
PROPOSED AMENDMENT

to the

Final Round 3 Restoration Plan and Supplemental Environmental Assessment for Land Protection and Habitat Conservation

General Electric/Housatonic River
Natural Resource Restoration
Massachusetts Housatonic River
Watershed Restoration Program

**Massachusetts SubCouncil,
Housatonic River Natural
Resource Trustees**

October 13, 2016

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to the
Final Round 3 Restoration Plan and Supplemental Environmental Assessment
For Land Protection and Habitat Conservation
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Massachusetts Housatonic River Watershed Restoration Program
October 13, 2016**

This proposed Amendment to the May 7, 2013, Final Round 3 Restoration Plan and Supplemental Environmental Assessment for Land Protection and Habitat Conservation (Round 3 RP/SEA) for the Housatonic River Watershed Restoration Program was prepared by the MA SubCouncil of the Housatonic River Trustee Council (MA SubCouncil) for the General Electric (GE)/Housatonic Natural Resource Damages (NRD) Settlement. The MA SubCouncil is comprised of Trustees from the Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs (EEA), represented by the Massachusetts Department of Environmental Protection (MassDEP), and the United States Fish and Wildlife Service (USFWS). The Round 3 RP/SEA sets forth the MA SubCouncil's plan to implement projects that would provide compensatory restoration through land acquisition and/or land protection measures (hereinafter referred to as Land Protection projects). The Round 3 RP/SEA allocated a total of \$2 million for Land Protection projects, and the MA SubCouncil awarded \$1,147,000 of these funds in the first subround of funding for Round 3 Land Protection projects. This proposed Amendment is recommending allocating additional funds, totaling up to \$500,000 to supplement the remaining funds available for the second subround of Round 3 Land Protection projects.

The MA SubCouncil is working to restore, replace or acquire the equivalent of injured natural resources and resource services resulting from the release of polychlorinated biphenyls (PCBs) and other hazardous substances from GE's facility in Pittsfield. The

MA SubCouncil has previously provided just over \$5 million in Rounds 1 and 2 of restoration funding. Ten restoration projects were funded as part of the Round 1 RP/SEA in October 2007 (Round 1). Five habitat restoration projects were approved for funding in the Round 2 RP/SEA in June 2011 and three moved forward to implementation. In the Round 3 RP/SEA, a total of \$2 million was approved for funding Land Protection projects and so far \$1,147,000 has been expended for this purpose through the first subround of Round 3 funding. Projects are funded out of a \$15 million NRD settlement with GE, approximately half of which the Housatonic River Natural Resource Trustees targeted for restoration projects in Massachusetts (the other half was allocated for projects in Connecticut).

If this proposed Amendment to the Round 3 RP/SEA is approved, approximately \$1.4 million will remain available for restoration projects in Massachusetts after the second subround of Round 3 projects are funded. Remaining funds may be used to fund completion of Round 1 and 2 projects and for a fourth and final round of restoration funding. The fourth round would solicit project proposals in all four restoration priority categories (Aquatic Biological Resources and Habitat, Wildlife Resources and Habitat, Recreational Uses, and Environmental Education and Outreach) as detailed in the Restoration Project Selection Procedure (available on the MA SubCouncil website at: <http://www.ma-housatonicrestoration.org/library.htm>): .

According to the Round 3 RP/SEA, Land Protection projects were to be identified through a competitive proposal solicitation processⁱ managed by MassDEP and consisting of up to two subrounds. In the first subround, three Land Protection projects were selected by the MA SubCouncil for implementation and awarded funds in 2014:

- **Berkshire Natural Resources Council – Thomas and Palmer Brook Conservation Project (\$869,500):** conservation of 218 acres of extensive wetland and upland forest along a tributary of the Housatonic River;
- **Massachusetts Department of Fish and Game – Hinsdale Flats (\$90,000):** conservation of 90 acres of open field, wooded upland, wooded swamp, shrub swamp, and deep marsh within an Area of Critical Environmental Concern; and
- **Massachusetts Department of Fish and Game – Green River (\$187,500):** conservation of 24 acres including floodplain forest habitat on a coldwater tributary of the Housatonic River.

Following the first subround, \$853,000 of the \$2 million originally allocated for Round 3 Land Protection projects remains available for the second subround of Round 3 funding.

The MA SubCouncil held a public informational meeting in Lenox on September 15, 2015, regarding the outcome of the first subround and availability of funds for the second subround of funding under Round 3. MassDEP released the Grant Announcement and Application (GAA) for the second subround of Round 3, including project eligibility and evaluation criteria, as Solicitation No. BWSC-NRD-2015-03 and posted an announcement about the grant solicitation on MassDEP's website on October 7, 2015, and on the Commonwealth's procurement website, COMMBUYS, on October 8, 2015. An Applicants' Conference was held on December 10, 2015, in Lenox, where MassDEP staff and the MA SubCouncil presented information about the funding opportunity and application process. Responses to questions generated at the

Applicants' Conference, as well as those received in writing by January 8, 2016, were posted on the MassDEP website and on the MA SubCouncil website on January 22, 2016. Applications were received on April 6, 2016, and are currently under review by the MA SubCouncil.

The combined total cost of subround 2 projects recommended by the MA SubCouncil following the first phase of proposal review is \$1,287,000. This is \$434,000 greater than the \$853,000 remaining from the \$2 million approved in the Round 3 RP/SEA. The recommended projects will not be able to advance to Phase 2 of the competitive review process without this proposed Amendment to the Round 3 RP/SEA that allocates an additional \$500,000 toward Land Protection projects. Following completion of Round 3, all remaining unspent funds (including any from Round 3) will be available to fund the fourth and final round of restoration funding and completion of elements of Round 1 and Round 2 projects. Consistent with the Round 3 RP/SEA, this Amendment, only proposes additional funding; it cannot identify the specific parcels recommended for acquisition. The Round 3 RP/SEA states:

Unlike Rounds 1 and 2, parcel-specific Round 3 Project Applications and Evaluation Criteria results will not be available for public review and comment before the MA SubCouncil decides upon funding awards. This more confidential process is intended to accommodate land transaction negotiations that could be adversely affected by the public disclosure of certain information.

The MA SubCouncil proposes to amend the Round 3 RP/SEA to provide \$500,000 in additional funds for the second sub-round of Round 3. Implementation of the Land Protection projects proposed under the second sub-round of Round 3 will preserve

hundreds of acres of critical wetland and upland habitat buffer, near or adjacent to previously protected land. Consistent with the process described in the Round 3 RP/SEA, the MA SubCouncil will publicly announce the selected Land Protection projects at the conclusion of Phase 2 of the grant solicitation and review process and after funding has been awarded.

Requests for further information about the proposed Amendment to the Round 3 RP/EA should be directed to Karen Pelto, Lead Administrative Trustee, MassDEP, with contact information provided below.

Hardcopies of the Amendment are available at the Lenox Library and other public libraries in the Housatonic River watershed. The Amendment is also available on the MA SubCouncil website: <http://www.ma-housatonicrestoration.org/library.htm>.

Public comment will be accepted through November, 11, 2016 at 4:30 p.m. Comments should be submitted in writing via letter or email to:

Karen Pelto

MassDEP

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Boston, Massachusetts 02108

Email: Karen.Pelto@state.ma.us

ⁱ As described in the Round 3 RP/SEA, the competitive review process involves two phases of proposals and review. In Phase 1, applicants were allowed 6 months from the posting of the Grant Announcement and Application (GAA) to prepare project applications that included an application form, project location map, an Opinion of Value, an estimated cost of performing

Phase 2 due diligence, a narrative detailing the need for land acquisition (based on the selection criteria) and the feasibility of the project, and a project Land Acquisition Plan and Cost Estimate.

In Phase 2, MassDEP will execute Grant Contracts for the Applicants of projects selected from Phase 1. Applicants will have up to 6 months to perform Phase 2 due diligence, including obtaining formal land appraisals, conducting an environmental site assessment as described in Section 5 of the GAA, providing letter(s) of interest or commitment from the land owner(s), and providing due diligence documentation to MassDEP. If the results of the Phase 2 due diligence analysis indicate that acquisition of a particular parcel is not feasible, the project will not receive any additional funding and will be eliminated from further consideration. If, after review of the Phase 2 due diligence analysis, the MA SubCouncil selects one or more parcels for funding, the existing Grant Contract will be amended by MassDEP to provide the approved project(s) with funding for the purchase of the parcel(s) and/or acquisition of the necessary mechanism(s) of parcel protection (e.g., Conservation Restriction (CR)).