



March 10, 2021

Tori T. Kim
Assistant Secretary/MEPA Director
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

tori.kim@state.ma.us
MEPA-regs@mass.gov

Mystic River Watershed Association Comments on the Interim Protocol for Environmental Justice Outreach and Interim Protocol for Climate Change Adaptation and Resiliency

Dear Assistant Secretary and Massachusetts Environmental Policy Act (“MEPA”) Director Kim:

On behalf of the Mystic River Watershed Association (“MyRWA”), we are writing to provide comments on the draft MEPA Interim Protocol For Environmental Justice Outreach (the “EJ Interim Protocol”) related to the Environmental Justice Policy of the Executive Office of Energy and Environmental Affairs dated January 31, 2017 (the “EJ Policy”), and the MEPA Interim Protocol on Climate Change Adaptation and Resiliency (the “Adaptation Interim Protocol”).

We thank the EEA and the MEPA Office for providing the opportunity to comment on these important proposals intended to strengthen the Commonwealth’s policies and practices on environmental justice (“EJ”) and climate adaptation. We celebrate the Offices’ action on these policies and the prioritization of these critical issues, which are paramount in the interests of our organization and our members.

The Mystic River Watershed Association (MyRWA) was founded in 1972 to protect and restore the river, its tributaries, and watershed lands, spanning 21 municipalities, for the benefit of present and future generations. Our watershed encompasses many EJ communities and, according to EPA EJSCREEN data, has the highest rates of linguistic isolation of any watershed in the state and the second highest fraction of its population identifying as non-white. As part of this work, our organization has a powerful focus on climate resiliency and the differential risks of increasing flooding, sewage pollution, access to quality open space, and other impacts as climate disruption manifests across our communities and their most vulnerable members.

Together with the Conservation Law Foundation (CLF) and its partner organizations, we have reviewed the draft Interim Protocols in detail. We agree with the detailed comments developed and offered by CLF and we wish to emphasize three points of concern that rise in importance as we review these protocols through the lens of our watershed.

MEPA Certificates Should Include Mitigation Measures That Are Tailored To EJ Populations.

We agree strongly that the Secretary’s Certificate should make every effort to include reasonable and specific mitigation requirements tailored to impacted EJ populations and based on feedback from the community. The Interim Protocol should directly commit to this principal.

The MEPA process should recognize that factors requiring review such as stormwater discharge, additional wastewater flows, enhanced flood risk, heat stress, and more may differentially impact EJ communities within the population affected by the development. This differential impact may result from a higher pre-existing burden of these factors on those neighborhoods, the more limited resources of these community members to respond to risks such as flooding, and/or from the physical layout and geographic features associated with the proposed development.

The Office's review of mitigation measures should take into account these differential impacts and seek to target mitigation measures to the communities who, historically and presently, are most vulnerable to these risks.

During MEPA Review, EEA and the Proponent Should Engage With Potentially Impacted Communities, Including During the MEPA Site Visit.

We agree strongly that EJ-oriented community outreach should not be limited to the pre-filing phase and should extend throughout the MEPA process, including the critical site visit event. The same motivations and considerations that compelled the Office to develop the recommendations of the Interim Protocol for community engagement in the pre-filing phase will apply in these later phases as well.

Moreover, the difficulty in reaching and engaging diverse and vulnerable populations suggests a need for extended engagement rather than limited outreach concentrated in the pre-filing period. We also urge that the MEPA Office extend the comment periods beyond the standard timeframe (20 or 30 days) when a project impacts EJ populations.

We believe that part of the solution to environmental injustice is to inform stakeholders of the inequitable history of land use and how spaces are being, or could be, transformed to serve them better. Proponents, under the guidance of the MEPA Office, should provide the community with an informative and accessible narrative of the history of the site that argues affirmatively for the community benefit associated with their development. Proponents should welcome the opportunity to provide their perspective on the community benefit of their proposals throughout the permitting process, explained through rigorous and accurate historical information and engineering projections. And the public deserves this context to formulate their feedback and recommendations on such proposals.

Do Not Provide Exemptions for Remediation Projects

The EJ Interim Protocol requires that, if any portion of the project site is located within an EJ population as defined in the 2017 EJ Policy, the Proponent must consult with the MEPA Office to determine an appropriate EJ outreach strategy, yet it exempts remediation projects from this policy. We feel strongly that it is inappropriate to exempt remediation projects that require MEPA review from this EJ policy.

Remediation projects play a special role in advancing EJ. They often are, or could be, targeted to mitigate past and longstanding environmental harm experienced by EJ communities. These projects often enjoy wide community support because of their potential to enhance the safety and wellbeing of the surrounding neighborhoods. There is little drawback to extending the requirement of MEPA Office consultation and outreach strategy to such projects.

Moreover, there may be substantial community benefits in doing so. This outreach can inform community members of the safety risks associated with the site in its present state, and of the benefits of the remediation work. Community members may have valuable feedback that can steer the project towards a more positive EJ impact. This notification will also engage the

community in the longer term development process around the site, for which the Proponent may already be moving forward with planning.

Vulnerable members of EJ communities deserve access to information about remediation projects and, under the EJ Policy which seeks to “enhance public participation and engagement,” we believe they are entitled to access to this information.

We urge that the Interim Protocols be revised to address these issues and we look forward to collaborating with EEA on the long term work needed to address EJ and climate adaptation in our communities.

Thank you again for the opportunity to comment on this important proposal.

Sincerely,

A handwritten signature in black ink that reads "Patrick Herron". The signature is written in a cursive, flowing style.

Patrick Herron
Executive Director, Mystic River Watershed Association