

MASSACHUSETTS SUBCOUNCIL
of the
HOUSATONIC RIVER TRUSTEE COUNCIL

United States, et al., v. General Electric Company,
Civil Action Nos. 99-30225-MAP; 99-30226-MAP; and 99-30227-MAP (D. Mass.)

RESOLUTION # 32

Release of \$27,372 to Massachusetts Department of Environmental Protection
for Restoration

1. *Whereas*, the United States Department of Commerce, acting by and through the National Oceanic and Atmospheric Administration (“NOAA”), the Commonwealth of Massachusetts, acting by and through its Executive Office of Energy and Environmental Affairs (“EEA”), as administered by its Department of Environmental Protection (MassDEP), the State of Connecticut, acting by and through its Department of Environmental Protection (“CTDEP”), the United States Department of the Interior (“DOI”), acting by and through the United States Fish and Wildlife Service (“USFWS”), are the four Natural Resource Trustee agencies (“Trustees”) responsible for restoration in the Housatonic River Environment with respect to the above-referenced case;
2. *Whereas*, the Trustees have entered into a Memorandum of Agreement (“MOA”) effective January 30, 2002, to coordinate activities for the above-referenced case; and pursuant to Section VII Paragraph B (1) of the MOA, a Trustee SubCouncil for the Geographic Region of Massachusetts (“MA SubCouncil”) has been established and subsequently revised pursuant to MA SubCouncil Resolution #4 to consist of two voting members from the Mass. Trustee and the Federal Trustee agencies, EEA and USFWS, and non-voting Ex Officio Delegates;
3. *Whereas*, the sums recovered for the restoration activities, in the civil action referred to above, are being held in the Natural Resource Damages Assessment and Restoration (NRDAR) Fund, Account #0251 (Housatonic River - MA Restoration), administered by the DOI and jointly managed by the MA SubCouncil; and
4. *Whereas*, the DOI/USFWS and EEA have approved the “Final Round 2 Restoration Plan and Supplemental Environmental Assessment (RP/SEA)”, June 14, 2011, as prepared by Stantec Consulting, Inc. for the MA SubCouncil, and the MA SubCouncil has authorized the EEA, through its MassDEP, to conduct the contracting necessary for the implementation of such projects in the amount of \$1,300,000.00;
5. *NOW, THEREFORE, BE IT RESOLVED*, after a thorough review of the proposed uses for such sums, the MA SubCouncil authorizes the release of funds from the DOI NRDAR Account #0251 (Housatonic River - MA Restoration) to the MassDEP for implementation of Round 2 Restoration Projects as approved by the MA SubCouncil in the Final RP/SEA. These funds shall be transferred and allocated as follows at this time:

- **\$27,372 to the MA NRD Trust Account # 2200-2676.** Such funds shall be used for on-going reimbursement of contract costs for restoration as described in the attached memorandum dated August 9, 2013. These funds will be transferred and allocated to the MA NRD Trust Account # 2200-2676, to the attention of Kristin LaCroix, MassDEP Director of Budgetary and Legislative Affairs.

CONCURRED IN by the following who are duly authorized:

MASSACHUSETTS SUBCOUNCIL
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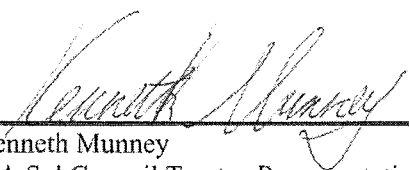
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Release of \$27,372
to Massachusetts Department of Environmental Protection for Restoration

FOR THE U.S. DEPARTMENT OF THE INTERIOR

Date

9/4/13


Kenneth Munney
MA SubCouncil Trustee Representative
U.S. Fish and Wildlife Service
New England Field Office
70 Commercial Street, Suite 300
Concord, NH 03301

**MASSACHUSETTS SUBCOUNCIL
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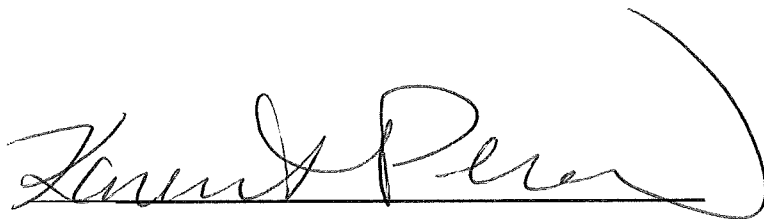
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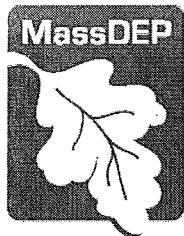
FOR THE COMMONWEALTH OF MASSACHUSETTS

9/4/13

Date

A handwritten signature in cursive script, appearing to read "Karen I. Pelto", written over a horizontal line.

Karen I. Pelto
MA SubCouncil Trustee Representative
Department of Environmental Protection
Bureau of Waste Site Cleanup
One Winter Street, 6th Floor
Boston, MA 02114



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

DEVAL L. PATRICK
Governor

RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

MEMORANDUM ONE

TO: Bruce Nesslage, NRDAR Manager, DOI

FROM: Karen Pelto, Lead Administrative Trustee

RE: **DOI NRDAR Disbursement Request: \$27,372**
GE/Housatonic River NRD: Massachusetts Restoration Account # 0251
Resolution #32: Release of Funds to EEA/MassDEP for Restoration

DATE: September 4, 2013

As Lead Administrative Trustee for the GE/Housatonic River NRD case, I am requesting a disbursement from the DOI NRDAR Massachusetts Restoration Account (Project # 0251) for the purpose of funding a restoration project approved by the MA SubCouncil in the "Final Round 2 Restoration Plan & Supplemental Environmental Assessment" (RP/EA) developed by the MASubCouncil for the GE/Housatonic River Trustees.

The MA SubCouncil has authorized the Commonwealth to conduct the contracting necessary for the implementation of such projects in the amount of \$1,300,000 (Round 2). Designated by the Governor, the Secretary of the Executive Office of Energy and Environmental Affairs (EEA) is the Commonwealth's natural resources Trustee. Within EEA, the Mass Department of Environmental Protection (MassDEP) administers the NRD Program.

I am requesting a disbursement of funds for the following restoration project for expenses totaling \$27,372:

- Invasive Species Control in the Housatonic River Watershed (Project # 204, Native Habitat Restoration)

The Invasive Species Control in the Housatonic River Watershed project got underway in July 2011 and has achieved significant success to date. In addition to the control of several invasive plant species on targeted conservation properties along the mainstem of the Housatonic River, the project has generated excitement and independent management actions in both the Stockbridge and Sheffield conservation communities. The project has also increased the conversation about invasive plants at garden clubs, forestry forums, and conservation commission meetings. Additionally, it has gotten other partners involved such as the MA Natural Heritage and Endangered Species Program (NHESP) and has leveraged

additional funding from the Landowner Incentive Program (LIP) and Natural Resource Conservation Service (NRCS) with potential second year funding.

Based on consultations with Native Habitat Restoration (NHR) combined with a May 13, 2013 site visit conducted by myself and Ken Munney of USFWS, additional activities to control invasive species on these properties have been identified. They are detailed in the project update summary below, as prepared by NHR and modified by the MA SubCouncil. Please note that the funding requests approved below reflect additional costs based on the results of treatment to date.

Mary Flynn Trail

Approximately half of the property received a cut stem treatment of buckthorn, honeysuckle, bittersweet, burning bush, and privet. The eastern area (nearest to the loop portion of the trail) and areas adjacent to the main trail still need a cut stem treatment. The entire property still needs a foliar application for the first time in 2013.

Difficulties and challenges at the Mary Flynn Trail arose from the Town-issued special conditions of the Notice of Intent (NOI), which state a preference for cut stem herbicide application, instead of broad-scale application. The special conditions of the NOI required cutting of the high density vegetation, complete removal of cut vegetation, and hand-application of herbicide to cut stems. This increased labor costs significantly from projected project costs. The lack of accessibility of the site for motor vehicles due to crossing restrictions at the existing footbridge across the river has also hampered project progress. In FY14, an access agreement with the nearby Housatonic Railroad, facilitated by the MA SubCouncil, should allow ATV access.

Two additional invasive species on the property, previously unidentified, need to be managed in conjunction with ongoing efforts. This will require increased operational costs for NHR.

Euonymus europaeus was found in high densities at the Mary Flynn Trail in the fall of 2012. The identification was confirmed by NHESP. Currently, the treatment for this species is not included in the plan or cost of this year. Massachusetts Invasive Plant Advisory Group (MIPAG) is currently evaluating this species as invasive. This site demonstrates the potential for this species to become widespread and dense in natural areas and require aggressive management. NHESP has advised us to treat this species as part of the management for this site.

Hardy Kiwi, *Actinidia arguta*, was found in two locations along the Mary Flynn Trail. In Berkshire County, it has invaded over 200 acres, creating similar impacts as bittersweet. MassAudubon has issued an invasive plant pest alert about this species (http://www.massaudubon.org/PDF/invasive_species/hardykiwipestalert.pdf). This species is also being reviewed by MIPAG. Therefore, Hardy Kiwi locations will be treated as part of the first and second year site treatment.

NHR applied and received LIP funding to help offset the additional costs of all the cut stem treatment.

Total work completed: \$6,540

Total additional funding needed: \$12,700

Funds leveraged from Landowner Incentive Program grant: \$6,000

Total additional funding requested: \$6,700

Additional funding approved by MA SubCouncil: \$6,700

Sedgwick

First year treatment was completed in 2012. Species treated onsite were knotweed, buckthorn, honeysuckle, privet, barberry, and bittersweet. There were 3 patches of knotweed that were cut with brushcutters from 6/23/12-7/24/12 and then foliar sprayed from 8/17/12-8/29/12. The knotweed patches were originally mapped as two patches which increased to three patches in 2012.

The lower floodplain terrace received a cut stem treatment while the upper terrace surrounding the field had a cut stem treatment and then mowed with a forestry mower. Management actions achieved project goals to date.

There is no additional funding needed at Sedgwick at this time.

Norman Rockwell Museum

All the cut stem treatment was completed in 2012. The cut material was dragged into windrows out in the field and was chipped in the fall of 2012. The treatment area still needs a foliar treatment for the first time in 2013.

Total work completed: \$7,230.72

Total additional funding requested: \$2,000

Additional funding approved by MA SubCouncil: \$2,000

Rob's Landing

2012 work included cutting and foliar treatment of knotweed regrowth. The wooded area between fields received the complete first year foliar treatment in 2012. All large bittersweet stems were manually cut and treated. The entire hillside unit was either cut with a forestry mower, brushcutter or DR mower. The original plan to spray the slope became impractical and unsafe due to the density and increase in plant height of the woody invasives, especially multiflora rose. The height and density of the multiflora plants increased dramatically since 2009, making the slope impenetrable. NHR changed their approach to cutting and/or mulching the plants prior to treatment to reduce the size of plants that are going to be sprayed. Unfortunately, the slope was too steep in places for the forestry mower and NHR resorted to DR mowing or brushcutting. Efforts on this section of the project site were more involved than originally scoped.

Challenges at the Rob's Landing site included the steepness of the slope along Boardman Street and the increase in density, acreage and number of knotweed patches. In 2009, the knotweed was originally mapped as two patches, one at 0.4 acres and one at 0.1 acres. These two patches increased to three patches totaling 1.58 acres in 2012. The largest and most distant infestations became inaccessible by vehicle due to the scouring of very deep crevices in the field caused by aggressive flooding.

First year work remaining to be completed in 2013 is the treatment of a small *Phragmites* patch along the Housatonic River. In the spring of 2013, three small patches of knotweed were found near and to the south of the *Phragmites* patch. The additional money requested below would be to cut and treat the 3 new knotweed patches and to treat the original *Phragmites* patch.

Total work completed: \$15,979.67

Total additional funding requested: \$3,000

Additional funding approved by MA SubCouncil: \$3,000

Bowker Woods

2012 work included cut stem in Unit 1 (from Glendale Middle Road to the train tracks), cut stem of very dense buckthorn and honeysuckle in Unit 4 from the trolley line to the spit, including 2.1 acres on the spit (Unit 2), and foliar spraying on the eastern side of Unit 3.

The NOI required that in the wetland and wetland buffer areas cut stem treatment must be used. This labor intensive method combined with exceptionally high densities and size of the invasives proved extremely time consuming. At their May 13, 2013 site visit, the MA SubCouncil noted that barberry has spread substantially throughout parts of the lower area and up into the forested sections of the slope – an area closely tied with the riparian area where substantial buckthorn treatment has occurred.

Access was compromised by the sheer volume, size and entangled mess of shrubs and trees. The amount of woody debris on the ground slowed progress further. Lack of access by an ATV caused additional time needed to move equipment in and around the site by foot.

Total work completed: \$26,006.51

Total additional funding requested: \$32,020 (Units 1, 2, 3, 4, 5 and 6)

Additional funding approved by MA SubCouncil: \$15,672 (MA SubCouncil agrees to move forward with treatment at riverbank/floodplain areas of Units 2 and 3, and Units 4 and 5)

Costs by Bowker Woods treatment area:

- | | | |
|--------|---------|---|
| Unit 2 | \$3,123 | Work has not been started in this unit. Approximately one acre of heavy dense honeysuckle in the riverbank/floodplain area will require a foliar application followed by a cut stem treatment. |
| Unit 3 | \$4,300 | A small area on the eastern side of the unit has been treated by foliar application. Additional treatment in this unit will focus on areas from the trail down the steep bank to the river side (approximately 100-125 feet wide from the river bank - in some areas, it goes 10-15 feet past the trail). This particular part of Unit 3 is difficult because of the steep slopes along the river's edge. |
| Unit 4 | \$4,222 | The majority of cut stem has been completed in this unit. Funds would be used for foliar application. |
| Unit 5 | \$927 | All of the cut stem has been completed in this unit. Funds would be used for foliar application. |

ATV Access (Temporary Bridge) \$1,700

Barberry Treatment: \$1,400

Kampoosa

Year 1 and Year 2 were successfully completed within cost of the NRD and NRCS grants. 20 patches throughout the 160 acres of wetland were treated totaling 14 acres. As part of the Kampoosa Stewardship Committee, the Tennessee Gas pipeline was treated for Phragmites in 2012. DOT funded treatment along the Mass Turnpike in 2012 with repeat treatment scheduled for 2013.

A NRCS WHIP grant matched NRD funds.

Total work completed (NRD) Year 1: \$12,249.09

Total work completed (NRD) Year 2: \$13,996.55

Total funds from NRCS for three years of treatment: \$68,277

There is no additional funding needed at Kampoosa at this time.

Summary of Additional Funding Approved by MA SubCouncil

Mary Flynn Trail:	\$ 6,700
Sedgwick:	\$ 0
Norman Rockwell Museum:	\$ 2,000
Rob's Landing:	\$ 3,000
Bowker Woods:	\$15,672
Kampoosa:	\$ 0
<u>Total:</u>	<u>\$27,372</u>