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January 30, 2017

U.S. Department of Transportation  
Federal Railroad Administration  
Attn: Ms. Rebecca Reyes-Alicea  
One Bowling Green, Suite 429  
New York, NY 10004

RE: Comments on NEC FUTURE - Tier 1 Final Environmental Impact Statement

Dear Ms. Reyes-Alicea:

The seven organizations signing this letter include: four local land trusts and a watershed organization (Charlestown Land Trust, Hopkinton Land Trust, South Kingstown Land Trust, The Westerly Land Trust, and Wood-Pawcatuck Watershed Association); and two statewide conservation organizations (RI Land Trust Council, Audubon Society of RI). Several of the organizations signing this letter support and advocate for rail and public transit improvements. We submit the following comments about the **Tier 1 Final Environmental Impact Statement NEC FUTURE: A Rail Investment Plan for the Northeast Corridor**. Many of the signatories to this letter have also submitted individual organizational letters.

We have some serious concerns about, and suggestions for, the proposed NEC rail project as presented in the Tier 1 Final Environmental Impact Statement (Final EIS). We respectfully request your consideration of these issues and suggestions in your Record of Decision and in Tier 2 planning for Rhode Island's section of the rail corridor project. Specifically, we are concerned about the impact that development of the Preferred Alternative will have on lands protected by the state, municipalities, and non-profit organizations for their natural resource, cultural and recreational values. We are also concerned about the impacts on watersheds, wetlands, farmland and forest fragmentation. We detail these concerns below.

1. **Include conservation organizations as stakeholders in the Tier 2 planning and analysis process to ensure attention to protected lands in the final route alignment.** Although several land trusts and The Nature Conservancy are significantly impacted by the proposed new rail corridor in a direct way, they and the other environmental organizations in Rhode Island were not included as stakeholders in the Tier 1 process. We ask that the Federal Railroad Administration, U.S. Department of Transportation and the State of Rhode Island (Departments of Transportation, Environmental Management, and Administration - Division of Planning as well as the State Planning Council which is the Metropolitan Planning Organization for Providence) include the organizations that are signatories to this letter as participating stakeholders during Tier 2 design and evaluation process for Rhode Island's section of the rail corridor.

2. **Tier 1 Record of Decision should expressly require Tier 2 planning and analysis to consider the option of expansion of the existing rail corridor as an alternative along the "Old Saybrook to Kenyon Bypass" section of the Preferred Alternative when evaluating specific corridor locations and impacts.**

There is a Lack of Clarity in the Tier 1 Preferred Alternative Proposal Regarding the “Old Saybrook to Kenyon Bypass.” The Preferred Alternative presented in the NEC FUTURE Final EIS includes an “Old Saybrook to Kenyon Bypass” which proposes to create a new rail corridor through Westerly and Charlestown in Rhode Island. The maps that illustrate the Preferred Alternative in Appendix AA of the Final EIS clearly state:

*“The location shown for new segments is illustrative and represents the information used to analyze effects of the new segment as part of the Tier 1 EIS process; the location of the new segments will be determined in Tier 2 project studies.”<sup>1</sup>*

There is similar language in various places throughout the text of the Final EIS including:

*“The selected alternative will not include decisions about specific alignments ...those decisions will be made in Tier 2 project studies.”<sup>2</sup>*

*“Tier 1 Draft EIS and Final EIS do not consider specific alignments or service plans but rather evaluate representative routes for planning purposes....”<sup>3</sup>*

And this point is stated again with elaboration:

*“Tier 2 project studies will define the specific alignment that seeks to avoid the use of parklands, recreation areas and conservation areas. Potential options to avoid and minimize effects on parkland resources include shifting the representative route and re-evaluating the proposed construction types identified for the preferred alternative.”<sup>4</sup>*

You make a similar statement in your letter of January 10, 2017 to Charlestown Council President Virginia Lee:

*“...no specific alignments have been chosen; the lines on a map depicting a potential new segment through Charlestown and Washington county are representative in nature. The location and construction type of any new segment would be determined in a Tier 2 project study, when Rhode Island, as the project proponent, would evaluate and identify the best alignment and design based on public input and impacts on resources.”*

It is unclear from these statements and unclear in the Final EIS if the Tier 1 Record of Decision for the Preferred Alternative will **preclude** project studies and analysis in Tier 2 from considering the upgrade and widening of the existing rail corridor as a possible location for the additional tracks proposed in the Tier 1 Preferred Alternative. We ask that the Record of Decision clarify this issue. The selection of the optimum alignment in Tier 2 project studies - the alignment which will minimize environmental and cultural impacts and, possibly even the best cost benefit and return on investment - may point to widening of the existing rail corridor as the best and most feasible alternative. This may be the best alignment for avoiding environmental impacts that are unacceptable by the state and communities. We ask that Record of Decision affirmatively state that Tier 2 project studies evaluate widening the existing rail corridor as an option when they are considering the location of specific alignments in Rhode Island.

### **3. Minimize impacts to protected open space lands and mitigate any unavoidable impacts.**

The new rail corridor that is presented “as illustrative and representative” in the Final EIS Preferred Alternative for the “Old Saybrook to Kenyon Bypass” has very dramatic impacts on land that has been protected by land trusts, municipalities and the state. In fact, the “representative corridor” illustrated in the Final EIS passes through the middle of several of the largest tracts of land protected by non-profit organizations in Rhode Island. These include The

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<sup>1</sup> This statement is on every map in Appendix AA Part 1

<sup>2</sup> Final EIS, Page 1-9, Section 1.6

<sup>3</sup> Final EIS, Page 2-3

<sup>4</sup> Final EIS, Page 7.4-17, Section 7.4.9

Westerly Land Trust's Grill's Preserve and Riverwood Preserve and The Nature Conservancy's Carter Preserve. Further, the Final EIS does not accurately report the size of the preserves impacted by the "representative corridor" for the bypass and understates the scope of the impacts on protected lands by the new corridor.

The state of Rhode Island, municipalities, foundations, non-profit organizations and the federal government have made considerable investments to protect these preserves and other properties in Rhode Island's communities for their natural resource (including habitat for rare and endangered species, watershed and water quality protection), cultural, and public recreational values.<sup>5</sup> These investments were NOT made with the intention of creating a "land bank" that could be used as the 'path of least resistance' for new transportation infrastructure such as the proposed new rail corridor being considered for the bypass.

Requirements for the U.S. Department of Transportation to avoid parks and other lands protected with Land and Water Conservation Funding (Section 4(f) and Section 6) were established in law precisely because it is 'logistically easy' and often less expensive for planners to route infrastructure corridors through protected lands. Protected lands should not be viewed as "vacant land" simply because they are undeveloped and have ownership patterns which create a 'path of least resistance' that appears to be an easy route for new transportation infrastructure. This is an unintended consequence of land conservation and should not be exploited when new transportation corridors are being planned.

While some of the lands owned by non-profit land trusts and other non-profit conservation organizations for conservation purposes may not technically require a 4(f) consideration and analysis by the 'letter of the law,' the intention of the 4(f) provision is to protect these types of lands during the design of transportation infrastructure. While the state and municipalities do not own some of the protected lands, they hold conservation easements on most of the lands protected by non-profit organizations. All protected lands should be treated with this same consideration - i.e. as if they were 4 (f) properties. Thus, all protected lands should be avoided by the rail corridor improvements if possible. If protected lands cannot be avoided, the impacts should be minimized and mitigated.

#### **4. Minimize impacts to watersheds, drinking water supplies, and wetlands.**

The proposed rail corridor improvements will cross the Pawcatuck River and be constructed within the watershed and its wetlands and over Westerly's sole source aquifer that supplies the town's drinking water. These are very important and sensitive environmental resources that will be impacted by construction and maintenance of the rail corridor improvements presented for the Preferred Alternative in the Final EIS. Impacts to these resources need to be minimized during Tier 2 planning for Rhode Island's rail improvements.

The Pawcatuck, Wood, Beaver, Chipuxet and Queens Rivers are part of the Wood-Pawcatuck Watershed. This watershed and these rivers are in the middle of a three-year study and being considered for inclusion in the National Wild and Scenic Rivers System. The significance of this watershed and these rivers was recognized by the U.S. Congress when it passed the Wood-Pawcatuck Watershed Protection Act in 2014 to initiate this Wild and Scenic River study by the National Park Service. The Final EIS does not recognize the Wild and Scenic status of the watershed and these rivers and the protection that this designation requires during design and construction. Tier 2 planning must require the design of rail improvements to minimize and mitigate any detrimental impacts on these rivers, their wetlands and water quality. Further, the rail improvements also need to be designed to avoid any detrimental impact on Westerly's sole source drinking water aquifer.

#### **5. Minimize impacts to farmland and forest fragmentation.**

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<sup>5</sup> These protected lands have extensive trail networks similar to Connecticut's "blue blaze trails." These trails and public recreation values should be given the same consideration as they are in the discussion for Connecticut trails in the Final EIS.

The proposed "Old Saybrook to Kenyon Bypass" in the Preferred Alternative presented in the Final EIS for Tier 1 will have significant impacts on farmland, working farms and could potentially further fragment large tracts of forest in Westerly and Charlestown. Tier 2 planning should ensure that these impacts are avoided if possible and otherwise minimized and mitigated.

Rhode Island has lost over eighty percent of its farmland since the 1940s. Agriculture is an important and growing sector of the state's economy. The state has adopted policies and established initiatives and is investing resources to support and "grow" the agricultural sector of the state's economy and the production of local foods. Large tracts of unfragmented forest are also disappearing in Rhode Island. These areas are critical habitat for birds and other wildlife. It is important that Tier 2 planning for the rail improvements recognize the importance of farmland and large tracts of unfragmented forest and avoid impacts.

We respectfully request that these comments and suggestions are given serious consideration in your Record of Decision and during Tier 2 planning. The Preferred Alternative as currently "illustrated" in the Final EIS does not adequately address these issues and minimize environmental impacts.

We can be reached at the emails addresses and phone numbers following our signatures for further discussion and for inclusion in the Tier 2 design and review process when it begins.

Sincerely



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