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CAPE COD COMMISSION

Date:	February 28, 2013
To:	Ted Barten Epsilon Associates, Inc. 3 Clock Tower Place, Suite 250 Maynard, MA 01754
From:	Cape Cod Commission
Re:	Development of Regional Impact Cape Cod Commission Act, Sections 12 & 13
Applicant:	Colonial Gas Company d/b/a National Grid
Owner:	Commonwealth of Massachusetts, MassDOT, Town of Sandwich
Project:	Sagamore Line Reinforcement Project, Phases I and II
Project #:	TR12045
Project Location:	Service Road, Sandwich, MA
Map/Parcel #:	32/7

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission), hereby approves the application of Colonial Gas Company d/b/a National Grid (Applicant) for the proposed construction of Phases 1 & 2 of the western segment of its 20-inch diameter gas distribution pipeline as a Development of Regional Impact (DRI) pursuant to Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended.

PROJECT DESCRIPTION

The project is part of the larger Sagamore Line Reinforcement Project (SLRP), which in total involves the construction of 13.1 miles of new high-pressure natural gas distribution pipeline on Cape Cod, Massachusetts in three segments; the western, middle and eastern segments. The 4.8 mile middle segment was fully constructed and became operational in November 2010. The current project, involving Phases I and II of the western segment ("Project"), is proposed to be fully permitted and constructed by the end of 2014. The balance of the project (Phase III of the western segment, and the entire eastern segment) will be constructed as demand warrants.

According to the application materials, the Project consists of approximately 23,000 feet (4.4 miles) of 20-inch diameter gas pipeline to be installed in the Town of Sandwich, Massachusetts. The application materials state that the project will help to maintain adequate operating pressures along the entire distribution pipeline by allowing a larger volume of gas to flow east. Phase I begins at the existing Spectra Energy (formerly Algonquin Gas Transmission) station located west of Route 130. It then travels eastward via an existing utility easement for approximately 190 feet in the Shawme Crowell State Forest, to Route 130. The project crosses Route 130 and proceeds approximately 15 feet to the north of the edge of pavement on Service Road for approximately 11,000 feet to the intersection with Quaker Meeting House Road. Phase II begins where Phase I ends, crosses Quaker Meeting House Road and proceeds approximately 12,000 feet to Chase Road. The project is proposed to be located approximately 15 feet north of the paved edge of Service Road, with the exception of one area east of Mill Road that, pending further investigation, may be constructed under the northern edge of pavement for several hundred feet due to topographical constraints.

PROCEDURAL HISTORY

The SLRP was reviewed under the Massachusetts Environmental Policy Act ("MEPA") in 2005 and 2006. The Secretary of the Executive Office of Energy and Environmental Affairs ("EEA") issued a Certificate determining that the Project's Final Environmental Impact Report ("FEIR") adequately and properly complied with MEPA in 2006. Pursuant to Section 7(c)(vi)(1) of the Enabling Regulations, "The Commission shall hold a public hearing to review the project within 45 days of the Secretary's certification of the adequacy of the Final EIR."

In March 2006, the Colonial Gas Company ("Colonial Gas" or the "Company") d/b/a National Grid ("the Applicant") submitted a DRI application to the Commission for approval of Phase I of the middle segment as well as the SLRP Master Plan. Following the Commission's denial of that application, the Applicant appealed to the Energy Facilities Siting Board ("EFSB"), which granted a "Certificate of Environmental Impact and Public Interest" that allowed the construction of Phase I of the Middle Segment. The Applicant submitted a DRI application for Phase II of the Middle Segment to the Commission on November 29, 2007, which was approved by the Commission in January 2008. The middle segment is now fully completed and operational.

The Applicant originally submitted a DRI application to construct Phase I of the western segment in February 2011. After a meeting with Town of Sandwich officials and Commission staff in April 2011 to review the application, the Town of Sandwich Public Works Director, Planning Department and Water District Superintendent recommended changes to the location of the pipeline proposed at that time. The Applicant subsequently withdrew its DRI application while considering how to incorporate the Town's suggested changes.

According to the application materials, the Town requested the change to the location of the pipeline because of concerns about the ability to locate and construct future utilities (including water and sewer service) and a bike path, and service and repair existing utilities, given the existing density of utilities contained within the layout of Service Road. Service Road currently has two gas mains on the south side of the road and a water main and hydrant line on the north side of the road. The Applicant has incorporated the Town's suggested changes, and the location of Phase I of the western segment as currently proposed is located approximately 15 feet off the north, paved-edge of Service Road, but still entirely within its layout, as opposed to under the pavement, or along the north shoulder of Service Road.

This alignment allows the Project to take advantage of the wide layout of Service Road, accommodating both existing and future utilities. The Town also indicated that constructing the Project in the suggested location could facilitate construction of a future bicycle path on top of the sub-surface pipeline. Construction of the Project in this location would require clearing of a portion of the wooded area between Service Road and Route 6, entirely within the layout of Service Road, to a width of approximately 10 to 15 feet along a length of approximately 23,000 feet, resulting in a total of approximately 5 to 6 acres of clearing.

The SLRP has been modified a few times since issuance of its MEPA Final Certificate. A Notice of Project Change ("NPC") was submitted to MEPA in 2008 to extend a section of pipeline at the starting point of the western segment to the Spectra Energy station. More recently, an NPC proposing the Town's suggested changes to Phase I of the western segment was submitted to MEPA on September 17, 2012, and a decision was issued under MEPA on September 28, 2012. In both instances, the Secretary of the EEA issued a decision finding the proposed project changes were insignificant and did not require further MEPA review.

Pursuant to Section 7(d) (i) & (ii) of the *Enabling Regulations*, the *Adjudicatory Hearing Procedure for Energy Related DRIs "shall apply to all DRI applications which concern proposed energy related facilities over which the Energy Facilities Siting Board ("EFSB") asserts jurisdiction.....All DRI applications pending on the date of this ordinance which propose to construct, install, operate, alter or convert an energy related facility which is subject to review by the EFSB, and all DRI applications filed hereafter for such facilities shall be subject to the expanded hearing procedure defined herein."*

The Commission received a DRI application for the current Project on October 15, 2012, which was filed after the effective date of, and therefore subject to, the above-cited provision.

Pursuant to Section 7(d)(iv)(5) of the *Enabling Regulations*, a pre-hearing conference was held on January 3, 2013, and administered by a hearing officer, in order to "*narrow and define the issues, to determine what facts and issues can be agreed by the parties by stipulation or other agreement, to establish time and other limits on cross-examination and argument and to consider any other matters that may aid in the orderly and efficient conduct of the public hearing and the disposition of the DRI application.*" The first public hearing on this project was held on January 23, 2013 at the Cape Cod Commission, where all parties were provided the opportunity to be represented by an attorney admitted to the practice of law in the Commonwealth, as stipulated in the procedures. Attorneys Wendy Levine, Lauren Peloquin and Michael Koehler appeared on behalf of the Applicant. Nathan Jones, Town Planner for the Town of Sandwich, appeared on behalf of the Town of Sandwich. This hearing was continued to

the February 14, 2013 Cape Cod Commission meeting in the Assembly of Delegates Chamber at the 1st District Courthouse in Barnstable, MA.

A public meeting was held on February 5, 2013 to review a draft written decision. On February 14, 2013, the full Cape Cod Commission voted to continue the hearing and the record to the February 28, 2013 full Commission meeting. On February 28, 2013, the Cape Cod Commission voted 9 in favor, 1 abstention, to approve the proposed project as a DRI, with conditions.

MATERIALS SUBMITTED FOR THE RECORD

TABLE 1: Materials Submitted for the Record

Materials from Cape Cod Commission	***Date Sent***
Email from Elizabeth Enos (EE) to Kate McEneany (KM) with attached letter re: application completeness	10/30/12
Email from EE to Nathan Jones (NJ), Sandwich Town Planner re: pre-hearing conference and the adjudicatory hearing procedure	11/30/12
Email from EE to NJ and KM with attached Staff Report	12/21/12
Email from EE to NJ re: hearing date/time	1/10/13
Email correspondence between EE and Lauren Peloquin (LP) (Attorney for National Grid) re: potential meeting dates	1/17/13
Email from EE to NJ re: potential meeting date	1/17/13
Email from EE to LP re: no pre-filed testimony from the Town of Sandwich or public testimony	1/18/13
Email from EE to NJ re: pre-filed testimony	1/18/13
Email from EE to Robert Shea from the Energy Facilities Siting Board (EFSB) re: Staff Report/hearing date	1/22/13
Email from EE to NJ thanking him for his correspondence	1/23/13
Email from EE to JI and LP with attached testimony from NJ and DPW	1/23/13
Email from EE to LP with attached testimony from Sandwich Town Counsel re: will not attend hearing	1/23/13
Email with attached hearing and meeting notice from Gail Hanley to the Sandwich Town Clerk	1/24/13
Email with attached hearing notice from GH and EE to LP	1/24-25/13
Email from Linda Wesson (stenographer) with attached transcript, also sent in hard copy	1/25/13
Email from EE to NJ, Applicant and Jonathan Idman with attached draft decision	1/29/13
Email from EE to Nancy Crossman re: public hearing with attached Staff Report	1/30/13
Email from EE to NJ re: meeting to review draft decision	2/5/13
Email from EE to Mary Stanley re: Applicant's contact information	2/5/13
Email from EE to LP re: thank you	2/5/13
Memo from EE to CCC members with attached draft decision	2/7/13
Email from JI to Janet Smillie re: email redirected to spam	2/14/13

Email from JI to Nancy Crossman re: email redirected to spam	2/14/13
Email from EE to CCC with attached transcript from 2/14 hearing	2/19/13
Email from GH to Sandwich Town Clerk with attached hearing notices	2/19/13
Email correspondence between Jessica Wielgus (Commission Counsel), JoAnne O'Keefe and Nancy Crossman re: public testimony and Communications Policy	2/26/13
Materials from Applicant	***Date Received***
Application materials	10/13/12
Email from Kate McEneany (KM) of Epsilon Associates to EE re: open house in Town of Sandwich	10/23/12
Email from KM to EE re: thank you for letter	10/30/12
Email from KM to EE with attached supplemental materials in response to completeness letter	11/19/12
Email from Mike Koehler to EE with attached notices of appearance of Counsel for National Grid	12/7/12
Email from KM to EE and Martha Hevenor (MH) with attached 9/6/11 letter from Natural Heritage and Endangered Species Program (NHESP)	12/10/12
Email from KM to EE and MH re: vegetation in work zone	12/12/12
Email from KM to EE and MH re: Request for Determination of Applicability	12/17/12
Email from KM to EE and MH re: NHESP submittal dated 8/2/11	12/17/12
Email from KM to EE with attached supplemental materials re: private wells, construction plan and turtle protection plan	12/17/12
Email from KM to EE re: rescheduling pre-hearing conference	12/20/12
Email from KM to EE re: thank you/rescheduling	12/26/12
Email from KM to EE with attached revised submittal to NHESP re: turtle protection plan	12/28/12
Email from MK to EE with attached pre-filed testimony and affidavits on behalf of National Grid	1/15/13
Email from MK to EE with attached correspondence from NHESP re: "no take"	1/16/13
Emails from Lauren Peloquin (LP) to EE re: potential meeting date	1/17/13
Emails from LP to EE re: additional testimony from Town or public	1/18/13
Email from LP to EE thanking her for testimony from NJ	1/23/13
Email correspondence between LP, EE and GH re: hearing notices and additional post-hearing brief	1/25/13
Email from LP to EE re: copies of application materials	1/25/13
Cover letter from Applicant for copies of app materials	1/30/13
Applicant's post-hearing brief submitted by email and hard copy	1/30/13
Email from LP to EE with attached list of project plans	2/5/13
PowerPoint presentation presented by Applicant at CCC meeting	2/14/13

Email and hard copy of supplemental information requested by Commission members including a Visual Mitigation Protocol	2/21/13
Materials from Public Agencies/Towns/State/Federal	***Date Received***
Email from Robert Shea from the Energy Facilities Siting Board (EFSB) re: notice of hearing	12/12/12
Email correspondence between NJ and EE re: project reference for filing appearance	12/19/12
Letter from Ilana Quirk, Town Counsel for the Town of Sandwich re: notice of appearance	12/26/12
Email correspondence between NJ and EE re: public hearing date/time	1/10/13
Email from NJ to EE with attached memos from NJ re: compliance with local development bylaws and LCP and memo from DPW	1/22/13
Email from NJ to EE with attached letter from Town Counsel for the Town of Sandwich re: will not be attending hearing	1/23/13
Materials from Members of the Public	***Date Received***
Message from Nancy Crossman re: concerns about clearing	1/23/13
Message from Janet Smillie re: concerns about clearing	1/24/13
Email from Janet and Paul McCarthy re: concerns about clearing	2/6/13
Email from Maria and Michael Ferguson re: concerns about clearing	2/6/13
Email from Patty Ellis re: concerns about clearing	2/6/13
Email from Nancy Crossman re: concerns about clearing	2/6/13
Email from Daryl Crossman re: concerns about clearing	2/7/13
Email from Liz Crowley re: concerns about clearing	2/13/13
Letter submitted by hand at CCC meeting by Nancy Mann re: concerns about the project	2/14/13
Letter submitted by hand at CCC meeting by Curtis Mann re: effects of tree clearing	2/14/13
Email from Andrew Collentro re: concerns about tree clearing	2/19/13
Email correspondence between JW, Joanne O'Keefe and Nancy Crossman re: Communications Policy and public testimony	2/26/13
Letter from David Brady re: concerns about project	2/26/13
Email from Roland Martins re: concerns about house burning down	2/27/13
Hand out with link to YouTube video of San Bruno Gas Fire	2/28/13
List of Natural Gas Accidents in the 21st Century from Wikipedia (submitted twice)	2/28/13
Hand written letter submitted by Nancy Mann re: concerns about the project	2/28/13
Hand written letter submitted by Curtis Mann re: concerns about the project	2/28/13

JURISDICTION

The project qualifies as a Development of Regional Impact (DRI) pursuant to Section 2(d)(i) of the Commission's *Enabling Regulations* (Revised July 2012) as a "proposed development for which an Environmental Impact Report (EIR) is required to be prepared under the provisions of MEPA."

FINDINGS

The Commission has considered the DRI application of Colonial Gas Company d/b/a National Grid for the proposed construction of Phases 1 & 2 of the western segment of its 20-inch diameter gas distribution pipeline, 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 Sections 12 and 13 of the Act:

GENERAL FINDINGS

GF1. As the date of the first substantive public hearing on the proposed project was January 23, 2013, this project was reviewed subject to the 2009 RPP, as amended in August 2012.

GF2. The Commission finds the proposed project consists of approximately 23,000 feet (4.4 miles) of 20-inch diameter gas pipeline to be installed in the Town of Sandwich, Massachusetts. Phase I begins at the existing Spectra Energy (formerly Algonquin Gas Transmission) station located west of Route 130. It then travels eastward via an existing utility easement for approximately 190 feet in the Shawme Crowell State Forest, to Route 130. The project crosses Route 130 and proceeds approximately 15 feet to the north of the edge of pavement on Service Road for approximately 11,000 feet to the intersection with Quaker Meeting House Road. Phase II begins where Phase I ends, crosses Quaker Meeting House Road and proceeds approximately 12,000 feet to Chase Road. The project is proposed to be located approximately 15 feet north of the paved edge of Service Road, with the exception of one area east of Mill Road that may be constructed under the northern edge of pavement for several hundred feet due to topographical constraints.

GF3. The Commission adopts the 01/22/13 written and 01/23/13 oral testimony of Nathan Jones, Town Planner for the Town of Sandwich, and finds that the proposed project is consistent with the Town of Sandwich's Local Comprehensive Plan (LCP) and municipal development bylaws.

GF4. The Commission finds that the proposed development is consistent with municipal development by-laws, including municipal zoning, provided that the Applicant successfully obtains all necessary municipal permits, licenses and approvals, including any required zoning relief.

GF5. The Commission finds the proposed project is not located in whole or in part within a designated District of Critical Planning Concern (DCPC).

GF6. The project is proposed to be constructed in accordance with the plan set titled
Colonial Gas Company d/b/a National Grid Proposed 20-Inch Gas Main in Service Road, Sandwich, Massachusetts, dated September 7, 2012 by Coler & Colantonio, Inc. and attached to this decision as Exhibit A.

GF7. Based on materials and written testimony submitted for the record, the Commission finds that the probable benefit from the proposed development is greater than the probable detriment.

LAND USE

LUF1. The Commission finds that as the project involves reinforcement of existing infrastructure, Minimum Performance Standard (MPS) LU1.1 (development location) and LU1.2 (compact development) do not apply.

LUF2. The Commission finds the proposed project is consistent with MPS LU2.1 (connections to existing infrastructure) as it protects existing infrastructure and allows for the transmission of gas throughout the region, but does not open up any specific additional areas for development.

LUF3. The Commission finds that due to the nature of this project, MPS LU2.2 (co-location of telecommunication facilities), LU3.1 (buffers to agricultural uses) and LU3.2 (impacts to agricultural lands) do not apply.

ECONOMIC DEVELOPMENT

EDF1. Economic Development Goal 4 of the RPP is "to provide adequate capital facilities and infrastructure that meet community and regional needs, expand community access to services, and improve the reliability and quality of services." The Commission finds that as the proposed project consists of the extension of an underground gas pipeline, MPS ED4.1 under Goal ED4 is the only standard under Economic Development that applies.

EDF2. The Commission finds that according to the application materials, "*The proposed Western Segment will help to maintain adequate operating pressures along the western portion of the Sagamore Line, as well as the middle and eastern portions of the distribution system, by allowing a larger volume of gas to flow east. This will ensure reliable system operations by maintaining minimum operating pressures, thereby ensuring the availability and enhancing the reliability of the Company's natural gas distribution system.*" As the purpose of this project is to improve reliability and quality of services and meet existing and future demand, the Commission finds the proposed project is consistent with MPS ED4.1 and Goal 4 under Economic Development.

WATER RESOURCES

WRF1. The Commission finds that the project does not propose a public or private wastewater treatment facility and is not located within a Marine Water Recharge Area (MWRA) or Water Quality Improvement Area (WQIA). As such, the Commission finds that MPS in Sections WR3, WR5 and WR6 do not apply.

WRF2. The Commission finds the proposed project is located within a designated Freshwater Recharge Area (FWRA), but no sub-surface wastewater is proposed and the project impacts are located outside of the 300 ft. high water level of the applicable freshwater bodies (Hoxie and Nye Ponds). As such, the Commission finds the proposed project complies with RPP Section WR4.

WRF3. The Commission finds that the proposed project is located in Potential Public Water Supply Areas (PPWSA), Wellhead Protection Areas (WHPA), and FWRA. The Commission finds the project will have no long-term impacts on the groundwater and will not increase nitrogen loading, and as such complies with MPS WR1.1 (General Aquifer Protection).

WRF4. The Commission finds the Applicant has provided the location of parcels containing and potentially containing private wells within 400 feet of construction related activities. All parcels shown in Figure 1 of DRI Supplemental Materials provided on 12/17/12 are located along the southern portion of Service Road and are upgradient of groundwater flow from the proposed construction. As such, the Commission finds the proposed project complies with MPS WR1.2. The Commission further finds the project does not propose groundwater withdrawals or residential lot development, and as such MPS WR1.3 and WR1.4 do not apply.

WRF5. The Commission finds the Applicant's revised Revegetation and Seeding Plan submitted on January 15, 2013 in pre-filed testimony, complies with MPS WR1.5.

WRF6. The Commission finds the proposed project will have no net change in nitrogen loading within the designated PPWSA, and as such complies with MPS WR2.1, WR2.4 and WR2.6. The Commission further finds that as the project does not propose any wastewater treatment facilities, MPS WR2.3 does not apply.

WRF7. The Commission finds the proposed project will not have long-term impacts to stormwater quality, nor will the project create an increase in impervious cover or flow. As such, the Commission finds that only MPS WR7.9 within Section WR7 applies to the proposed project and that the project shall be conditioned to require the Applicant to provide construction related erosion and sedimentation controls in order to demonstrate compliance with MPS WR7.9.

WRF8. The Commission finds that no refueling activities are proposed within drinking water resource areas mapped in the RPP in compliance with MPS WR2.2 and WM1.1.

COASTAL/MARINE RESOURCES

CMRF1. The Commission finds no impacts to coastal or marine resources are anticipated from the proposed project, and as such the RPP issue areas of Coastal Resources and Marine Resources do not apply.

WETLANDS

WETF1. The Commission finds there is an isolated area containing wetland vegetation (by virtue of receiving stormwater run-off from a drainage ditch and culvert) adjacent to the project location, west of Route 130. The Applicant filed a Request for Determination of Applicability with the Sandwich Conservation Commission and received a determination that this area is not a wetland subject to its jurisdiction. No other wetland resource areas are located within the project area. As such, the Commission finds the proposed project complies with MPS WET1.1, 1.2 and 1.3.

WETF2. The Commission finds the project's environmental construction plan (ECP) includes stormwater management measures that preclude direct discharges into wetlands and water bodies, and as such the proposed project complies with MPS WET1.4.

WILDLIFE AND PLANT HABITAT

WPHF1. The Commission finds the proposed project is located within a mapped Significant Natural Resources Area (SNRA) due to the presence of state-listed rare species habitat. Portions of the route are also designated SNRA due to the location within a Wellhead Protection Area/"Zone II". The first 190 feet of the Project is located within a utility easement area which has been previously disturbed in conjunction with construction of the Spectra Energy station, ongoing maintenance of the utility corridor, and Route 130 maintenance. The remainder of the Project is located within the layout of Service Road, between Service Road and Route 6. The DRI application describes the 10-15 foot wide strip proposed to be cleared for the Project as vegetated with pitch pine, scrub oak, red oak, and various understory species typical of the area.

WPHF2. The Commission finds the Applicant has provided a habitat assessment of the work area which addresses rare species impacts, consistent with the intent of MPS WPH1.1.

WPHF3. The Commission finds that the Applicant changed the originally proposed location to a wooded location about 15 feet north from the edge of the paved portion of the Service Road at the request of the Town of Sandwich in 2011, which change involves clearing and grading between five and six acres so that a bicycle path could be constructed on top of the Project area. Following construction of the project, the Applicant will revegetate disturbed areas with a seed mix in accordance with the ECP. According to the DRI application, no specimen trees exist within the Project area. As such, the Commission finds the proposed project complies with MPS WPH1.2.

WPHF4. The Commission finds that no new above grade structures, buildings, or fences are proposed as part of the project. As such, the Commission finds the project minimizes habitat fragmentation in compliance with MPS WPH1.3.

WPHF5. The Commission finds that the Applicant has provided a letter dated September 2012, and subsequent letter dated January 15, 2013, in which NHESP confirmed the presence of Eastern Box Turtle habitat within the project area and required the Applicant to implement a turtle protection plan to avoid a prohibited "take" of box turtles. According to the DRI application materials, the Applicant has consulted with NHESP and agreed to implement a turtle protection plan. The Commission finds that the Applicant shall implement the turtle protection plan as conditioned by NHESP in order to comply with MPS WPH1.4.

OPEN SPACE & RECREATION

OSF1. The Commission finds the proposed project will be constructed near existing infrastructure, away from sensitive natural resources, and as such, complies with MPS OS1.1.

OSF2. The Commission finds the proposed project's development area is approximately 10-15 feet wide and 23,000 feet in length, which is the size of the proposed clearing of wooded area between Route 6 and Service Road. The first 190 feet of the project from the Spectra Energy station is located in previously disturbed area, and would not be defined as "development area" requiring open space mitigation. The Commission finds that as the project is located within SNRA, the open space requirement is twice the development area, or between 10.50 – 15.8 acres.

OSF3. The Applicant requested flexibility in the application of MPS OS1.3 (Open Space Requirements). The Commission finds that the original alignment for the project would not have involved any clearing of undisturbed area, and therefore no open space mitigation, but for

the requested changes by the Town to facilitate construction of a Town bicycle path and the construction and maintenance of utilities within the layout of Service Road. The Commission finds that development of a bicycle path network is a major regional goal as articulated in the Transportation and Open Space sections of the RPP. Specifically, Best Development Practice OS2.2 states, *"New development should provide suitable recreation and play areas to meet the needs of that development such as playing fields, playgrounds, basketball courts, or bicycle and walking paths."*

OSF4. The Commission finds that if the Town of Sandwich were to conduct the clearing and grading activities associated with this project to develop the bicycle path, it would be exempt from the open space requirements as a municipal project for municipal purposes, and as such, the project will not be more detrimental to the resources than would be allowable under MPS OS1.3, and grants flexibility in the application of OS1.3, thereby waiving the open space mitigation requirement. The Commission further finds that as the open space requirements of MPS OS1.3 have been waived, MPS OS1.2 does not apply.

OSF5. The Commission finds the proposed project will implement a turtle protection plan to avoid impacts to box turtles during pipeline construction. The Commission finds that other than the turtle habitat, the project is not located within significant natural or fragile areas. The ECP further provides stormwater best management practices, erosion control, and hazardous materials controls to protect water resources, and as such, the Commission finds the proposed project complies with MPS OS1.4.

OSF6. As the proposed project does not involve residential development, the Commission finds MPS OS1.5 does not apply.

OSF7. The Commission finds the 190 foot portion of the alignment from the Spectra Energy station to Route 130 is located within Shawme Crowell State Forest, but also within an existing utility easement over land that has been previously disturbed. As such, the Commission finds the project does not adversely impact conservation land within the forest in compliance with MPS OS1.6.

OSF8. The Commission finds that the project is not located within a Growth Incentive Zone (GIZ) or Economic Center, and does not propose parking as part of the project, and as such, MPS OS1.7 and 1.8 do not apply.

TRANSPORTATION

TF1. The Commission finds the proposed pipeline work will not generate traffic other than temporary construction trips and will not result in access/egress points onto the roadway network. RPP MPS TR0.1, 0.2, 0.4, 0.5, TR1.2- 1.9, TR2.1 - 2.14, MPS TR3.1, MPS TR3.2, and MPS TR3.4 - 3.16 relate to transportation impacts from uses that generate traffic or utilize access onto the roadway network, and as such, the Commission finds these MPS do not apply to the proposed project.

TF2. The Commission finds the project shall be conditioned to ensure compliance with MPS TR0.3 (Permits for Roadwork prior to Construction).

TF3. The Commission finds the Applicant provided a Traffic Management Plan (TMP) that details how temporary construction impacts will be mitigated. Additionally, the Applicant states that efforts will be made to ensure that the project will implement construction "means and

timing of construction to limit the impact of that construction on local traffic." In an effort to ensure that the community is informed of construction activities on the public roadway network, the Commission finds the applicant shall provide updates on planned construction activities to Commission staff, the Town of Sandwich Public Works Department, the Town of Sandwich Police Department, the Massachusetts State Police, the Cape Cod Regional Transit Authority, and, as appropriate, local press. The Commission finds the Traffic Management Plan sufficiently addresses safety relating to construction activities and, as such, complies with MPS TR1.1 (No Degradation of Public Safety).

TF4. The Commission finds the Applicant has submitted materials, which identify impacts to, and provide an analysis of, the area impacted by the project in compliance with MPS TR3.3 (Traffic Studies).

WASTE MANAGEMENT

WMF1. The Commission finds that the November 19, 2012 supplemental application materials provide an estimate of the amount of brush trimmings, pavement cutting, C&D and general solid waste to be generated by the total project, as well as how these wastes are to be disposed of. As such, the Commission finds the Applicant has provided sufficient information to comply with MPS WM2.1 and MPS WM2.2. The Commission further finds that given the specialized nature of the project, MPS WM2.3 and MPS WM2.4 do not apply.

WMF2. The Commission finds that according to the application materials, Hazardous Waste is not used, handled, generated, or stored in connection with pipeline installation or cleaning, and fueling and servicing of equipment will be done off-site. Further, the Applicant has provided an Environmental Construction Plan that contains procedures concerning spill response and disposal of Hazardous Wastes. As such, the Commission finds the proposed project complies with MPS WM1.5.

ENERGY

EF1. The Commission finds the RPP Energy standards apply to DRI applications involving commercial, multi-family residential, and Wind Energy Conversion Facility (WECF) developments. As a utility infrastructure project that does not involve these types of development, the Commission finds that MPS under Energy do not apply.

AFFORDABLE HOUSING

AHF1. The Commission finds that a utility infrastructure project that involves the construction of a new natural gas pipeline falls under the 'Other" category for the purpose of calculating the affordable housing mitigation required under MPS AH3.1. Technical Bulletin #10-001 provides guidelines for the calculation of affordable housing mitigation for DRI's in the "Other" category, and it states that "... buildings and/or facilities in which a calculation of building square footage is not feasible or appropriate...will not be required to provide mitigation in the 'Other' category under AH3.1." As such, the Commission finds that the proposed project is exempt from the mitigation requirements of MPS AH3.1 and that the RPP issue area of Affordable Housing does not apply to this project.

HERITAGE PRESERVATION AND COMMUNITY CHARACTER

HPCCF1. The Commission finds the proposed project will not impact any historic structures and does not travel through any historic districts or cultural landscapes. As such, the Commission finds the proposed project is consistent with MPS HPCC1.1 (historic structures) and HPCC1.2 (cultural landscapes).

HPCCF2. The Commission finds the project proponent contracted with the Public Archaeology Library (PAL) in 2006 to conduct an archaeological survey of the impacted area and PAL determined that the Western Segment has low archaeological sensitivity. Massachusetts Historical Commission (MHC) issued a letter on February 15, 2007, stating that the project has been subject to archaeological survey and that no significant cultural resources were identified that might be impacted by the project. As such, the Commission finds the proposed project is consistent with MPS HPCC1.3 (archaeological sites).

HPCCF3. The Commission finds that MPS HPCC2.1 (strip development) does not apply as the project is a utility infrastructure project and does not involve strip development.

HPCCF4. The Commission finds the proposed project will involve clearing an approximately 10 to 15-foot wide area on the north side of the Service Road. The Commission finds that Service Road is not a designated scenic road, nor does it provide any scenic vistas. The Commission finds the proposed clearing will result in a more open character to the roadway, but is not expected to have a significant impact on screening of Route 6 from the Service Road. As such, the Commission finds the proposed project is consistent with MPS HPCC2.2 (protection of existing roadway character) and HPCC2.3 (avoid adverse visual impacts).

HPCCF5. The Commission finds that building design, parking and lighting standards MPS HPCC2.4 through HPCC2.12, and HPCC2.14, do not apply to the proposed project, as there are no buildings, parking facilities, or permanent lights being proposed. The Commission further finds that although temporary lights may be required in limited circumstances for night work, the DRI application (pg. 2-16) states these temporary lights will "be shielded to direct illumination to the work site and avoid glare," in compliance with MPS HPCC2.11 (Exterior Lighting).

HPCCF6. The Commission finds the proposed project complies with MPS HPCC2.13 (underground utilities) in that the entire length of the utility line will be placed underground.

CONCLUSION

Based on the above Findings, the Commission hereby concludes:

1. That upon satisfaction of the conditions identified in this decision, and with flexibility granted in the issue area of Open Space, the proposed project is consistent with the Cape Cod Commission Act and 2009 (as amended) Regional Policy Plan.

2. The project is consistent with the Commission-Certified Local Comprehensive Plan for the Town of Sandwich.

3. The project is consistent with Sandwich's local development by-laws/ordinances.

4. The project is not located in whole or in part within a District of Critical Planning Concern.

5. That the probable benefit of the proposed development is greater than the probable detriment.

CONDITIONS

The Commission hereby approves, with conditions, the DRI application of Colonial Gas Company d/b/a National Grid, for the proposed construction of Phases 1 & 2 of the western segment of its 20-inch diameter gas distribution pipeline, provided the following conditions are met:

GENERAL CONDITIONS

GC1. This decision is valid for a period of 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of this written decision.

GC2. Unless otherwise more specifically addressed or conditioned herein, this decision shall be appurtenant to and run with the property which is the subject project site.

GC3. The term "Applicant" as used herein shall include its heirs, successors, and assigns in interest, and its employees, representatives, and agents, as the context implies. The decision shall be enforceable against the Applicant, its heirs, successors, and assigns.

GC4. The Applicant shall obtain all necessary federal, state, and local permits for the proposed project.

GC5. Failure to comply, and remain in compliance, with all conditions stated herein, and with all related statutes, ordinances, laws and other regulations, shall be deemed cause to revoke or modify this decision.

GC6. The project shall be constructed and undertaken consistent with the plan set titled "Colonial Gas Company d/b/a National Grid Proposed 20-Inch Gas Main in Service Road, Sandwich, Massachusetts," dated September 7, 2012 by Coler & Colantonio, Inc. and attached to this decision as Exhibit A.

GC7. No development, or application for local permits, licenses or approvals authorizing development work, as the term "development" is both defined in the Cape Cod Commission Act and is approved herein, shall be undertaken until all appeal periods have elapsed or if such an appeal has been filed, until the appeal has been finally dismissed, adjudicated or otherwise disposed of in a manner favorable to the Applicant.

GC8. Prior to issuance of any Preliminary Certificate of Compliance by the Cape Cod Commission for development as the term "development" is both defined in the Cape Cod Commission Act and is approved herein, the Applicant shall submit final project plans as approved by state, federal, and local authorities for review by Commission staff who shall determine their consistency with this decision. If Commission staff determines that the final plans are not consistent with those project plans approved, referenced and incorporated herein, the Commission shall require that the Applicant seek a modification to this in accordance with the "Modification" section of the Commission's Enabling Regulations in effect at the time the modification is sought.

GC9. Unless otherwise more specifically addressed or conditioned herein, prior to issuance of a building permit or undertaking any development as the term "development" is both defined in the Cape Cod Commission Act and is approved herein, the Applicant shall obtain a Preliminary Certificate of Compliance from the Commission that states that all conditions in this decision

required to have been satisfied prior to the issuance of a Preliminary Certificate of Compliance have been satisfied. Such Certificate of Compliance shall not be issued unless and until all applicable, required conditions have been satisfied.

GC10. Prior to the issuance of a Preliminary Certificate of Compliance, the Applicant shall provide written proof to the Commission that a copy of this decision has been provided to the general contractor(s) at least thirty (30) calendar days prior to commencement of any development, as the term "development" is both defined in the Cape Cod Commission Act and is approved herein.

GC11. Prior to issuance of any Certificate of Use/Occupancy, the Applicant shall obtain a Final Certificate of Compliance from the Commission that states that all conditions in this decision required to have been satisfied prior to the issuance of a Final Certificate of Compliance have been satisfied. Such Certificate of Compliance shall not be issued unless and until all applicable, required conditions have been satisfied.

GC12. Commission staff will undertake a review of a project's compliance with the applicable conditions of the decision upon the Applicant's request to the Commission for issuance of a Preliminary or Final Certificate of Compliance. At the time the Applicant requests such a Certificate, it shall provide Commission staff a list of key project contact(s), along with their telephone numbers, mailing addresses, and email addresses, in the event questions arise during the Commission's compliance review. As part of its compliance review, Commission staff may make, and the Applicant hereby authorizes, a site inspection, as needed. Upon review, the Commission shall either prepare and issue the requested Certificate, or inform the Applicant in writing of any compliance deficiencies and the remedial action required for the issuance of the requested Certificate.

GC13. If determined that any development work required to be performed as a condition to issuance of a Final Certificate of Compliance is incomplete at the time a Final Certificate of Compliance is sought by the Applicant from the Commission, the Final Certificate of Compliance may issue, at the discretion of the Commission, provided that the decision is still in force and effect, and that any incomplete work shall be subject to an escrow agreement in form and content satisfactory to Commission counsel. The amount of the escrow agreement shall equal 150% of the estimated cost of the incomplete work, including labor and materials. The escrow agreement may allow for partial release of escrow funds upon partial completion of work. The escrow funds account shall be maintained by the Barnstable County Treasurer. Commission staff shall review the work as it is completed for its consistency with the decision prior to authorizing any release of the escrow funds. Unexpended escrow funds shall be returned to the Applicant upon completion of the work. The timeline for the performance of the work shall be established in the escrow agreement but shall nevertheless be performed within the original seven year time frame of the DRI decision or DRI extension of that decision, if one is approved by the Commission.

GC14. The Applicant shall record this decision as appropriate with the Barnstable Registry District of the Land Court and/or the Barnstable Registry of Deeds. Proof of recording shall be provided to Commission staff prior to issuance of a Preliminary Certificate of Compliance.

GC15. The Applicant shall implement the Visual Mitigation Program as described in its pre-filed written testimony as filed on January 15, 2013, and as further described by the Applicant at the public hearings on January 23, 2013 and February 14, 2013. Consistent with the Visual

Mitigation Program, the Applicant shall work with each affected homeowner located within 300 feet of the Project layout in good faith to provide reasonable vegetative screening. Upon completion of the Visual Mitigation Program and thirty (30) days prior to issuance of a Final Certificate of Compliance, the Applicant shall submit for Commission staff review a final report that will include the following information: (1) the names and addresses of each homeowner contacted by the Company; (2) the names and addresses of each homeowner who requested vegetative screening; (3) the vegetative screening discussed with each homeowner; (4) the vegetative screening implemented; and (5) an identification of any disagreement between a homeowner and the Company with respect to the vegetative screening. To the extent there is a dispute between the Company and a homeowner, Commission staff will determine whether additional vegetative screening as described in the Visual Mitigation Program should be made available to such homeowner; if the Commission staff determines that additional vegetative screening is appropriate, the Company shall be required to implement said additional vegetative screening as proposed by the Commission staff. Satisfaction of this condition shall be a prerequisite to receipt of a Final Certificate of Compliance by the Company.

WATER RESOURCES

WRC1. The Applicant shall provide construction related erosion and sedimentation controls to Commission staff for review and approval prior to issuance of a Preliminary Certificate of Compliance in order to demonstrate compliance with MPS WR7.9.

WILDLIFE AND PLANT HABITAT

WPHC1. In order to comply with MPS WPH1.4, the Applicant shall implement the turtle protection plan as conditioned by NHESP in its "no take" letters to the Applicant dated 12/28/12 and 1/15/13. Prior to issuance of any Certificate of Compliance, Commission staff shall conduct a site visit to ensure that the plan is implemented.

TRANSPORTATION

TC1. The Applicant shall obtain all necessary permits for roadwork prior to construction in order to meet MPS TR0.3, and shall provide copies of the same to Commission staff prior to issuance of a Preliminary Certificate of Compliance.

TC2. The Applicant shall provide updates through phone, electronic mail, or written communication on planned construction activities when significant disruptions to the roadway network are expected to Commission staff, the Town of Sandwich Public Works Department, the Town of Sandwich Police Department, the Massachusetts State Police, the Cape Cod Regional Transit Authority and local press in order to obtain a Final Certificate of Compliance.

SUMMARY

The Cape Cod Commission hereby approves, with conditions, the application of Colonial Gas Company d/b/a National Grid, for the proposed construction of Phases 1 & 2 of the western segment of its 20-inch diameter gas distribution pipeline as a DRI pursuant to Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended.

Executed this 28 day of FEB. 2013.

Signature

JOHN H MCCORMACK JR.

Print Name and Title

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss Feb 28, 2013

Before me, the undersigned notary public, personally appeared John H. McCormack, Jr. in his/her capacity as Vice-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

My Commission Expires: 9-28-18

GAIL P. HANLEY
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
September 28, 2018

EXHIBIT A

Colonial Gas Company d/b/a National Grid Proposed 20-Inch Gas Main in Service Road Sandwich, Massachusetts dated September 7, 2012 by Coler & Colantonio, Inc.

Drawing Number	Drawing Title
15-646.01-G-001	Cover Sheet and Index
15-646.01-G-002	Legend and Notes
15-646.01-C-001	Service Road Alignment
15-646.01-C-001A	Crossing Detail
15-646.01-C-002	Service Road Alignment
15-646.01-C-003	Service Road Alignment
15-646.01-C-004	Service Road Alignment
15-646.01-C-005	Service Road Alignment
15-646.01-C-006	Service Road Alignment
15-646.01-C-007	Service Road Alignment
15-646.01-C-008	Service Road Alignment
15-646.01-C-009	Service Road Alignment
15-646.01-C-010	Service Road Alignment
15-646.01-C-011	Service Road Alignment
15-646.01-C-012	Service Road Alignment
15-646.01-C-013	Service Road Alignment
15-646.01-C-014	Service Road Alignment
15-646.01-C-015	Service Road Alignment
15-646.01-C-016	Service Road Alignment
15-646.01-C-017	Service Road Alignment
15-646.01-C-018	Service Road Alignment
15-646.01-C-019	Service Road Alignment
15-646.01-C-09A	Crossing Detail
15-646.01-C-020	Service Road Alignment
15-646.01-C-021	Service Road Alignment
15-646.01-C-022	Service Road Alignment
15-646.01-C-023	Service Road Alignment
15-646.01-C-024	Service Road Alignment
15-646.01-C-025	Service Road Alignment
15-646.01-C-026	Service Road Alignment
15-646.01-C-027	Service Road Alignment
15-646.01-C-028	Service Road Alignment
15-646.01-C-029	Service Road Alignment
15-646.01-C-030	Service Road Alignment
15-646.01-C-031	Service Road Alignment
15-646.01-C-032	Service Road Alignment
15-646.01-C-033	Service Road Alignment
15-646.01-C-034	Service Road Alignment
15-646.01-C-035	Service Road Alignment
15-646.01-C-036	Service Road Alignment

15-646.01-C-037	Service Road Alignment
15-646.01-C-038	Service Road Alignment
15-646.01-C-038A	Crossing Detail