 2.5.1.3, DRIs are required to provide permanently protected open space in an amount proportional to the project's total development area. An open space provision would not be necessary for this project, as the excavation work will occur almost entirely within paved areas or immediately adjacent to the roadway in the shoulder area. KeySpan has agreed to restore and revegetate any disturbed areas from the project outside the paved roadways.

Hazardous Materials/Waste Findings

- HM1. The proposed project will not involve work within wellhead protection areas but does entail work in wetland buffers. Based on the application materials, this

project segment will use hazardous materials, and is likely to generate hazardous waste. The ECP states that “[h]azardous materials, chemicals, fuels or lubricating oils will not be stored nor will concrete coating activities (except field joints) be conducted within 100 feet of a wetland or waterbody boundary.” (DRI application, pg. 6-5) In addition, “KeySpan will require that all refueling take place at commercial service stations or contractors’ facilities. Field maintenance and refueling in the field will be prohibited.” (DRI application, pg. 6-4) Additional MPS in RPP Section 4.3 deal with waste minimization, compliance with state hazardous waste regulations, and emergency planning. Given the nature of the project, and the information submitted to date, including the proposed ECP, KeySpan has adequately addressed these standards for the Middle Segment Phase 2.

Noise/Air Quality Findings

- N1. MPS 2.6.1.1. requires that DRIs “shall be in compliance with...the [Department of Environmental Protection’s] Air Pollution Control Regulations.” Under state regulations, noise is considered to be an air contaminant. The project’s anticipated sound impacts are likely to be limited in scope and duration, primarily resulting from construction activities, including pavement saws, excavators, welding rig and other vehicles (DRI application, pg. 1-15). The DRI application states KeySpan anticipates the majority of construction will be limited to daylight/daytime hours (7:00 AM to 6:00 PM). However, some night work may be needed to meet the overall completion schedule. The Traffic Management Plan created for the Middle Segment includes a procedure for residents along the alignment to make their concerns known to KeySpan and the project contractor. In addition, KeySpan representatives stated at the public hearing that a representative will be available to address other concerns during construction including noise. These commitments are sufficient to address MPS 2.6.1.1 for this project.

Historic and Archaeological Resource Findings

- HR1. Portions of the proposed project pass through archaeologically sensitive areas. The Massachusetts Historical Commission (MHC) determined in a letter dated February 8, 2006, that since the pipeline is located in existing paved areas, the proposed work in the Middle Segment is unlikely to affect any significant archaeological resources. In addition, MHC stated in a letter dated December 17, 2007 that the temporary staging and storage areas used for Phase 1 and which might be used during Phase 2 are unlikely to affect any significant historic or archaeological resources.
- HR2. MPS 6.1.3 requires an archaeological survey be conducted when development is proposed in archaeologically sensitive areas. Any deviation from the proposed installation route under existing paved surfaces would require additional archaeological survey work for MHC and evaluation of possible archaeological impacts.

HR3. The proposed layout will pass through or adjacent to two areas that are identified as historically significant: the South Dennis Historic District and the Union Cemetery in Harwich. MPS 6.1.1 and 6.1.2 seek to preserve historic structures and cultural landscapes. Based on the proposed location of the line under existing pavement, the project is not expected to affect historic structures or other features that help define the character of these historic areas. The applicant has coordinated with the town of Dennis' South Dennis Historic District Commission to ensure that mature trees, fences and walls that help define the South Dennis Historic District will not be impacted by the project.

Lighting Findings

EXL1. MPS 6.2.10 requires that "*exterior lighting in new development or redevelopment shall comply with... Technical Bulletin 95-001.*" Based on a review of information provided to date, including work done for the first pipeline segment, it appears that no permanent lights will be needed, and that the bulk of construction will occur during daylight hours, although some temporary lights may be required in limited circumstances for night work (after 6:00 PM) to complete the project (*DRI application, pg. 1-16*). The DEIR stated that KeySpan would establish a procedure to respond to complaints related to lights used for night work. According to item #12 of the project's Traffic Management Plan, KeySpan mails or delivers printed notices to residents on the alignment. It states that the notice identifies a "*KeySpan representative who is available to discuss with residents their concerns, and who will work with the contractor and the Police Department to address concerns to the extent feasible.*" In addition, KeySpan representatives noted at the public hearing that representatives will be available to discuss other complaints during construction including lighting. These commitments are sufficient to address MPS 6.2.10 for this project.

CONCLUSION

Based on the findings above, the Cape Cod Commission hereby concludes:

- 1) The probable benefits of the project outweigh the probable detriments in accordance with the Act.
- 2) The project complies with the applicable Minimum Performance Standards of the Regional Policy Plan.
- 3) The project is consistent with the applicable local development by-laws and the applicable Local Comprehensive Plans of the affected communities.

The Commission hereby approves with the application of the Colonial Gas Company, doing business as KeySpan Energy Delivery New England, for the proposed Middle Segment Phase 2 pipeline as a Development of Regional Impact, provided the following conditions are met:

General Conditions

- G1. This DRI decision is valid for 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of the written decision.
- G2. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this decision.
- G3. The applicant shall obtain all state and local permits for the proposed project.
- G4. No development work, as the term "development" is defined in the Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.
- G5. The Applicant shall forward to the Commission, forthwith, copies of any and all permits and approvals issued in relation to this project and issued subsequent to this decision. A copy of final plans approved by the Yarmouth, Dennis, and Harwich regulatory boards, including any Conservation Commission permits, shall be submitted to the Commission upon receipt of local approvals.
- G6. The proposed Middle Segment Phase 2 pipeline shall be constructed in accordance with the following final plans:
- *Plan View and Profile Drawings* C2.3.1 to C2.3.13 and *Site Details and Notes* C2.4.1, prepared by Coastal Engineering, Inc, dated 11-21-07.
 - *Traffic Management Plans and Details*, TMP-1 to TMP-10, prepared by Coastal Engineering Inc., dated 11-26-07.
- Any deviation from such plans shall be shall be reviewed subject to Section 12 of the Enabling Regulations Governing Review of Developments of Regional Impact, Modifications to Approved DRIs, dated 3/05 and as amended from time to time.
- G7. Prior to receiving a street opening permit from the towns of Yarmouth, Dennis, and Harwich the applicant shall obtain a Certificate of Compliance from the Commission stating that all conditions of the decision requiring completion prior to issuance of said certificate have been met.
- G8. The Applicant shall notify Commission staff of the intent to seek a Certificate of Compliance at least thirty (30) days prior to the anticipated date of receipt of said certificate. Such notification shall include a list of key contact(s) for questions that may arise during the Commission's compliance review. Commission staff shall complete an inspection under this condition within seven (7) business days of such notification and inform the Applicant in writing of any deficiencies and corrections needed. The Applicant understands that the Commission has no obligation to issue a Certificate of Compliance unless all conditions are complied

with or secured consistent with this decision. The applicant agrees to allow Cape Cod Commission staff to enter onto the property which is the subject of this decision for the purpose of determining whether the conditions contained in the decision are met.

- G9. The applicant shall be responsible for providing proof of recording of the decision prior to issuance of a Certificate of Compliance.
- G10. The applicant shall demonstrate that a copy of this decision has been provided to the general contractor prior to the start of construction.

Transportation Conditions

- T1. In accordance with KeySpan's Traffic Management Plan for Phase 1, the Applicant shall notify Commission transportation staff prior to commencement of construction for Phase 2 so that a notice can be posted on the Commission's Transportation Information Center web site. The Applicant shall notify Commission staff at least 72 hours in advance of any major road closures.

Water Resources Conditions

- WR1. All work shall be performed in accordance with the Environmental Construction Plan ("ECP") dated November 2007.

Natural Resources Conditions

- NR1. Disturbed areas outside of the paved roadway surface shall be restored in accordance with the ECP and where applicable, the local conservation commission requirements.
- NR2. In accordance with Finding NR4, The Applicant shall provide silt fencing in the work areas along Great Western Road in Dennis that have been mapped by NHESP as areas where box turtles have been found.

Hazardous Materials/Wastes Conditions

- HM1. KeySpan and the project contractor(s) shall not store hazardous materials, chemicals, fuels, lubricating oils or hazardous wastes within 100 feet of a wetland or waterbody boundary. Nor shall concrete coating activities (except field joints) be conducted within 100 feet of a wetland or waterbody boundary. In addition, all fueling and/or refueling activities shall take place at commercial service stations or contractors' facilities. Field maintenance and refueling in the field is prohibited.

Noise Conditions

- NC1. KeySpan and the project contractors shall implement a procedure for residents and/or businesses along the alignment to notify KeySpan of concerns about noise impacts.

HR2. The Applicant shall comply with *KeySpan Energy Delivery New England*, EFSB 05-2 (2006) conditions B and F, requiring consultation with the South Dennis Historic District Commission and professional arborists to insure that mature trees, historic walls and fences that help define the character of the South Dennis Historic District will be adequately protected during project construction.

Lighting Conditions

L1. KeySpan and the project contractor(s) shall implement a procedure for residents and/or businesses along the alignment to notify KeySpan of their concerns about work-related lighting impacts.

The Cape Cod Commission hereby approves with conditions the application of KeySpan Energy Delivery New England as a Development of Regional Impact pursuant to Sections 12 and 13 of the Act, c. 716 of the Acts of 1989, as amended for the proposed Middle Segment Phase 2/Sagamore Line Reinforcement Project located in Yarmouth, Dennis, and Harwich MA.

Robert A Jones
Robert Jones, Chair

1-24-08
Date

Commonwealth of Massachusetts

Barnstable, ss.

Before me, the undersigned notary public, personally appeared *Robert Jones*, in his capacity as Chair of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, oath or affirmation of a credible witness, or personal knowledge of the undersigned.

Gail P. Hanley
Notary Public, Commonwealth of Massachusetts

My Commission Expires: 10/13/11