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Vincent J. Mesolella Chairman

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February 22, 2021

The Honorable Joseph J. Solomon Chairman House Committee on Corporations State House Providence, RI 02903

RE: Narragansett Bay Commission; 2021 House Bill 5344; Amendments Suggested

Dear Chairman Solomon and Members of the Committee:

Thank you for taking the time to consider the Narragansett Bay Commission's (NBC) position on 2021 House Bill 5344. I am writing to express the NBC's concerns with H5344, which creates a right of entry for professional land surveyors when performing surveying services.

The NBC is concerned that H5344 poses significant security and safety risks and creates logistical challenges and liability concerns for the NBC and other similar entities that operate and maintain vital facilities and infrastructure on their property. The NBC's wastewater treatment facilities and associated infrastructure require safeguarding from unfettered access to protect the infrastructure itself, the NBC's workers and the environment, as well as the land surveyor who may unknowingly enter a dangerous location or expose themselves to a hazardous condition.

H5344 permits a scenario where a professional land surveyor could enter the NBC's property without consent. However, the extensiveness of the NBC's properties, infrastructure, and vital operations are such that advanced notice from a surveyor is essential. Such notice would allow for coordination and scheduling and enable the NBC to ensure the surveyor's work will not interfere with any activity at the wastewater treatment facilities. Moreover, advanced notice would permit the NBC to accommodate the surveyor's activities and provide guidance as to any potential dangerous or hazardous conditions on the property, protecting both the surveyor and mitigating any potential liabilities for the NBC.

While the NBC appreciates that H5344 would ease the constraints that land surveyor's may periodically encounter when attempting to survey land, this bill does not account for those properties where the risks created outweigh the convenience sought. Accordingly, the NBC proposes that an exemption be provided for public utilities like the NBC. Such an exemption could be added to subsection (a) at page 1 line 7 and read as follows:

(a) A land surveyor duly licensed to practice in Rhode Island under this chapter, when performing surveying services at the request of a landowner or person with an interest in real

estate, may, without the consent of the owner or person in possession, enter upon or cross any lands, air, space or water resource, whether publicly or privately owned, except for property owned or operated by a public utility, and specifically exempting property owned and /or operated by wastewater treatment facilities, necessary to perform surveying services.

In the event the committee is not amenable to an exemption for public utilities, the NBC proposes two revisions to H5344 that while still preserving the surveyor's right of entry created by this bill, together protect the vital facilities and infrastructure owned and operated by public utilities. Specifically:

- 1) Add the following verbiage to subsection (d) at page 1 line 15
 - (d) This section shall not be construed to give a professional land surveyor the authority to enter any building or structure used as a residence or for storage, or the authority to enter any building or structure on lands owned or operated by a public utility, including lands owned by a wastewater treatment facility.
- 2) Insert a new subsection (e)(3) on page 2 to read as follows:

(e)(3) Notwithstanding §5-8.1-21(e)(1) and §5-8.1-21(e)(2), receipt of written notice to a public utility, including wastewater treatment facilities, whether delivered by hand in accordance with §5-8.1-21(e)(1) or by mail in accordance with §5-8.1-21(e)(2), shall be confirmed by the land surveyor and a scheduled appointment shall be made with the public utility, including wastewater treatment facilities, prior to the surveyor entering upon or crossing lands, air, space or water resource owned or operated by the public utility.

The NBC respectfully requests that the Committee consider the above proposed changes to H5344 and urges the legislature to consider the real risks that could arise from granting such broad authority to land surveyors.

Thank you for the opportunity to comment.

Sincerely,

Jennifer J. Harrington General Counsel

Legislative Liason

Narragansett Bay Commission