

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 # 36

Release of \$173,169.52 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 1 Restoration Plan and Supplemental Environmental Assessment (RP/SEA)”, September 10, 2007, as prepared by Woodlot Alternatives, 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 \$4,000,000.00;
5. *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;

6. *Whereas*, the DOI/USFWS and EEA have approved the "Final Round 3 Restoration Plan and Supplemental Environmental Assessment (RP/SEA)", May 7, 2013, 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 up to the amount of \$2,000,000.00;

6. *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 1, 2 and 3 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:

- **\$173,169.52 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 March 9, 2015. 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.
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CONCURRED IN by the following who are duly authorized:

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to Massachusetts Department of Environmental Protection for Restoration

FOR THE COMMONWEALTH OF MASSACHUSETTS

4/13/15

Date

Karen I. Pelto

Karen I. Pelto
MA SubCouncil Trustee Representative
Department of Environmental Protection
Bureau of Waste Site Cleanup
One Winter Street, 6th Floor
Boston, MA 02108

**MASSACHUSETTS SUBCOUNCIL
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FOR THE U.S. DEPARTMENT OF THE INTERIOR

Date

4/13/15

Molly Sperdute

Acting

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



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

MEMORANDUM

TO: Bruce Nesslage, NRDAR Manager, U.S. DOI

FROM: Karen Pelto, Lead Administrative Trustee

RE: **DOI NRDAR Disbursement Request: \$173,169.52**
GE/Housatonic River NRD: Massachusetts Restoration Account # 0251
Resolution #36: Release of Funds to EEA/MassDEP for Restoration

DATE: March 9, 2015

As Lead Administrative Trustee for the MA SubCouncil of the Housatonic River Trustee Council, I am requesting a disbursement from the DOI NRDAR Massachusetts Restoration Account (Project # 0251) for the purpose of funding restoration projects approved in the "Final Round 1 Restoration Plan & Supplemental Environmental Assessment," "Final Round 2 Restoration Plan & Supplemental Environmental Assessment," and "Final Round 3 Restoration Plan & Supplemental Environmental Assessment" (RP/SEAs) developed by the MASubCouncil.

The MA SubCouncil has authorized the Commonwealth to conduct the contracting necessary for the implementation of such projects in the amounts of \$4,000,000 (Round 1), \$1,300,000 (Round 2), and \$2,000,000 (Round 3). 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 to cover restoration project expenses in state fiscal year 2015, including projects where contract end dates extend into state fiscal year 2016, and totaling \$173,169.52 for Round 1, 2 and 3 project expenses, as detailed below:

In FY14 and FY15 through March 5, 2015, \$394,692.94 was available to cover restoration project expenses for Rounds 1 and 2 from the following:

- Unexpended FY13/First Quarter FY14 balance of \$213,457.41
- Resolution # 33 (\$181,235.53)

These funds were allocated in accordance with the RP/SEAs and contracted Scopes of Work and informed by site visits and project partner consultations by the MA SubCouncil.

In FY14 and FY15 through March 5, 2015, the following expenses were incurred by projects totaling \$314,386.99 and paid through MA NRD Trust Account 2200-2676:

Round 1 (\$46,098):

- Brownson Land Acquisition/Housatonic River, Berkshire Natural Resources Council (\$21,098); – BNRC contracted through December 2014
- West Branch of the Housatonic River Revitalization Project- Dam Removal Component – MA Division of Ecological Restoration (\$25,000) – Interagency Service Agreement between MassDEP and MA DER through FY18

Round 2 (\$268,288.99):

- Habitat Continuity Project, Housatonic Valley Association (\$70,126.36) - contracted through FY15; U.S. Geological Survey (\$10,000) – stream survey profile of pre-removal culvert conditions – Joint Funding Agreement between MassDEP and USGS.
- Bartholomew’s Cobble Floodplain Forest Restoration and Habitat Improvement Project, The Trustees of Reservations (\$93,955.79) – contracted through FY16
- Invasive Species Control in the Housatonic River Watershed, Native Habitat Restoration (\$43,134.90) – contracted through FY15
- Sackett Brook Restoration Project, Massachusetts Audubon Society – Educational Component (\$51,071.94) – contracted through FY15

In FY15 and FY16, the following expenses totaling \$253,475.47 are included in the contracted scopes of work for Rounds 1, 2 and 3 projects to be paid through MA NRD Trust Account 2200-2676:

Round 1 (\$173,230):

- West Branch of the Housatonic River Revitalization Project- Dam Removal Component – MA Division of Ecological Restoration (\$173,230) – Interagency Service Agreement between MassDEP and MA DER through FY18

Round 2 (\$71,745.47):

- Habitat Continuity Project: Housatonic Valley Association (\$0.00) - contracted through FY15¹.
- Bartholomew’s Cobble Floodplain Forest Restoration and Habitat Improvement Project, The Trustees of Reservations (\$11,230.21) – contracted through FY16
- Invasive Species Control in the Housatonic River Watershed, Native Habitat Restoration (\$33,107.13) – contracted through FY15

¹ FY15 and FY16 expenses for the Habitat Continuity Project will be detailed in a separate memorandum and requested in a separate resolution following receipt of construction bids.

- Sackett Brook Restoration Project, Massachusetts Audubon Society – Educational Component (\$27,408.13) – contracted through FY15

Round 3 (\$8,500):

- Phase 2 due diligence activities for land acquisition²

Funds in the amount of \$ 80,305.95 remain unexpended from FY14 and FY15 through March 5, 2015 and are available toward funding the remainder of FY15 and FY16 expenses, leaving a shortfall of \$173,169.52.

The Funds should be made payable as follows:

- **\$173,169.52 to the MA NRD Trust Account # 2200-2676.** Such funds shall be used for on-going reimbursement of contract costs for “State Fiscal Year 2015 and 2016” restoration. 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.

If you have any questions regarding this matter, please do not hesitate to contact me at 617-292-5785.

Cc: USFWS

² The parcel and applicant must remain confidential until Phase 2 review is completed by the MA SubCouncil; Phase 2 materials are due to the SubCouncil by June 30, 2015. At that time, the MA SubCouncil will prepare a separate resolution and memorandum supporting a request for expending funds to acquire the selected parcels.