



Comments of The Nature Conservancy in Massachusetts  
Stakeholder Session 3  
Pre-filing consultation and Engagement Straw Proposal  
Community Benefits Plans

May 6, 2025

The Nature Conservancy (“TNC”) is pleased to submit these comments as part of the EFSB’s Stakeholder Session process to address the Pre-filing and Engagement Straw Proposal (“Proposal”).

As noted in its prior comments, TNC recognizes the importance of site-suitability criteria and the need, as part of any siting, permitting and project development process, to preserve and protect important natural resources. This need to preserve and protect, e.g., limit impacts, is a fundamental part of the Commission’s report and was adopted by the Legislature in the multiple requirements of the 2024 Climate Act (the “Act”). Specifically, key provisions to avoid, minimize and mitigate impacts, and the need for a mitigation hierarchy were all incorporated into the Act. As discussed below, TNC appreciates that the Proposal includes site suitability as a specific pre-engagement focus.

### **EFSB Draft Proposal on Pre-filing**

The EFSB Straw Proposal underscores the importance of the pre-filing process in the siting and permitting of energy facilities. The Act requires pre-filing requirements and outreach procedures prior to filing an application. Proposal at 1. Pre-filing outreach activities are designed to allow communities and key stakeholders the opportunity to influence project design, including route and/or site selection. Proposal at 5.

The EFSB has proposed two phases of outreach with key stakeholders. Phase 1 would commence at least 12 months prior to the filing of an application with the EFSB and would include outreach to solicit feedback from stakeholders including municipal officials, abutters, permitting agencies and community groups who “could potentially be impacted by the project.” Proposal at 4-5. Phase 2 would include further discussion with Phase 1 stakeholders, with public meetings to “seek input on potential routes and sites under consideration.” Proposal at 5. Pre-filing outreach activities are designed to allow stakeholders meaningful input to “influence project design, including route and/or site selection.” Proposal at 5.

The Proposal specifically requires consideration of site suitability criteria in Phase 1<sup>1</sup> and a clear demonstration in Phase 2 that the “project meets site suitability” guidance. Proposal at 7. The process envisions in Phase 1 that the proponent, given outreach and feedback, may “eliminate routes/sites that face insurmountable buildability challenges, collective concerns that document actual or likely harms or deficiencies regarding a proposed route that cannot be avoided, minimized or mitigated or do not comply with state and federal regulations.” At the time of Phase 2, a tentative preferred route or site would be “identified and presented” as well as additional alternative locations. Proposal at 7.

### **TNC Comments on Pre-filing**

TNC appreciates that the Proposal incorporates the clear directives of the Act with its focus on the importance of the EEA site suitability criteria early in the pre-filing/outreach process. As part of any pre-filing community outreach, proponents should provide at the beginning of the process, site suitability criteria, including information regarding the mitigation hierarchy and consideration of, as specifically referenced in the Act, biodiversity, resilience, carbon storage and sequestration, and Environmental Justice. TNC agrees that outreach procedures should require, at the earliest possible stage, a conversation with stakeholders about avoiding, minimizing, and mitigating impacts. We plan to submit additional specific substantive comments regarding site suitability criteria as part of that process.

### **Community Benefits Plans**

The EFSB also posted for consideration Community Benefits Plans (“CBP”) Proposal slides. As part of CBP commitments, project developers are required to “provide meaningful measurable benefits to communities, particularly those historically disadvantaged, overburdened and underserved.” Slides at 4. Community benefits go beyond project specific requirements and are more focused on “tangible and lasting outcomes that a project delivers in response to the priorities, needs and concerns of the communities it impacts.” Slides at 4. CBPs between developers and the affected communities are documented and memorialized into binding and enforceable Community Benefits Agreements (“CBA”). Slide at 5.

CBP’s require outreach and community and stakeholder engagement and participation in a public process to develop a written CBP. Slides at 7-8. CBPs require clear benefits,

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<sup>1</sup> The Proposal specifically references § 69T requirements of the Act including “a mitigation hierarchy to be applied during the permitting process to avoid or minimize, or if impacts cannot be avoided or minimized, mitigate impact of siting on the environment, people, and goals and objectives of the Commonwealth for climate mitigation, carbon storage and sequestration, resilience, biodiversity and protection of natural and working lands to the extent practicable.” Proposal at 7, Note 13.

timelines, identifiable and responsible parties and funding sources/budgets.<sup>2</sup> Slides at 9-10. The CBP process will develop priorities for each community given the type of project and impacts. Slides at 12. Examples include, among other things, hiring plans, funds for projects air quality monitors, and investments for workforce development, affordable housing, transportation, open spaces, community centers, and community infrastructure as well as support for energy efficiency programs, a wildlife and habitat development plan, and monitoring of environmental impacts. Slides at 12-13.

### **TNC Comments on CBPs**

TNC generally applauds the expansion of programs to meet specific community/stakeholder priorities as established by CBPs/CBAs but cautions that such programs should be in addition to requirements mandated as part of site suitability criteria and/or required to avoid, minimize and mitigate impacts as required by the Act. Given project impacts on disadvantaged communities, CBPs/CPAs should be a strong additional meaningful mechanism for communities, beyond those already required by the Act and included in EFSB orders, to obtain important benefits and commitments from developers as part of meaningful engagement; CBPs/CBAs should not be used as a tool to provide a benefit or additional funds otherwise required by the Act.

Specifically, EFSB orders and associated conditions, following a review of the applications and adjudication, must compel projects to apply the mitigation hierarchy and avoid, minimize and mitigate impacts. Effective and meaningful commitments to address project impacts, particularly those relating to environmental justice and equity and environmental and public health protections, are not optional, to be negotiated, requirements as part of CBPs/CBAs.

As an example, if a project is deemed to have air, water and/or soil impacts, such that monitoring is required, commitments involving systems for monitoring environmental impacts should be included as EFSB conditions of approval and not left to the community to negotiate.<sup>3</sup> This distinction between programs that are required by the Act to avoid, minimize and mitigate impacts and those programs that provide meaningful benefits to historically disadvantaged communities should be clearly established in the standards and guidelines.

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<sup>2</sup> SMARTIE milestones should be included to ensure goals are specific, measurable, achievable, relevant, time-bound, inclusive and equitable.

<sup>3</sup> As part of its discussion of meaningful commitments, EOEJ suggests that funds for air quality monitors (as part of EJ) and systems for monitoring environmental impacts, relating to air, water and soil quality, be included in CBPs/CBAs. Slides at 12-13. Of course, these types of programs would be beneficial if considered to address ongoing community needs that are not the result of any project activities. As discussed above, if these benefits are related to project impacts, the EFSB should appropriately address the impacts in its order.

TNC appreciates the opportunity to submit these comments and looks forward to continuing to work with the EFSB as part of the Stakeholder process

Respectfully submitted,

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