



September 6, 2007

Katherine Fichter  
Executive Office of Transportation  
Department of Transportation Planning  
Room 4150  
Ten Park Plaza  
Boston, MA 02116

RE: EOT/MBTA July 2, 2007 Transit Commitments Status Reports

Dear Ms. Fichter:

The Conservation Law Foundation (“CLF”) is pleased to have the opportunity to comment on the status of the Central Artery transit commitments and compliance with the requirements of the revised State Implementation Plan at 310 CMR 7.36 (“revised SIP”) and the Administrative Consent Order on the transit commitments, ACO-BO-00-7001 (“ACO”). While we are pleased to see progress on many of the revised SIP and ACO commitments, we are concerned about certain areas of noncompliance and failures to provide information in the July 2, 2007 status reports.

We are particularly concerned about failures with respect to the Green Line Extension to Medford Hillside and Union Square. Despite statements in the Status Report on the revised SIP that this project is on track to meet deadlines, we have learned that a delay of at least 2 years is being proposed for this project. Timely completion of the Green Line Extension is vital to achieve the air quality requirements of the Clean Air Act and to comply with the revised SIP. CLF strongly objects to any postponement of this project and urges the Department of Environmental Protection (“DEP”) and U.S. Environmental Protection Agency to require the Executive Office of Transportation (“EOT”) to comply with the Clean Air Act and readjust project planning to ensure timely completion of this project.

CLF is also very concerned about EOT’s failure to provide adequate information to comply with the public process requirements of the revised SIP. The revised SIP specifically requires that EOT include “detailed information about project funding,” “detailed information about any actual or known potential need and reasons for project

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delays or substitution,” and “detailed information about any actual or known funding engineering, or other obstacles to meeting the Project Interim Deadline requirements of 310 CMR 7.36(2)(h)1 and 310 CMR 7.36(3) and measures being take [sic] to address those obstacles.” See Revised SIP at 310 CMR 7.36 (7)(a).

CLF is extremely disappointed by the failure to provide detailed information about project funding and the failure to identify potential delay in meeting interim and final deadlines. This failing is most acute for the Green Line Extension Project because the status report on the revised SIP does not mention plans to delay the Green Line Extension project despite an announcement only days after this report was released that EOT does in fact intend to delay the Green Line Extension project. Throughout our comments, we highlight areas where we believe adequate information has not been released to the public for the projects at issue.

Failure to comply with these disclosure requirements undermines the purpose of the public process requirements. The public cannot provide meaningful comments on these projects if EOT does not fully disclose project funding and any obstacles to meeting interim deadlines and potential delays. CLF requests that EOT be required to resubmit the annual report with full disclosure of funding, obstacles and potential delay as well as measures planed to address obstacles and we request that the public be given another opportunity to comment once this information is made available.

The remainder of this letter provides detailed comments on the status reports including further comments on the Green Line Extension and other individual projects.

### **Green Line Extension to Somerville and Medford**

The Commonwealth has fallen off track on its commitment to complete the Green Line Extension by 2014. This project was due by 2011 in the original SIP (which is still in effect as a matter of federal law), and the 3 year delay negotiated as part of the settlement with the CLF on the Central Artery transit commitments was designed to give adequate time for this project to be completed. In the past, the Commonwealth had failed to take key initial steps to get this project completed on time. Now, with a deadline of 2014 under the revised SIP and with clear interim deadlines, the Commonwealth should be advancing the initial phases of this project to assure on-time completion. Unfortunately, less than a year after reaching a settlement agreement regarding this project, and while the revised SIP that includes a 2014 deadline for this project is under review by the U.S. Environmental Protection Agency, the Commonwealth has stated that it intends to put this project on hold in order to seek federal funding and, as a result, delay the project at least until 2016.

While the revised SIP allows the Commonwealth flexibility in how it funds this project, it does not permit the Commonwealth to delay the project without legal consequence. The revised SIP requires the Commonwealth to continue to advance this project and to achieve interim deadlines. Furthermore, the Commonwealth has a clear obligation to

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achieve the air quality improvements that the Green Line Extension is designed to provide by 2014. The Green Line Extension delivers a very large portion of the air quality benefits promised through the revised SIP. Failure to advance this project in accordance with the schedule in the revised SIP undermines the settlement agreement with CLF, the integrity of the revised SIP, and the Commonwealth's efforts to achieve air quality, public health, environmental justice, mobility and economic development goals.

The Commonwealth has an obligation to proceed with the Green Line Extension on the schedule provided in the revised SIP, regardless of the funding source it chooses and to make this project a priority for funding and programming.

As mentioned above, the status report does not identify any postponement of this project and instead indicates that the project is proceeding as required and that the state bond bill will authorize funding to meet the project's ongoing needs. This is deeply troubling because CLF has learned that the Commonwealth does intend to postpone the project indefinitely while EOT waits for approval from the Federal Transit Administration to provide federal funding and that the Commonwealth will not provide the funding for this project absent a significant federal contribution. The failure to report on the proposed delay has deprived the public of the opportunity to provide meaningful comments and weakened the oversight capacity of the Executive Office of Energy and Environmental Affairs and the DEP, both of which bear responsibility for ensuring compliance with Clean Air Act obligations.

CLF believes that the Commonwealth must make a commitment to get this project back on track and adhere to all deadlines. It is unacceptable to put this project on hold pending federal approval. The environmental review, planning, permitting and construction phases of this project cannot wait for federal funding. To allow that to happen would guarantee that the project deadline will not be met.

Finally, CLF is very concerned about the implications of the proposed delay for the revised SIP. CLF supports implementation of the revised SIP, but questions whether the U.S. Environmental Protection Agency can approve a SIP which the Commonwealth is already indicating it will not adhere to. CLF believes that EOT should adjust its intentions with respect to the Green Line Extension to conform to Clean Air Act requirements and its own revised SIP. The Commonwealth should recommit to achieve interim deadlines for this project and to get on schedule to complete the project by 2014.

### **Fairmount Line Improvement Project**

CLF is pleased with the progress on the commitments regarding the Fairmount Line project. We are thrilled that Morton Street Station renovation has been completed and that the Morton Street Station is now open for residents to use. We were pleased to learn that money has been allocated for bridge repairs along the line and that design of new stations at Four Corners and Talbot Avenue is progressing.

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The status report does not include detailed information about funding for this project. Although we understand that EOT and MBTA have recently made significant progress in advancing this project and meeting interim deadlines, CLF requests that detailed information about project funding for all phases of the project, including construction of the new stations, be provided in compliance with 310 CMR 7.36 (7)(a).

CLF was disappointed that the July 2, 2007 submittal did not include any information on service improvements for the Fairmount Line. The revised SIP requires that EOT provide "other measures to improve service and increase ridership" in addition to new stations, bridge improvements and other structural investments. 310 CMR 7.36 (2)(h)1. Service improvements could include cleaner, more efficient technology for the line such as diesel multiple units, reduced headways, evening and weekend service and equitable fares. CLF requests that the status report on the revised SIP be updated with information on planned measures to improve service and increase ridership.

### **Red Line – Blue Line Connector – Design**

CLF believes that construction of the Red-Blue Connector project would provide enormous benefits to the Commonwealth including improved air quality, reduced congestion in the MBTA system and on our roadways, and improved access and connectivity for residents. Minimal information was provided about this project in the status report on the revised SIP. The status report declares that an EENF for the Red-Blue Connector will be completed as early as July. CLF is not aware that an EENF has been filed and requests more accurate information about the status of this project. In addition, CLF requests more details on the funding for this project.

### **Blue Line Platform Lengthening and Station Modernization**

Blue Line Platform Lengthening and Station Modernization must be completed by December 31, 2008. CLF is pleased that construction of State Street Station is proceeding and that completion is anticipated before the project deadline. CLF is also pleased that work is underway on Maverick Station; however, no estimated completion date has been provided for this project. CLF requests that EOT provide an estimated completion date, and that EOT notify the public through this reporting process if any delay is anticipated in accordance with the requirements of the revised SIP. Similarly, the status report on the revised SIP states that the Government Center and Orient Heights Stations are being advertised this year. No information is provided about the schedule for construction of these projects or their estimated completion dates. CLF requests that a detailed schedule be provided including estimated completion dates and that the public be notified through this process if any delay is anticipated. Similarly, CLF was pleased to learn that the first six-car trains have been delivered to operate on the Blue Line but requests that the status report be updated with a complete schedule for train delivery, including the date that delivery is anticipated to be completed. Finally, more information is needed on the funding sources for train procurement and station construction.

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### **Greenbush Commuter Rail Restoration**

CLF commends the MBTA for progress on the Greenbush Line and is pleased that this project is anticipated to be completed on schedule.

### **Urban Ring Environmental Review**

CLF is disappointed by the continued delay on the environmental review of the Urban Ring. While we appreciate EOT's interest in updated employment and population projects to inform Phase II environmental review, CLF does not believe that there was any reason for a delay to be granted by MEPA for Phase III environmental review. The entire schedule for environmental review of this project has been significantly delayed since this commitment was first memorialized in the ACO, and both Phase II and Phase III continue to be pushed off, with the result that the air quality benefits of this project will be delayed. CLF urges DEP to require that this project be expedited. In addition, funding sources for the environmental review process for both Phase II and Phase III should be listed in the status report on the ACO.

### **EOTPW/RTA Diesel Retrofit Program**

The status report on the ACO states that the bus retrofit program will be voluntary. CLF notes that the ACO required retrofitting of all eligible buses, and did not mention an option of making this program voluntary. We request that DEP carefully review the number of buses that are retrofitted through this program to ensure that the intended air quality benefits are achieved. We are concerned that EOT does not have an incentive, if the program is allowed to be voluntary, to encourage RTAs to seek retrofitting of their buses and that this project may not achieve the air quality benefits originally anticipated if all eligible buses are not retrofitted because retrofitting is allowed to be optional.

CLF is also concerned that the status report on the ACO states that \$4.5 million will be dedicated to this project, despite the requirement in the ACO that up to \$22.5 million be dedicated to this project. We would like clarification on whether the scope of this project has been changed and whether the intended statewide retrofitting of buses and anticipated air quality benefits are going to be achieved. The status report states that the Commonwealth will provide a 20% non-federal match for \$4.5 million in CMAQ funds that are intended to be devoted to this project. CLF requests that the source of this match be provided and the gap between the anticipated \$22.5 million project budget and this reported budget be explained.

### **School Bus Retrofits and MBTA Test Locomotive DOCs**

The ACO included a requirement that school buses be retrofitted. The status report provides no information on this commitment. The ACO also included a requirement that

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one hundred and twenty five thousand dollars be allocated to the MBTA to test use of Diesel Oxidation Catalysts on MBTA trains. The status report contains no information on these commitments. CLF requests that a full report on both of these ACO commitments be provided to the DEP and the public through an updated status report on the ACO and that the public be provided with an opportunity to comment on these projects.

Sincerely,



Carrie Russell  
Staff Attorney

CC: Governor Deval Patrick  
Secretary Ian Bowles  
Secretary Bernard Cohen  
General Manager Daniel Grabauskas  
Acting Commissioner Arleen O'Donnell  
Commissioner-Designate Laurie Burt