

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 # 42

§33,090.11 for Restoration to be reallocated and administered by Massachusetts Department of Environmental Protection

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 reallocation of funds previously disbursed to the MA NRD Trust Account for implementation of Round 2 Restoration Projects to be utilized for additional restoration expenses associated with Round 2 Restoration Projects. These funds shall be utilized as follows at this time:

- **\$33,090.11 in 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 October 22, 2015. These funds will be allocated from the MA NRD Trust Account # 2200-2676 to the project proponent, Native Habitat Restoration.

CONCURRED IN by the following who are duly authorized:

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Environmental Protection

FOR THE COMMONWEALTH OF MASSACHUSETTS

10/26/15

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 02114

**MASSACHUSETTS SUBCOUNCIL
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RESOLUTION #42

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Environmental Protection

FOR THE U.S. DEPARTMENT OF THE INTERIOR

10/23/15
Date

Molly Speduto
Molly Speduto
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: GE/Houatonic River NRD MA SubCouncil

FROM: Karen Pelto, Lead Administrative Trustee

RE: **Reallocation of \$33,090.11 in previously disbursed funds**
Resolution #42: Reallocation of Funds by MassDEP for Restoration

DATE: October 22, 2015

As Lead Administrative Trustee for the GE/Housatonic River NRD case, I am documenting a reallocation of funds previously disbursed 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.

By contract, between FY12 and FY15, \$1,364,032.44 was allocated to Rounds 1, 2, and 3 restoration projects and these funds represented transfers from the DOI NRDAR Fund by MA SubCouncil Resolution (24, 26, 27, 28, 29, 32, 33, 36, and 37) as well as funds remaining from EEA administration of restoration projects.. Invoices paid to date by MassDEP for these projects between FY12 and FY15 total \$1,202,655.20. For FY16, there remains \$161,377.24 allocated but not yet invoiced or expended in the MA NRD Trust Account for restoration.

I am requesting a reallocation of previously disbursed funds from the MA NRD Trust Account for the following restoration project for expenses totaling \$33,090.11:

- 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. The invasive control efforts on the Sedgwick property were highlighted at the Lenox Garden Club "Garden Tour 2015". It has gotten other partners involved such as the Natural Heritage and Endangered Species Program with funding from the Landowner Incentive Program and the Community Preservation Act funding voted on by the Town of Stockbridge.

Based on consultations with Native Habitat Restoration (NHR) combined with site visits conducted by myself and Ken Munney of USFWS on June 19 and July 15, 2015, 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.

Summary of Additional Funds Requested by NHR:

Project Management (Task 1): \$3,000
Invasive Species Control (Task 2): \$45,015.11
Outreach (Task 3): \$0

Additional Funds Approved by MA SubCouncil:

Project Management (Task 1): \$3,000
Invasive Species Control (Task 2): \$30,090.11
Outreach (Task 3): \$0

Revised Budget approved by MA SubCouncil, including existing contract budget balances:

Project Management (Task 1): \$5,725
Invasive Species Control (Task 2): \$41,535.68
Outreach (Task 3): \$1,200

Mary Flynn Trail

All 10 acres have received a cut stem treatment of the large shrub, tree and vine invasives. The 10 acres have also received a foliar treatment. First year results look promising with very little regrowth on treated plants and not many plants establishing from the seed bank. 2015 treatment will consist of spot treatment of invasives throughout all 10 acres. Challenges of accessibility still exist at the Mary Flynn Trail but we have mostly overcome them to be able to effectively treat the area.

Euonymus europaeus was found in high densities at the Mary Flynn Trail in the fall of 2012. The identification was confirmed by NHESP. The treatment for this species is included as a separate cost listed below. MIPAG is currently evaluating this species as invasive and this site demonstrates the potential for this species to become widespread and dense in natural areas.

Heritage has advised us to treat this species as part of the management for this site. We would predominantly cut and paint the *Euonymus europaeus* and then install the native trees in the one acre area. The planting plan will be reviewed and approved by the MA SubCouncil.

Not invoiced and remaining in budget: \$871.12

Total needed to completed retreatment year: \$5,100

Treatment of *Euonymus europaeus*: \$5,360

Planting of native trees and shrubs: \$6,860.

Subsequent waterings in 2016: \$2,490

Treatment of invasives between trail and train ROW: \$14,925

Total additional funds requested: \$34,735

MA SubCouncil approves all items with the exception of treatment of invasives between the trail and railroad ROW; additional funds approved: \$19,810

Additional funding from other sources:

Landowner Incentive Program: \$6000

Laurel Hill Association (landowner): \$4000

Sedgwick

First year treatment was completed in 2012. Species treated onsite were knotweed, buckthorn, honeysuckle, privet, barberry, and bittersweet. The knotweed patches were originally mapped as two patches which increased to three patches in 2012. There were 3 patches of knotweed that were cut with brushcutters in June and July 2012 and then foliar sprayed in August 2012. The same methods were used for treatment of the knotweed in 2013. Treatment of knotweed did not occur in 2014 due to flooding in late August and early September making access to the patches not possible.

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. Follow up foliar applications occurred in 2013.

Remaining funds: \$0

Total needed to complete Sections 2 & 3: \$7,590

Total needed to treat 3 patches of knotweed: \$1,030

Total needed to treat Section 1: \$2,775

Total additional funds requested: \$11,395

The MA SubCouncil approves this request.

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. Foliar treatment was completed in 2013 and 2014. We plan to walk through the unit to retreat any new growth from the seed bank.

There are no additional funds needed at Norman Rockwell Museum.

Total funds expended and billed: \$18,262.68

Not invoiced and remaining in budget: \$592.10

Additional funds needed: \$0

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. We changed our 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 we resorted to DR mowing or brushcutting.

In 2013, the remaining first year was completed and included the treatment of a small Phragmites patch along the Housatonic River and three new small patches of knotweed found near and to the south of the Phragmites patch. In 2014, cut paint treatment was performed to treat all missed vines and large shrubs within the hillside unit.

The second year budget covers approximately half of the total cost for retreating all the knotweed and Phragmites, the forested floodplain and forested area between the fields, and the slope along Boardman Street.

Total needed to complete treatment: \$7626

Not invoiced and remaining in budget: \$1596.21

Additional funds requested from NRD: \$6029.79

The MA SubCouncil approves this request.

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 and including 2.1 acres on the spit (Unit 2). Foliar spraying on the eastern side of Unit 3 was completed.

Our focus was river bank and riparian areas after we revised the work scope with the MA SubCouncil on July 1, 2013. For completing Year 1, modifications included the following:

In Unit 2, approximately 1.5 acres of heavy dense honeysuckle had a cut stem treatment. This treatment area is drawn on the map. As depicted on the map, the treatment in Unit 3 included an area that is approximately 100-125 feet wide from the river bank. In some areas, it goes 10-15 feet past the trail. Treatment also included a dense area of approximately 1.75 acres of barberry. Both foliar and cut stem treatment were completed in this area. In Units 4 & 5, both cut stem and foliar have been completed in these units.

For the second year treatment of all of Unit 4 and 5, the area delineated as previously treated in Unit 3 and the 1.5 acres in Unit 2, there is no request for additional funding.

Total funds expended and billed: \$51,932.36

Not invoiced and remaining in budget: \$1,291.46

No additional funds requested for Bowker Woods.

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. The pipeline is planned for treatment in 2015. MassDOT funded treatment along the Mass Turnpike in 2012 and 2013 with repeat treatment scheduled for 2015. The Natural Heritage and Endangered Species Program funded Phragmites control in 2013 for 2 newly discovered patches.

Total funds expended and billed: \$24,304.25

Not invoiced and remaining in budget: \$0

Additional funds needed: \$0