

CRMC DECISION WORKSHEET

2024-07-019

Rhode Island Energy

Hearing Date:			
Approved as Recommended			
Approved w/additional Stipulations			
Approved but Modified			
Denied		Vote	

APPLICATION INFORMATION						
File Number	Town	Project Location		Category	Special Exception	Variance
2024-07-019	Portsmouth	Lines L14 and M13		B	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Plat	Lot			
		Owner Name and Address				
Date Accepted	7/11/2024	Rhode Island Energy		Work at or Below MHW	<input type="checkbox"/>	
Date Completed	10/29/2024	c/o Marc R. Smith 280 Melrose Street Providence, RI 02907		Lease Required	<input type="checkbox"/>	

PROJECT DESCRIPTION

Rebuild existing L14 and M13 115kilovolt transmission lines through Portsmouth & Tiverton

KEY PROGRAMMATIC ISSUES

Coastal Feature: Coastal Wetland

Water Type: Type 2, Low Intensity Use/Boyd's Marsh

Red Book: 1.1.8; 1.2.1(C); 1.2.1(C); 1.2.3; 1.3.1(B), (L)

SAMP:

Variances and/or Special Exception Details: Special Exception for altering Coastal Wetland adjacent to Type 2 water

Additional Comments and/or Council Requirements: As of the completion of this report HPHC Sign off has not been issued

Specific Staff Stipulations (beyond Standard stipulations): Environmental Professional to oversee wetland mitigation and provide monitoring reports

STAFF RECOMMENDATION(S)

Engineer	<u>RML</u>	Recommendation:	<u>No Objection</u>
Biologist	<u>ALS</u>	Recommendation:	<u>No Objection</u>
Other Staff		Recommendation:	


Engineering Supervisor Sign-Off
11/11/24
date

Executive Director Sign-Off
date

Supervising Biologist Sign-off
date
Staff Sign off on Hearing Packet (Eng/Bio)
date

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Staff Report



STATE OF RHODE ISLAND
COASTAL RESOURCES MANAGEMENT COUNCIL
STAFF REPORT TO THE COUNCIL

DATE: October 28, 2024
TO: Jeffrey M. Willis, Executive Director
FROM: Amy Silva, Richard Lucia, P.E.

Applicant's Name:	Rhode Island Energy
CRMC File Number:	2024-07-019
	Rebuilding of existing L14 & M13 115 kilovolt transmission lines through portions of Portsmouth & Tiverton, crossing the Sakonnet River. CRMC Portion of the project extends from Boyd's Lane Portsmouth to Riverside Dr, Tiverton. Project will result in the permanent alteration of 548ft ² of Coastal Wetland and 101ft ² of Freshwater Wetland. Project Requires a Special Exception to 650-RICR-00-1.2.2(C)(1)(d) and (C)(2)(b). In accordance with §1.3.1(L)(5),1, 815ft ² of mitigation wetland will be created, exceeding the 2:1 replacement requirement. Alteration to Freshwater Wetlands falls under Exemption 650-RICR-00-9.6.3
Location:	Lines L14 and M13Linear Project within Easement and multiple lots
Water Type/Name:	Type 2, Low Intensity Use/Boyd's Marsh
Coastal Feature:	Coastal Wetland
	"L14 and M13 Mainline Rebuild Project.." Pages 1, 23-34, all dated 6/12/2024 by Power Engineers
Plans Reviewed:	"Salt Marsh Mitigation Plan..." two sheets, dated 7/30/2024 by Power Engineering

INTRODUCTION:
The application is a portion of a much larger transmission line project that has been split between DEM and CRMC jurisdiction due to its long linear nature that spans the two jurisdictions, as well as the fact that the work within CRMC Jurisdiction includes altering Coastal Wetland. It was determined that CRMC would review the portion of the project that fell within its Freshwater Wetlands Jurisdictional area, and DEM would review the remainder of the project.

A pre- application meeting for this project was held on September 27, 2023, where the conceptual discussion of the project was held. At that time, CRMC Staff noted that the existing line extended through Coastal

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Wetland and encouraged the design team to avoid permanent alteration of wetland, as that would complicate the review.

An application was submitted in July of 2024, which included permanent alteration of Coastal Wetland. The applicant was notified that the project was considered to be a Category “B”/Special Exception project. For the first several weeks of the review time, the applicant and staff corresponded back and forth to ensure that the required wetland mitigation information was submitted, and the Public Notice was issued on August 26, 2024. No comments were received during the Notice Period.

The CRMC Portion of the project extends from Boyd’s Lane in Portsmouth to Riverside Dr, in Tiverton. The project will result in the permanent alteration of 548ft² of Coastal Wetland and 101ft² of Freshwater Wetland. The Filling of Coastal Wetland requires a Special Exception to 650-RICR-00-1.2.2(C)(1)(d) and (C)(2)(b). In accordance with §1.3.1(L)(5), 1, 815ft² of mitigation wetland will be created, exceeding the 2:1 replacement requirement. The Alteration to Freshwater Wetlands falls under Exemption 650-RICR-00-9.6.3



Above: Portion of site plans depicting extent of the L14 line (left): DEM aerial imagery (2024) with FWW Jurisdiction overlay.

The entire project has been submitted to DEM Water Quality and the Army Corps of Engineers as a single review for each Agency. CRMC sent its portion of the project to HPHC, who has been working with ACOE on their review. At the time of this writing, none of these Agencies have issued permits/letters of no objection. RIHPHC has questions regarding the Sakonnet River portion and has reached out to the application consultants.

COMMENTS ON APPLICATION/APPLICABLE POLICIES, STANDARDS & ETC:

The application falls under both the “Red Book” 650-RICR-00-1 Regulations and the Freshwater Wetlands in the Vicinity of the Coast (FWW) 650-RICR-00-9 Regulations.

Freshwater Wetlands/650-RICR-00-9

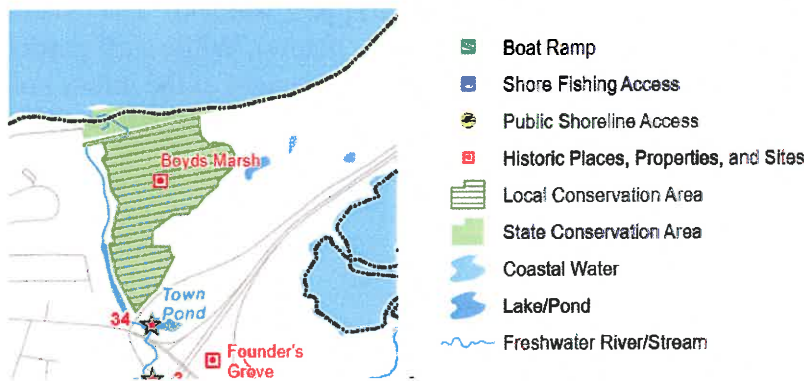
Section	Title	Subsection	Comment
9.6.3	Exemption- Limited Maintenance and Repair Activities	(A) For purposes of § 9.6.3 of this Part, repair and maintenance is limited to routine activities necessary to ensure the upkeep of structures built in accordance with all necessary Federal, State and local permits.	(A)(14) Replacement of utility poles, including changes in physical size, without any change to existing or approved cleared rights of way;

Under the Freshwater Wetlands Regulations Section 9 “Exemptions”, the 101ft² of wetland disturbance is considered exempt and does not require an application or review.

“Red Book”/ 50-RICR-00-1

Section	Title	Subsection	Comment
1.1.8	Special Exceptions		Narrative and mitigation plan submitted
1.2.1(C)	Type 2 Water		See below
1.2.2(C)	Coastal Wetlands	(1)(d): Alterations prohibited	548ft ² of Coastal Wetland will be altered
1.2.3	Areas of Historic and Archeologic Significance	(A)(4): HPHC Comments	Not yet received (see below)
1.3.1(B)	Filling, Removing or Grading of Shoreline Features	(2)(a): Filling prohibited	See below
1.3.1(L)	Coastal Wetland Mitigation		See below

In addition to being listed as a Coastal Wetland adjacent to Type 2 Water, Boyd’s Marsh is noted to be both State Conservation Land as well as Town Conservation Land. (see image below)



Section 1.2.1(C) Type 2 Water: Type 2 waters are classified as having high scenic value. There is currently a utility line spanning this wetland. The replacement of the utility poles and high lines will not have significant impact to the scenic quality of the wetland.

Section 1.2.2(C) Coastal Wetlands: Subsection (1)(d): *It is the Council's policy that alterations to salt marshes and contiguous freshwater or brackish wetlands abutting Type 2 waters are prohibited except for minor disturbances associated with:*

- (1) Residential docks and wetland walkover structures approved pursuant to the standards set forth in §§ 1.3.1(D) and 1.3.1(Q) of this Part, respectively;*
- (2) Approved repair of structural shoreline protection facilities pursuant to § 1.3.1(N) of this Part; or,*
- (3) Council-approved restoration activities."*

The alteration of Coastal Wetland does not meet the allowances listed above. As such, a request for Special Exception has been submitted.

Section 1.2.3(A)(4): *"Prior to permitting actions subject to its jurisdiction on or adjacent to properties eligible for inclusion (but not actually listed in the National Register of Historic Places), and/or areas designated as historically or archaeologically sensitive by the RI Historical Preservation and Heritage Commission as the result of their predictive model, the Council shall solicit the recommendations of the Commission regarding possible adverse impacts on these properties".*

The RIHPHC has not yet submitted comments on the proposed project.

1.3.1(B)(2)(a): *"Filling, removing, or grading is prohibited on beaches, dunes, undeveloped barrier beaches, coastal wetlands, cliffs and banks, and rocky shores adjacent to Type 1 and 2 waters unless the primary purpose of the alteration is to preserve or enhance the feature as a conservation area or natural buffer against storms".*

The filling is not to preserve the feature, and therefore a Special Exception request has been submitted.

1.3.1(L) Wetland Mitigation: See below:

COMMENTS ON SPECIAL EXCEPTION REQUEST & WETLAND MITIGATION:

The existing utility line passes through Boyd's Marsh, a Type 2 wetland. The existing utility poles are located on small areas of filled wetland/upland (see image below). While staff guided the applicants to keep all work within these areas, the applicant states that the replacement of the utility poles cannot be done exclusively on those existing areas of upland. Six (6) of the utility poles will require small amounts of permanent alteration, totaling 548ft².



Above (L): Portion of submitted plan highlighting the area within Boyd's Marsh and wetland mitigation area; (R): 6 poles with permanent wetland alteration.

The project will result in the permanent alteration of 548ft² of Coastal Wetland. In accordance with §1.3.1(L)(5), 1,815ft² of mitigation wetland will be created in the area highlighted above, exceeding the 2:1 replacement requirement. CRMC will require professional oversight of the mitigation areas as well as yearly monitoring reports as is standard for mitigation projects.

In accordance with Section 1.3.1(L), the applicant has submitted a wetland mitigation plan. It is staff's opinion that with professional supervision and monitoring requirements added, the mitigation plan meets the requirements of this section.

The replacement of this utility line is required to provide services to Aquidneck Island. It is staff's opinion that the proposal meets the criteria set forth in Section 1.1.8, specifically that of "compelling public purpose".

CONCLUSION & RECOMMENDATION:

It is the opinion of reviewing staff that the proposal meets the standards and requirements as set forth in the RICRMP. Where the project does not meet the standards, an appropriate request for Special Exception has been submitted. It is staff's opinion that the project meets the requirements for issuance of a Special Exception.

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The project requires issuance of a sign-off from RIHPHC, which has not yet been issued. Should the Council approve this request, staff recommends that the approval be conditional upon letter of no objections/sign-off from HPHC as stated in Section 1.2.3.

Should the Council approve this application, in addition to standard Assent Stipulations, staff recommends the following additional stipulations:

An environmental consultant, experienced in site assessments and measures necessary to protect sensitive aquatic environments or sensitive ecosystems, must be employed prior to the commencement of site alterations to monitor the project and to ensure compliance with the terms and conditions of this permit, and ensure success of the project. The CRMC must be notified in writing of the consultant chosen to comply with this condition. Written progress reports shall be submitted to the CRMC during all phases of the project. Once the projects are complete, annual written monitoring reports shall be provided for a period of 3 years to insure long-term success. Monitoring reports shall be due by December 1 of each year. Where corrective actions are determined to be necessary by the consultant performing the monitoring work or by CRMC Staff, the (applicant) shall work with the CRMC to assure appropriate corrective measures are undertaken in a timely manner and in cooperation with CRMC Staff.

Signed Amy Silva Staff Biologist

Signed Ruth M. Silva Staff Engineer