

**GENERAL ELECTRIC/HOUSATONIC RIVER  
NATURAL RESOURCE RESTORATION**

**MASSACHUSETTS HOUSATONIC RIVER WATERSHED  
RESTORATION PROGRAM**

**FINAL ROUND 3 RESTORATION PLAN AND  
SUPPLEMENTAL ENVIRONMENTAL ASSESSMENT FOR  
LAND PROTECTION AND HABITAT CONSERVATION**

**May 7, 2013**



**PREPARED BY:  
STANTEC CONSULTING SERVICES INC.**

**FOR:  
MASSACHUSETTS SUBCOUNCIL,  
HOUSATONIC RIVER NATURAL RESOURCE TRUSTEES**

U.S. Department of the Interior  
Approval of the  
Final Round 3 Restoration Plan/ Supplemental Environmental Assessment  
for Land Protection and Conservation

General Electric/Housatonic River  
Natural Resource Restoration

Massachusetts Housatonic River Watershed Restoration Program – Round 3


In accordance with U.S. Department of the Interior policy regarding documentation for natural resource damage assessment and restoration projects (521 DM3), the Authorized Official for the Department must demonstrate approval of draft and final Restoration Plans and their associated National Environmental Policy Act documentation, with concurrence from the Department's Office of the Solicitor.

The Authorized Official for the Housatonic River case is the Regional Director for the U.S. Fish and Wildlife Service's Northeast Region.

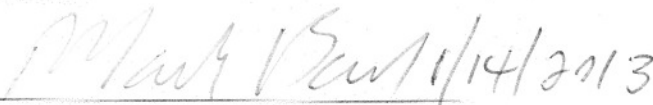
The Final Round 3 Restoration Plan/Supplemental Environmental Assessment (RP/SEA) for Land Protection and Habitat Conservation is being released after public review and a 47-day comment period on the Draft Round 3 Restoration Plan RP/SEA. The Final Round 3 RP/SEA is hereby approved after consideration of the public comments received.

Approved:

Concurred:



14 Jan 2013



Wendi Weber  
Regional Director  
Northeast Region  
U.S. Fish and Wildlife Service

Date

Mark Barash  
Senior Attorney  
Northeast Region  
Office of the Solicitor

Date

Acting

UNITED STATES FISH & WILDLIFE SERVICE  
ENVIRONMENTAL ACTION STATEMENT

Within the spirit and intent of the Council of Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) and other statutes, orders and policies that protect fish and wildlife resources, I have established the following administrative record and have determined that the action of the *Final Round 3 Restoration Plan and Supplemental Environmental Assessment for Land Protection and Habitat Conservation* for the Massachusetts Housatonic River Watershed Restoration Program:

\_\_\_\_\_ is a categorical exclusion as provided by 516 DM 6 Appendix 1 and 516 DM 6, Appendix 1. No further documentation will therefore be made.

XX is found not to have significant environmental effects as determined by the attached Environmental Assessment and Finding of No Significant Impact.

\_\_\_\_\_ is found to have significant effects, and therefore further consideration of this action will require a notice of intent to be published in the Federal Register announcing the decision to prepare an EIS.

\_\_\_\_\_ is not approved because of unacceptable environmental damage, or violation of Fish and Wildlife Service mandates, policy, regulations, or procedures.

\_\_\_\_\_ is an emergency action within the context of 40 CFR 1506.11. Only those actions necessary to control the immediate impacts of the emergency will be taken. Other related actions remain subject to NEPA review.

Other supporting documents (list):

Final Round 3 Restoration Plan/Supplemental Environmental Assessment for the Massachusetts Housatonic River Watershed Restoration Program

Programmatic Environmental Assessment for the Massachusetts Housatonic River Watershed Restoration Program

 14 Jan 2013  
Regional Director/DOI Authorized Official

JAN 14 2013  
Date

Acting

### FINDING OF NO SIGNIFICANT IMPACT

#### Final Round 3 Restoration Plan and Supplemental Environmental Assessment for Land Protection and Habitat Conservation for the Massachusetts Housatonic River Watershed Restoration Program

The U.S. Department of the Interior and the Commonwealth of Massachusetts have completed a Final Round 3 Restoration Plan and Supplemental Environmental Assessment (RP/SEA) that explains the process the Trustee SubCouncil for Massachusetts will use to provide approximately \$2 million to restoration projects within the Housatonic River watershed in Massachusetts. The Housatonic River Watershed Restoration Program is a multi-year, multi-phased restoration program that will restore, replace, and/or acquire the equivalent of the natural resources injured, destroyed, or lost as a result of contamination in the Housatonic River watershed originating from the General Electric facility in Pittsfield, Massachusetts. Round 3 is the third of four funding rounds. The restoration projects to be selected in Round 3 will focus on land acquisition or protection to conserve fish and wildlife habitat within the Housatonic River watershed in Massachusetts.

The public was notified on August 2, 2012 of the availability of the Draft Round 3 RP/SEA for review and comment via an announcement on the SubCouncil's website (<http://www.ma-housatonicrestoration.org/news.htm>) and a mass email to all interested parties from previous restoration solicitations. This public notice was also announced on August 23, 2012 at a public meeting at the Lenox Town Hall, in Lenox, Massachusetts, of the SubCouncil to discuss the draft document, respond to questions from the public, and receive public comment. In addition, the public notice was published in two local newspapers, the Berkshire Eagle and the North Adams Transcript, and a copy of the notice was sent to the media outlets listed in Appendix B of the RP/SEA. Written public comments were accepted until September 17, 2012. Trustee responses to the public comments received are presented in Section 10 of the Final RP/SEA. The comments received did not cause the SubCouncil to make major changes regarding the funding process, nor did the comments cause any significant revisions to the RP/SEA, aside from minor modifications to clarify the parameters of the Request for Response (RFR) process.

Based on a review and evaluation of the information contained in the Final RP/SEA, I have determined that the proposed actions do not constitute a major federal action which would significantly affect the quality of the human environment within the meaning of Section 102 (2)(c) of the National Environmental Policy Act (NEPA) of 1969. Accordingly, the preparation of an environmental impact statement on the proposed actions is not required at this time.

  
Acting Regional Director/DOI Authorized Official

14 JAN 2013  
Date

**Executive Office of Energy and Environmental Affairs  
Approval of the  
Final Round 3 Restoration Plan/Supplemental Environmental Assessment  
for Land Protection and Conservation**

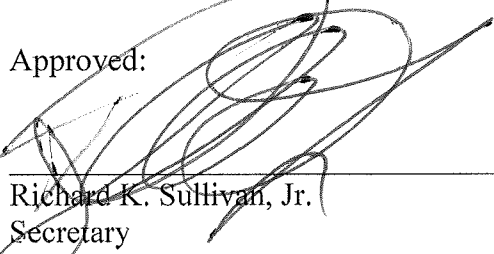
**General Electric/Housatonic River  
Natural Resource Restoration**

**Massachusetts Housatonic River Watershed Restoration Program – Round 3**

In accordance with Trustee protocol regarding documentation for Natural Resource Damage Assessment and Restoration (NRDAR) projects, the Executive Office of Energy and Environmental Affairs (EEA) is providing its approval of the Final Round 3 Restoration Plan/Supplemental Environmental Assessment (RP/SEA) for the General Electric/Housatonic River Natural Resource Restoration.

The Final Round 3 RP/SEA is being released after public review and a 47-day public comment period on the Draft Round 3 RP/SEA. The MA SubCouncil hereby issues this Final Round 3 RP/SEA after consideration of public comments received.

Approved:

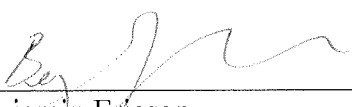
  
Richard K. Sullivan, Jr.  
Secretary  
EEA

5/7/13

Date

Natural Resource Trustee for the Commonwealth of Massachusetts

Recommending Approval:

  
Benjamin Ericson

Assistant Commissioner

Bureau of Waste Site Cleanup

Massachusetts Department of Environmental Protection

  
Karen I. Peltó

Trustee Representative

MA SubCouncil, Housatonic River Trustee Council

Massachusetts Department of Environmental Protection

2/11/13

Date

1/16/13

Date

**Massachusetts SubCouncil Members:**

Mr. Ken Munney

(voting member, Trustee Representative for the Department of the Interior/U.S. Fish and Wildlife Service)

U.S. Fish and Wildlife Service, New England Field Office

70 Commercial Street, Suite 300

Concord, NH 03301

Ms. Karen I. Pelto

(voting member, State Trustee Representative, and Lead Administrative Trustee)

Massachusetts Department of Environmental Protection

One Winter Street, 6th Floor

Boston, MA 02108

**Non-Voting Advisors to the Massachusetts SubCouncil:**

Mr. Dean Tagliaferro, U.S. Environmental Protection Agency

(non-voting Federal Advisor)

**Lead Federal Agency for Supplemental Environmental Assessment:**

U.S. Fish and Wildlife Service

## **TABLE OF CONTENTS**

1.0	INTRODUCTION.....	1
1.1	Background And Details of Round 3.....	1
1.2	Natural Resource Trustees Responsibilities under Federal and State Law Regarding Restoration Planning .....	3
1.3	Summary of Natural Resource Damages Settlement.....	4
1.4	Summary of Site Injuries and Public Losses .....	4
1.5	Restoration Goals/Purpose of Restoration.....	5
1.6	Coordination and Scoping .....	11
	1.6.1 Trustee Council Organization and Activities .....	11
	1.6.2 Public Notification .....	12
	1.6.3 Summary of Public Involvement .....	12
	1.6.4 Restoration Planning Record.....	13
2.0	AFFECTED ENVIRONMENT .....	14
2.1	Biological Environment.....	14
2.2	Socioeconomic Environment.....	15
3.0	RESTORATION SOLICITATION AND CRITERIA EVALUATION PROCESS.....	16
3.1	Public Comments on Land Protection Projects .....	16
3.2	Solicitation Process.....	17
3.3	Criteria Evaluation.....	18
	3.3.1 Stage One: Threshold Criteria.....	19
	3.3.2 Stage Two: Evaluation Criteria.....	20
4.0	PREFERRED ALTERNATIVES .....	23
5.0	COMPLIANCE WITH OTHER AUTHORITIES.....	24
5.1	Laws.....	24
	5.1.1 Federal Laws .....	24
	5.1.2 State Laws .....	27
	5.1.3 Local Laws .....	29
5.2	Policies and Directives .....	29
	5.2.1 Federal Policies and Directives.....	29
	5.2.2 State and Local Policies .....	30
6.0	LIST OF PREPARERS .....	31

7.0	LIST OF AGENCIES, ORGANIZATIONS, AND PARTIES CONSULTED FOR INFORMATION .....	32
8.0	PUBLIC COMMENTS ON DRAFT ROUND 3 RP/SEA FOR LAND PROTECTION AND HABITAT CONSERVATION.....	33
8.1	Public Comments and MA SubCouncil Responses.....	33
8.1.1	Public Comment 1.....	33
8.1.2	Public Comment 2.....	34
8.1.3	MA SubCouncil Responses to Public Comments.....	34
9.0	LITERATURE CITED .....	35

## **APPENDICES**

Appendix A – Public libraries where documents can be accessed

Appendix B – Newspapers and radio and television stations used for public announcements

Appendix C – Public Comments on Draft Round 3 RP/SEA

Appendix D – Meeting Notes from the August 23, 2012, Public Meeting



## **ACRONYMS**

ACOE	U.S. Army Corps of Engineers
ARPA	Archaeological Resources Protection Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
CMR	Code of Massachusetts Regulations
Commonwealth	Commonwealth of Massachusetts
CTDEP	Connecticut Department of Environmental Protection
CWA	Clean Water Act
DOI	Department of the Interior
EIR	Environmental Impact Report
EEA	Executive Office of Energy and Environmental Affairs
ENF	Environmental Notification Form
ESA	Endangered Species Act
FACA	Federal Advisory Committee Act
Focus Group	Land Acquisition Focus Group
FWCA	Fish and Wildlife Coordination Act
GE	General Electric
HRR	Housatonic River Restoration, Inc.
IEI	Index of Ecological Integrity
MassDEP	Massachusetts Department of Environmental Protection
MassGIS	Massachusetts Geographic Information System
MBTA	Migratory Bird Treaty Act
MEPA	Massachusetts Environmental Policy Act
MESA	Massachusetts Endangered Species Act
MA SubCouncil	Massachusetts SubCouncil of the Housatonic River Natural Resource Trustees
MOA	Memorandum of Agreement
M.G.L.	Massachusetts General Laws

NEPA	National Environmental Policy Act
NHESP	Massachusetts Natural Heritage and Endangered Species Program
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NRD	Natural Resource Damages
NRDAR	Natural Resource Damage Assessment and Restoration Program
PCBs	Polychlorinated biphenyls
PEA	Programmatic Environmental Assessment
PEDA	Pittsfield Economic Development Authority
RFR	Request for Response
Restoration Program	Massachusetts Housatonic River Watershed Restoration Program
RP	Restoration Plan
RPS	Restoration Planning Strategy
RPSP	Restoration Project Selection Procedure
SEA	Supplemental Environmental Assessment
Stantec	Stantec Consulting Services Inc.
Trustees	Natural Resource Trustees
Trustee Council	Housatonic River Natural Resource Trustees
U.S.C.	United States Code
USEPA	U.S. Environmental Protection Agency
USFWS	U.S. Fish and Wildlife Service
Woodlot	Woodlot Alternatives, Inc.
Woodlot and IEc	Woodlot Alternatives, Inc. and Industrial Economics

## **1.0 INTRODUCTION**

The U.S. Fish and Wildlife Service (USFWS) and the Massachusetts Executive Office of Energy and Environmental Affairs (EEA) (collectively, the “Massachusetts SubCouncil”<sup>1</sup> [MA SubCouncil] of the Housatonic River Natural Resource Trustees [Trustee Council]) are working together to restore injured natural resources and resource services<sup>2</sup> resulting from the release of polychlorinated biphenyls (PCBs) and other hazardous substances from General Electric’s (GE’s) facility in Pittsfield, Massachusetts. To achieve this purpose, the MA SubCouncil designed a Massachusetts Housatonic River Watershed Restoration Program (Restoration Program) whereby local groups and citizens from the watershed can participate in restoration planning and implementation activities. The MA SubCouncil plans to achieve restoration through several proposal solicitation and funding rounds. Ten restoration projects were funded as part of the Round 1 Restoration Plan/Supplemental Environmental Assessment (RP/SEA) in October 2007 (Round 1). Five habitat restoration projects were approved for funding in the Round 2 RP/SEA in June 2011 (Round 2). This Final RP/SEA for Land Protection and Habitat Conservation presents the MA SubCouncil’s restoration plan for Round 3 of the Restoration Program.

### **1.1 BACKGROUND AND DETAILS OF ROUND 3**

In Round 3, compensatory restoration projects will focus on land acquisition to conserve habitat<sup>3</sup>. This RP/SEA specifically addresses projects that will provide compensatory restoration through land acquisition and/or land protection measures (hereinafter referred to as Land Protection projects). (Note that habitat restoration components of Land

---

<sup>1</sup> The MA SubCouncil was established to consist of voting members from EEA and the USFWS and non-voting ex-officio members (see page iii). However, for purposes of this document, when regarding activities directly relating to the evaluation of proposals and identifying the proposed Preferred Alternatives, the MA SubCouncil consists of only the voting members.

<sup>2</sup> The term “services” in this document means the physical and biological functions performed by the resource including human uses of these functions. These services are the result of the physical, chemical, or biological quality of the resource (43 CFR § 11.14(nn)). “Services” includes provision of habitat, food, and other needs of biological resources, recreation, other products or services used by humans, flood control, ground water recharge, waste assimilation, and other such functions that may be provided by natural resources (43 CFR § 11.71(e)).

<sup>3</sup> Initially, it was anticipated that Round 2 projects would incorporate *both* habitat restoration and land acquisition projects. Subsequently, it was decided to differentiate this work into two separate Rounds; accordingly, Round 2 was focused solely on habitat restoration and Round 3 is now focused solely on land acquisition and conservation.

Protection projects cannot be funded under the Land Protection solicitation process described in this document.)

As part of its efforts to comply with public disclosure requirements of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, the MA SubCouncil completed a Programmatic Environmental Assessment (PEA) for the Restoration Program which evaluated potential strategies for accomplishing restoration. The PEA identified a “Blended Restoration Approach” as the preferred alternative for the Restoration Program. The Blended Restoration Approach would achieve restoration in four restoration priority categories: Aquatic Biological Resources and Habitat, Wildlife Resources and Habitat, Recreational Uses, and Environmental Education and Outreach. The PEA also evaluated the potential environmental and socioeconomic impacts that might result from restoration projects implemented under the Blended Approach.

The Round 1 selection process awarded grants to projects in each of the four restoration priority categories. The MA SubCouncil provided a total of \$4 million to ten projects that, to date, have restored 23 acres of wetland, floodplain, and riparian habitat; protected 149 acres of riparian, wetland, and upland habitat; and created 2 miles of riverfront trails as well as enhanced the protection of rare species throughout the watershed; provided environmental education and river experiences to 5,366 elementary and middle school students and over 100 high school students; introduced 824 members of the public to the Housatonic River through interpretive canoe trips; and provided technical assistance to 20 Conservation Commissions that led to protection of over 90 river miles, 10,000 wetland acres, and 9,500 upland acres.

For Round 2, and now Round 3, the MA SubCouncil decided to emphasize aquatic and terrestrial *habitat protection* through habitat restoration and Land Protection projects. The narrowed focus of Rounds 2 and 3 was based on feedback from applicants, agencies, and non-profit organizations that participated during Round 1 and the MA SubCouncil’s wish to focus on additional benefits to natural resources, from which the services of recreation and other uses are derived. Initially it was conceived that Round 2 would accommodate *both* habitat restoration and Land Protection projects; subsequently it was decided to separate these two focuses into two separate Rounds. Round 2, now complete, awarded funding to habitat restoration projects and Round 3 will focus solely on Land Protection projects.

The Round 2 selection process awarded grants to projects in the restoration priority categories of Aquatic Biological Resources and Habitat and Wildlife Resources and Habitat. To date, the Trustee Council has awarded over \$990,000 to four Round 2 projects that are assessing and restoring fish and wildlife habitat continuity; restoring riparian buffer and floodplain forest habitat; controlling invasive species on over 300 acres of land; and secondarily providing educational programming to area residents and schoolchildren in association with the Sackett Brook Restoration Project / Gravesleigh Pond Dam Removal.

A second significant change between the first two Rounds and Round 3 is that the Final RP/SEA for Round 3 Land Protection will be issued prior to a Request for Responses (RFR). The MA SubCouncil determined that funding disbursement to Land Protection projects could be expedited if the RP/SEA was developed prior to issuing an RFR. Additionally, it was concluded that confidentiality between land owners (or land rights owners) and potential purchasers may be important to the parties involved in land transaction negotiations, and that confidentiality could be better maintained by issuing the RFR after final approval of the RP/SEA. The procedure for soliciting, evaluating, and selecting Land Protection projects is presented in this Final Round 3 RP/SEA. Collectively, this document and the PEA comprise the NEPA documentation for Round 3 Land Protection projects. The use of funding round-specific SEAs tiered from the PEA is consistent with the general tiering approach for Environmental Impact Statements described in 40 Code of Federal Regulations (CFR) 1502.20. Any future RP/SEAs will be prepared in concordance with subsequent funding solicitation rounds that will also be tiered within the framework and supporting documentation provided in the PEA. Following issuance of this Final Round 3 RP/SEA for Land Protection and Habitat Conservation, the MA SubCouncil will issue an RFR for Round 3 Land Protection and Habitat Conservation proposals.

## **1.2 NATURAL RESOURCE TRUSTEES RESPONSIBILITIES UNDER FEDERAL AND STATE LAW REGARDING RESTORATION PLANNING**

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, 42 United States Code (U.S.C.) § 9601 *et seq.*, the Clean Water Act (CWA), 33 U.S.C. §§ 1251-1376, and the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, Massachusetts General Laws (M.G.L.) Ch. 21E, provide a mechanism for state and federal governments to address natural resource damages (NRD). These acts provide that states, federally recognized tribes, and certain federal agencies, known as Natural Resource Trustees (Trustees), may assess damages to natural resources and may seek to recover those damages on behalf of the public. Trustees can bring claims against responsible parties for damages in order to restore, replace, or acquire the equivalent of natural resources that have been injured or lost by the release of hazardous substances. According to CERCLA and its associated natural resource damage assessment regulations (43 CFR §11), the MA SubCouncil must prepare a Restoration Plan that describes how NRD funds collected from responsible parties will be used to address injured natural resources, specifically what restoration, rehabilitation, replacement, or acquisition of the equivalent resources will occur. No restoration projects, except emergency restoration, can be implemented before the Restoration Plan and a public comment process is completed. This document is the final Restoration Plan for Round 3 of the Restoration Program.

The NEPA and its implementing regulations, 40 CFR §§1500-1508, require that federal agencies fully consider the environmental impacts of their proposed decisions on major federal actions, that appropriate steps are taken to mitigate potential environmental impacts of those actions, and that such information is made available to the public. The

Massachusetts Environmental Policy Act (MEPA), M.G.L. Ch. 30, sections 61 through 62H, inclusive, and the associated regulations, 301 Code of Massachusetts Regulations (CMR) § 11.00, “provide meaningful opportunities for public review of the potential environmental impacts of projects for which Agency Action is required, and to assist each Agency in using...all feasible means to avoid Damage to the Environment or, to the extent Damage to the Environment cannot be avoided, to minimize and mitigate Damage to the Environment to the maximum extent practicable” (301 CMR § 11.01). This document, in combination with the PEA, addresses the requirements of NEPA and programmatic MEPA issues for Round 3 of the Restoration Program. If individual Round 3 projects trigger MEPA thresholds, they will then be required to proceed through a MEPA review. Likewise, some projects may require additional NEPA analysis once the details of the restoration project are further defined (e.g., after the completion of the feasibility/planning portion of the project). Such additional NEPA analysis is required to be completed before project implementation.

### **1.3 SUMMARY OF NATURAL RESOURCE DAMAGES SETTLEMENT**

GE reached a comprehensive agreement on October 7, 1999, concerning NRD and cleanup of its Pittsfield, Massachusetts, facility, certain off-site properties, and the Housatonic River. The agreement was reached with the following entities: the U.S. Environmental Protection Agency (USEPA); the U.S. Department of Justice; the Commonwealth of Massachusetts (Commonwealth) Department of Environmental Protection (MassDEP), Office of the Attorney General, EEA; the State of Connecticut Department of Environmental Protection (CTDEP), Office of the Attorney General; the Department of the Interior (DOI); the National Oceanic and Atmospheric Administration (NOAA) of the U.S. Department of Commerce; the City of Pittsfield, Massachusetts; and the Pittsfield Economic Development Authority (PEDA). Terms of the agreement were incorporated in a Consent Decree, which was approved by the U.S. District Court on October 27, 2000. As part of the settlement, the Trustee Council recovered \$15 million from GE as NRD for use in natural resource restoration projects, approximately half of which (\$7.5 million) the Trustee Council targeted for restoration projects in Massachusetts. Further detail regarding the Settlement is provided in Chapter 1.0 of the PEA, Chapters 1.0 and 2.0 of the Restoration Planning Strategy (RPS) (Woodlot and IEc 2005a), and Chapter 1 of the Restoration Project Selection Procedure (RPSP).

### **1.4 SUMMARY OF SITE INJURIES AND PUBLIC LOSSES**

The GE Company owned and operated a 254-acre facility in Pittsfield, Massachusetts, where PCBs were used in the manufacture of electrical transformers from the late 1930s to the late 1970s (Roy F. Weston, Inc. 1998). During this time period, hazardous substances were released from the GE facility to the Housatonic River and Silver Lake in Pittsfield. These hazardous substances include PCBs, dioxins, furans, volatile organic compounds, semi-volatile organic compounds, and inorganic constituents (e.g., metals). In addition, a number of former oxbows along the Housatonic River that were filled when the U.S. Army Corps of Engineers (ACOE) straightened the Pittsfield reach of the

Housatonic River to alleviate flooding were found to contain PCB-contaminated soils and fill. Further detail regarding the site injuries and public losses is provided in Chapter 3.0 of the PEA.

## **1.5 RESTORATION GOALS/PURPOSE OF RESTORATION**

The Purpose and Need for the MA SubCouncil's Restoration Program are explained in the PEA. The overall purpose of the Restoration Program is to make the environment and the public whole for injuries to natural resources and services resulting from the release of hazardous substances. Restoration efforts are intended to return injured natural resources and services to baseline conditions and compensate for interim losses through implementation of restoration actions that restore, rehabilitate, or replace equivalent natural resources and/or services.

Consistent with the nature and scope of the natural resource injuries in the Housatonic River watershed, the potential restoration actions are also diverse. The MA SubCouncil identified four restoration priority categories: aquatic biological resources and habitat, wildlife resources and habitat, recreational uses of natural resources, and environmental education and outreach. In the PEA, the MA SubCouncil evaluated strategies for accomplishing restoration within the Restoration Program, including a "No Action" alternative, and identified a preferred strategy. The preferred strategy was to implement projects in all four restoration priority categories (Alternative 6, "Blended Restoration Approach," in the PEA). The programmatic goals and objectives of the MA SubCouncil, as first described in the RPSP, are listed below:

- Restore, enhance, protect, conserve, replace and/or acquire the equivalent of natural resources and services that were injured as a result of the release of hazardous substances, including PCBs, in the Housatonic River environment;
- Provide for sustainable and measurable benefits to injured natural resources and services;
- Avoid adverse impacts resulting from restoration projects;
- Integrate public participation in the restoration process;
- Implement a suite of projects that cumulatively:
  - Benefit each of the restoration priority categories and
  - Employ a variety of restoration project types;
- Conduct restoration projects in a phased manner so that projects with a potential to interact with yet-to-be-determined remedial activities are not excluded from funding until those potential interactions can be determined (i.e., the remedial actions are known).

During Round 1, projects were implemented in each of the four restoration priority categories, resulting in a foundation of projects that cumulatively contribute to the objectives of the Blended Restoration Approach. As previously stated, feedback from applicants, agencies, and non-profit organizations during Round 1 resulted in the Trustee Council's decision to emphasize habitat restoration and Land Protection projects for the

subsequent two rounds of funding. In Round 2, five restoration projects were approved in two restoration priority categories. It is anticipated that Land Protection projects implemented during Round 3 will continue to contribute to the programmatic goals and objectives outlined in the PEA, RPSP, and other prior planning documents. The MA SubCouncil anticipates that Land Protection projects selected for funding during Round 3 will score highly on the Evaluation Criteria detailed in the RPSP and will in part or whole:

1. Protect habitat for rare, threatened and/or endangered species;
2. Protect exemplary natural communities;
3. Protect cold water fisheries resources;
4. Protect upland buffers to wetlands and rivers;
5. Reduce or inhibit habitat fragmentation; and/or
6. Protect or enhance existing wildlife corridors or create new corridors.

It is a requirement that land protected by NRD funds will be protected in perpetuity (e.g., through fee title [fee simple acquisition], conservation restriction<sup>4</sup>, or dedication).

A Land Acquisition Focus Group (Focus Group) public informational meeting was convened at the Lenox Town Hall in Lenox, Massachusetts, on October 21, 2008. The objective of this meeting was to present, discuss, and receive feedback on criteria relevant to the selection of land protection proposals. Organizations that attended this meeting included Mass Audubon, the Massachusetts Department of Conservation and Recreation, the Massachusetts Department of Fish and Game, the Berkshire Natural Resources Council, the Trustees of Reservations, the Town of Lenox, the Housatonic Valley Association, the Stockbridge Land Trust, the City of Pittsfield, the Berkshire Environmental Action Team, Project Native, The Nature Conservancy, the Sheffield Land Trust, the EEA, and the USFWS<sup>5</sup>.

The Focus Group identified 16 attributes that it considered to be important for the purpose of evaluating Land Protection Proposals. As shown in Table 1, attributes identified by the Focus Group largely fit within the 26 selection criteria outlined within the RPSP.

---

<sup>4</sup> The MA SubCouncil recommends that projects involving conservation restrictions use the most recent version of the "Model Conservation Restriction" developed by the EEA. The intent of the Model Conservation Restriction is to assure that the property will be maintained in its current condition in perpetuity and for conservation purposes, predominantly in a natural, scenic and undeveloped condition, and to prevent any use or change that would materially impair or interfere with its conservation and preservation values.

<sup>5</sup> Results of the Land Acquisition Focus Group meeting are summarized in the December 9, 2008, Round 2 Land Protection Summary of Housatonic River Natural Resource Damages Restoration Process memorandum available at: <http://www.ma-housatonicrestoration.org/library.htm>.



**Table 1. Classification of attributes identified by Focus Group within RPSP Evaluation Criteria**

<b>Focus Group Attribute</b>	<b>Corresponding RPSP Evaluation Criteria</b>
Nexus to Injured Natural Resources	Location of Project
Presence of Rare/Threatened/Endangered Species and/or Habitat <sup>6</sup>	Magnitude of Ecological Benefits
Exemplary Natural Communities	Magnitude of Ecological Benefits
BioMap2 Core Habitat and Critical Natural Landscape <sup>7</sup> Areas of Critical Environmental Concern, and/or Executive Office of Energy and Environmental Affairs Habitat Reserves	Magnitude of Ecological Benefits
Cold Waters Fisheries Resources	Magnitude of Ecological Benefits
Degree of Habitat Fragmentation	Magnitude of Ecological Benefits
Index of Ecological Integrity	Magnitude of Ecological Benefits
Character of Adjacent Lands (including size and proximity)	Magnitude of Ecological Benefits
Documented Wildlife Corridors	Magnitude of Ecological Benefits
Leveraging	Leveraging of Additional Resources
Value: Fair Price for Size and Location	Relationship of Expected Costs to Expected Benefits
Potential Future Management Problems and Costs	Relationship of Expected Costs to Expected Benefits
Demonstrated Level of Threat to Resources	Sustainable Benefits
Level of Public Access Appropriate to Protection of Resources	Enhancement of Public's Relationship with Natural Resources
Consistency with Municipal Open Space Plans/Master Plans	Complementary with Community Goals
Protection of On-Site Resources (including cultural and archeological resources)	Magnitude of Ecological Benefits

---

<sup>6</sup> See *Rare Species and Natural Community Surveys in the Housatonic River Watershed of Western Massachusetts* (July 2010) prepared by the NHESP in partial completion of "Proposal 18; Rare Species Recovery on the Housatonic River" project that was funded under Round 1 of the Restoration Program and available at: <http://archives.lib.state.ma.us/bitstream/handle/2452/50178/ocn663903256.pdf?sequence=3>.

<sup>7</sup> This attribute was originally identified as "BioMap" and "Living Waters Core Habitat". More recently, the NHESP and The Nature Conservancy have combined BioMap and Living Waters Core Habitat into what is now BioMap2. BioMap2 is available at: [http://www.mass.gov/dfwele/dfw/nhesp/land\\_protection/biomap/biomap\\_home.htm](http://www.mass.gov/dfwele/dfw/nhesp/land_protection/biomap/biomap_home.htm).

### Magnitude of Ecological Benefits

The Magnitude of Ecological Benefits criterion presented in the RPSP is intended to prioritize projects that maximize the level of ecological benefits provided through NRD funding. Eight attributes identified by the Focus Group are included in the Magnitude of Ecological Benefits criterion. Four of these attributes (Presence of Rare, Threatened, or Endangered Species and/or Habitat; Exemplary Natural Communities; BioMap2 Core Habitat and Critical Natural Landscape, Areas of Critical Environmental Concern, and/or Executive Office of Energy and Environmental Affairs Habitat Reserves; and Cold Water Fisheries Resources) address key environmental features that would be conserved if parcels with these attributes were protected.

The Degree of Habitat Fragmentation attribute is considered relevant to the Magnitude of Ecological Benefits criterion because habitat fragmentation can negatively affect plant and wildlife species. Habitat fragmentation occurs when large regions of habitat are broken down into smaller patches of habitat by development. The Massachusetts Comprehensive Wildlife Conservation Strategy (EEA 2005) identifies habitat fragmentation as the largest contributor to loss of habitat and species diversity within the state. If a proposed project is in proximity to land that is already protected, this increases the likelihood of reducing future habitat fragmentation or increasing the boundaries of existing critical habitat. The MA SubCouncil intends to fund projects that provide ecological benefits resulting in reduced habitat fragmentation.

The Documented Wildlife Corridors attribute is a component of the Magnitude of Ecological Benefits criterion. Wildlife corridors benefit certain plant and animal species as well as biodiversity by allowing plants and wildlife access to a wider range of resources. For example, when food and water are scarce in one patch of habitat, they may be abundant in another and without a wildlife corridor connecting habitat patches, some species would be unable to reach necessary resources. Projects that protect documented wildlife corridors or increase connectivity between habitat patches are therefore likely to score favorably in the selection process.

The Index of Ecological Integrity (IEI) attribute is a component of the Magnitude of Ecological Benefits criterion and highlights areas with relatively high wildlife habitat and biodiversity values. The IEI is based on landscape ecology principles and expert opinion. The MA SubCouncil will review proposed project locations and relevance of IEI. While a project does not necessarily need to be located within a high IEI area, projects located in such areas are more likely to score favorably in the selection process.

The Character of Adjacent Lands attribute is relevant to Land Protection and is a component of the Magnitude of Ecological Benefits criterion. The size, proximity, current land use, and other characteristics of adjacent lands influence the ecology of parcels proposed for protection. The MA SubCouncil will consider the characteristics of all adjacent lands during their evaluation of Land Protection proposals.

The Protection of On-Site Resources (including cultural and archeological resources) attribute is relevant to Land Protection and is a component of the Magnitude of Ecological Benefits criterion. Cultural and archeological resources were considered to be a component of this attribute by the Focus Group. Although NRD projects are subject to federal and state laws that protect historic, cultural, and archeological resources, the intent of the NRD program is to restore injured natural resources and /or services. As such, the protection of cultural and/or archaeological resources is secondary to the primary purpose of the acquisition of the equivalent of the natural resources and/or services that were injured.

#### Relationship of Expected Costs to Expected Benefits

The Relationship of Expected Costs to Expected Benefits criterion presented in the RPSP is intended to evaluate, in a qualitative manner, whether a project's costs are commensurate with the benefits it provides to injured natural resources and/or services. Two attributes identified by the Focus Group are included in this established criterion. The Value: Fair Price for Size and Location attribute will be evaluated based on analysis of land appraisals submitted by the applicants and expert opinion of the resources to be protected. Projects that provide high value-to-cost ratios are preferred. The Potential Future Management Problems and Costs attribute is a component of the Relationship of Expected Costs to Expected Benefits criterion because parcels may require expenditures beyond the initial land or land rights purchase. Examples of these additional expenditures include habitat restoration, invasive species removal, or continued vegetation management. Post-acquisition expenses will not eliminate a project from consideration, but the MA SubCouncil will consider these expenses when evaluating the Relationship of Expected Costs to Expected Benefits criterion.

#### Sustainable Benefits

The Sustainable Benefits criterion presented in the RPSP is intended to prioritize projects based on the identified potential to provide long-term sustainable benefits to injured natural resources and/or the services. The Demonstrated Level of Threat to Resources attribute is a component of this criterion and considers the likelihood and timing of potential threats to parcels. Certain parcels may have environmental resources that warrant protection, but potential, additional benefits will be evaluated relative to existing protections, such as existing zoning ordinances or laws that limit development of the area. Parcels that contain valuable resources, where the risk of development is high, will likely score higher than parcels with low development potential.

#### Location of Project

The Location of Project criterion presented in the RPSP is intended to prioritize projects that have positive impacts on injured natural resources and/or their services located within the Massachusetts portion of the Housatonic River watershed. The Nexus to Injured Natural Resources attribute is a component of this criterion. Projects with a strong nexus to the injured natural resources will likely be located within the Housatonic

River Watershed. Projects do not necessarily need to be located along the mainstem of the Housatonic River to be funded and significant ecological benefit to injured natural resources may be achieved even if the project is located far from the mainstem but within the watershed.

#### Leveraging of Additional Resources

The Leveraging of Additional Resources criterion presented in the RPSP is intended to prioritize projects that demonstrate a strong commitment to matching funds, in-kind services, volunteer assistance, or other partnering actions. The Leveraging attribute is a component of this criterion. Leveraging of non-NRD funds is preferred by the MA SubCouncil because it extends the availability of restoration funds and therefore increases the resource benefits provided by the funds.

#### Enhancement of Public's Relationship with Natural Resources

The Enhancement of Public's Relationship with Natural Resources criterion presented in the RPSP is intended to prioritize projects that enhance the public's ability to use, enjoy, or benefit from the Housatonic River watershed. This may include, but is not limited to, enhancements to aesthetic surroundings and overall beauty of the Housatonic River Watershed, place-based education programs, and public access to restoration project locations. The Level of Public Access Appropriate to Protection of Resources attribute is a component of this criterion because it prioritizes projects that seek an appropriate balance between public access and resource protection. The MA SubCouncil will consider this balance in their review of all proposed projects.

#### Complementary with Community Goals

The Complementary with Community Goals criterion presented in the RPSP is intended to prioritize projects based on their potential to complement goals, needs, and/or recommendations in existing plans that incorporate public input and involvement in their development. The Consistency with Municipal Open Space Plans/Master Plans attribute is a component of this criterion. The MA SubCouncil will consider the ways in which Land Protection proposals complement community goals through consistency with Municipal Open Space Plans and/or Master Plans. Where relevant, applicants are responsible for citing the specific plan(s), goal(s), need(s), and/or recommendations(s) that the project would complement.

The noted attributes largely fit within the selection criteria outlined within the RPSP, and the MA SubCouncil therefore did not revise the original Evaluation Criteria described in the RPSP. Proposals received in response to the Round 3 RFR for Land Protection will be evaluated based on the established Evaluation Criteria. Although proposals will not be directly "scored" on the attributes identified by the Focus Group, proposals that contain these attributes should score accordingly due to the positive correlation between these attributes and the Evaluation Criteria. All of the attributes listed above will be considered by the MA SubCouncil during qualitative evaluations of the proposals.

The MA SubCouncil considered the merit of delineating geographic boundaries for targeted focus areas for land protection versus publishing explicit criteria to be considered for land protection. Based on feedback from the Focus Group, the MA SubCouncil adopted the latter of these two options because it was opinioned that defining particular geographic regions for land protection could potentially result in the inflation of real estate values through speculation and therefore be detrimental to land transaction negotiations. Although the intent of publishing the focus areas in the Round 3 RP/SEA for Land Protection and Habitat Restoration would have been to maximize transparency regarding the attributes of the land parcels for protection without publishing the specific parcel locations, the MA SubCouncil concluded that sufficient transparency would be achieved through detailed descriptions of evaluation criteria and the methodology for applying such criteria.

## **1.6 COORDINATION AND SCOPING**

### **1.6.1 Trustee Council Organization and Activities**

The Trustee Council for the GE/Housatonic River case consist of the EEA, the CTDEP, the DOI (acting through the USFWS), and NOAA. A Memorandum of Agreement (MOA) among these parties was executed in January 2002. The MOA ensures the coordinated handling of activities relating to cleanup, remediation, and restoration activities in the Housatonic River environment. The MOA also provides a framework for intergovernmental coordination among the Trustee Council and for implementation of Trustee Council responsibilities under CERCLA and other applicable federal, state, and common laws.

The MOA provided for the establishment of the MA SubCouncil, which is responsible for authorizing the expenditure of NRD monies allocated to the geographic region of Massachusetts.

The MA SubCouncil currently consists of the following:

- Karen Pelto, MassDEP<sup>8</sup> (voting member, State Trustee)
- Ken Munney, USFWS (voting member, Federal Trustee)

(NOAA has chosen to not actively exercise its decision-making role on the MA SubCouncil pursuant to an October 2004 resolution to the MOA.)

---

<sup>8</sup> Designated by the Governor, the Secretary of the EEA, as the Commonwealth's Trustee, has the authority under state and federal environmental statutes to bring an action or claim for liability against a responsible party for natural resource damages resulting from a release or threat of release of oil or hazardous substances within Massachusetts and its waters. Within the EEA, the MassDEP administers the NRD Program.

The MA SubCouncil is also advised by a non-voting Federal Advisor (Dean Tagliaferro, USEPA). The non-voting USEPA advisor facilitates coordination with remedial activities.

### **1.6.2 Public Notification**

Local public libraries, newspapers, radio, and television were used as outlets for public announcements related to the Restoration Program. Libraries where public documents were sent are listed in Appendix A. Newspaper, and radio and television stations used for public outreach are listed in Appendix B. In addition, the MA SubCouncil created a website ([www.ma-housatonicrestoration.org](http://www.ma-housatonicrestoration.org)) to provide public access to background information, MA SubCouncil member contact information, program activity updates, and draft documents for public review and comment.

### **1.6.3 Summary of Public Involvement**

The MA SubCouncil conducted several public meetings during the development of the Restoration Program to obtain public input on the strategy for restoration planning and the process and criteria by which potential restoration projects would be solicited and evaluated. Additional public meetings were conducted to obtain public comment on the intermediate decisions leading up to preparation of this Final Round 3 RP/SEA for Land Protection and Habitat Conservation..

Public involvement milestones relating to the early development of the overall Restoration Program and Round 1 are summarized in the PEA and Final Round 1 RP/SEA. Public involvement milestones relating to Rounds 2 and 3 are summarized below. (As noted above, early Round 2 planning initially included a focus on both habitat restoration *and* Land Protection projects; however, Round 2 was subsequently streamlined to focus only on habitat restoration projects and Land Protection became the focus of Round 3. As a result of the initial inclusion of Land Protection in Round 2, portions of the planning for Round 3 Land Protection were actually conducted during the early planning phases of Round 2.)

- September 25, 2008 – Round 2 Information Meeting (public comment on Round 2 Information Meeting accepted until October 10, 2008).
- October 21, 2008 – Round 2 Land Acquisition Focus Group public meeting held to discuss criteria relevant to the selection of land protection proposals. (Following the decision to focus Round 2 solely on habitat restoration projects, the criteria identified in this meeting were applied to Round 3.)
- February 25, 2009 – Round 2 Habitat Restoration Applicant Conference. Addressed public questions and comments on the overall Round 2 process.
- May 7, 2009 – Response deadline for Round 2 applications.
- July 21, 2010 – Draft Round 2 RP/SEA released.

- August 3, 2010 – Public Information meeting at Lenox Town Hall to present Draft Round 2 RP/SEA
- August 23, 2010 – Round 2 public comment deadline.
- June 14, 2011 – Final Round 2 RP/SEA approved.
- August 2, 2012 – Draft Round 3 RP/SEA released.
- August 23, 2012 – Public Meeting at Lenox Town Hall to present Draft Round 3 RP/SEA.
- September 17, 2012 – Round 3 public comment deadline.

#### **1.6.4 Restoration Planning Record**

The Restoration Planning Record, a publicly available record of the restoration planning process, is available at designated public libraries in Berkshire County (see list of designated libraries and addresses in Appendix A). In addition to the Restoration Planning Record, background information including MA SubCouncil member contact information, program activity updates, draft documents for public review and comment, and final documents are also available on the MA SubCouncil website ([www.ma-housatonicrestoration.org](http://www.ma-housatonicrestoration.org)).

## 2.0 AFFECTED ENVIRONMENT

This chapter briefly describes the biological and socioeconomic environment in which restoration activities would be implemented. The purpose is to summarize the current conditions in the Housatonic River watershed and provide a foundation for assessing the impacts of the alternatives considered. A more detailed description of the affected environment was provided in the PEA. The majority of the content on the affected environment in the PEA was drawn from the reports listed below. Readers who are interested in greater detail on the biological and socioeconomic features of the Housatonic River watershed may wish to consult these sources:

- *Ecological Characterization of the Housatonic River* (Woodlot 2002a). This report represents the most recent, comprehensive study of the biological environment surrounding the Housatonic River and focuses on the river reach from Pittsfield to Lee, Massachusetts. It was prepared for the USEPA.
- *Ecological Characterization of the Housatonic River Downstream of Woods Pond* (Woodlot 2002b). This report characterizes the biological environment from Lee, Massachusetts, to southern Connecticut. It was also prepared for the USEPA.
- *Housatonic River 5-Year Watershed Action Plan* (EEA 2003).

## 2.1 BIOLOGICAL ENVIRONMENT

The Massachusetts portion of the Housatonic River watershed is located in the southwestern region of the Commonwealth in Berkshire County and is bordered by the watersheds of the Hudson River to the north, the Westfield River to the northeast, and the Farmington River to the southeast. The Housatonic River watershed exhibits diverse hydrology, including swift streams, a meandering river, productive aquifers, extensive wetlands, and 119 lakes and ponds. Because of the varied topography of Berkshire County, ponds, peatlands, and marshes are abundant. An estimated three percent of the county is considered to be occupied by palustrine communities (i.e., wetlands not associated with rivers, lakes, or tidal waterbodies).

Most of the undeveloped landscape in the Housatonic watershed is forested, except where disturbance or permanent flooding (i.e., river channel and backwater slough) inhibit tree growth. Portions of the watershed have been cleared for various purposes, primarily agriculture, residences, and various rights-of-way (e.g., roads, railroads, power lines).

The Housatonic River watershed features a prolific biological community with 117 rare plant and 33 rare animal species, as well as the occurrence of 18 significant natural communities. Analyses conducted for USEPA's ecological characterization identified 20



plants of state conservation concern that are known or thought to occur in the upper portion of the watershed, while a separate inventory developed for the Great Barrington Open Space Plan identified 23 additional species of concern. Approximately 173 species of bird, 42 species of mammal, 41 species of fish, 13 species of snake, and 7 species of turtle are known to occur in the Massachusetts reach of the Housatonic River (Woodlot and IEc 2005b).

While the GE facility was identified as a significant source of pollution in the Housatonic River watershed, a variety of other water quality concerns have been identified including pesticide and fertilizer runoff from agricultural land, management of household hazardous waste, indirect discharges from septic systems and landfills, pesticide runoff from railroad beds, and abandoned industrial facilities (HRR 1999). In addition to river-based pollution, lakes and ponds in the Housatonic watershed face advancing eutrophication problems associated with nutrient loading.

In addition to factors affecting water quality, other ecological stressors affect terrestrial and riparian habitat in the watershed. Residential and commercial development continues to diminish the quality and abundance of wildlife habitat. While the population of Berkshire County has decreased in the last decade, the number of housing units has grown from about 64,300 to 66,600, with at least some of this trend attributable to construction of vacation and retirement homes. Likewise, invasive species such as purple loosestrife (*Lythrum salicaria*) and other non-native plants crowd out native plants that provide forage for waterfowl and other wildlife.

## **2.2 SOCIOECONOMIC ENVIRONMENT**

Eighteen towns and one city in Berkshire County are located wholly or partially in the Housatonic River watershed. With a population of approximately 44,000, Pittsfield is the largest city in Berkshire County, and had roughly one-third of the population of the county in 2006. Both Pittsfield and Berkshire County as a whole have seen a decrease in population over the last decade; farm abandonment, loss of manufacturing jobs, and general migration to other population centers are cited as contributing factors. The economy of the Housatonic River watershed was once heavily dependent upon manufacturing and timber harvesting, and the loss of jobs in these sectors still appears to affect economic well-being (i.e., the percent of families living below the poverty line in Pittsfield is significantly higher than in the County or in Massachusetts overall). The median income in the region is lower and the unemployment rate is somewhat higher than in Massachusetts as a whole.

The upper third of the Housatonic River watershed, including Pittsfield, is urbanized, while the remaining two-thirds of the watershed are rural in character and largely forested. Current land uses in the watershed include industrial, agricultural, residential, and recreation/wildlife management. In Pittsfield, Lenox, and Lee, the river is used primarily as a natural area, with much of the area contained in the Housatonic River Valley State Wildlife Management Area used primarily by outdoor recreation enthusiasts.

### **3.0 RESTORATION SOLICITATION AND CRITERIA EVALUATION PROCESS**

The Round 3 Land Protection process varies from the process used in Rounds 1 and 2 in that this RP/SEA was developed prior to soliciting proposals and selecting projects. As previously noted, this change resulted from public input requesting a streamlined review process and an expedited funding process. The guidelines for project selection are provided in this Final Round 3 RP/SEA and were provided in the Draft Round 3 RP/SEA which was made available for public review and comment prior to final approval by the relevant state and federal agencies. The Round 3 RFR for Land Protection proposals will be made available online through the Commonwealth's Procurement Access & Solicitation System (Comm-PASS [<http://www.comm-pass.com/>]). Proposals received during Round 3 will undergo a two-stage evaluation as described in the RPSP (see Section 3.3 below).

#### **3.1 PUBLIC COMMENTS ON LAND PROTECTION PROJECTS**

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. However, all funded Round 3 Land Protection projects must score highly on the Evaluation Criteria (see Section 3.3, below). Thus, one can predict, by examining the high-scoring elements of the Evaluation Criteria, what the attributes of preferred Land Protection projects are likely to be. The MA SubCouncil will publicly announce the compensatory restoration achieved through this Round 3 process after funding has been awarded<sup>9</sup>.

The MA SubCouncil solicited public comment on the Draft Round 3 RP/SEA for Land Protection, including the process to be used to solicit Land Protection proposals, and the criteria to be used to identify projects worthy of funding. Public comments from the Draft Round 3 RP/SEA public comment period and meeting notes from the August 23,

---

<sup>9</sup> All proposals become public information and the RFR will contain the following required specification: *"Public Records. All responses and information submitted in response to this RFR are subject to the Massachusetts Public Records Law, M.G.L., Chapter 66, Section 19, and to Chapter 4, Section 7, Subsection 26. Any statements in submitted responses that are inconsistent with these statutes shall be disregarded."*

2012, Draft Round 3 RP/SEA public meeting can be found in Appendices C and D, respectively.

### **3.2 SOLICITATION PROCESS**

The Round 3 RFR for Land Protection will consist of two proposal preparation phases. Phase 1 includes proposal submittal, evaluation, and selection for advancement to Phase 2. In Phase 2, applicants of proposals selected in Phase 1 will have 6 months to conduct and submit additional due diligence prior to the MA SubCouncil's final review and selection of projects for funding. Phases 1 and 2 are described in more detail below:

#### Phase 1

- Phase 1 will allow 6 months for applicants to prepare project proposals including a project location map, an opinion of value, an estimated cost of performing due diligence (e.g., appraisal, survey, and site assessment), a narrative detailing the need for land protection, based on the selection criteria, and the feasibility of the project.
- Following the 6-month submittal period, state and federal review teams will convene to evaluate and score the proposals (see Criteria Evaluation, Section 3.3 of this document). The evaluating and scoring may include independent research by the Mass SubCouncil to verify information presented in proposals.
- After Phase 1 proposals are evaluated and scored by review teams and necessary research is performed, the MA SubCouncil will select proposals to advance to Phase 2.

#### Phase 2

- Upon entering Phase 2, grant agreements will be executed by the Commonwealth for the applicants of selected proposals. Applicants will have up to an additional 6 months to perform due diligence including obtaining formal land appraisals, conducting an environmental site assessment as described in the 1995 EEA Land Acquisition Policies, and providing a letter(s) of interest or commitment from the land owner(s). Part of the grant agreements will include reimbursement for future costs of due diligence<sup>10</sup>. Note, reimbursement of due diligence costs shall not

---

<sup>10</sup> Proposals that are selected by the MA SubCouncil to proceed to Phase 2 will be eligible for reimbursement of required due diligence costs regardless of whether the proposal is ultimately selected by the MA SubCouncil for Round 3 funding and regardless of whether the project's land acquisition/protection negotiations are ultimately successful.

- exceed the following per-parcel amounts: \$1,000 per title search, \$4,000 per appraisal, and \$1,200 per physical inspection and historic research of property associated with a preliminary site assessment. The MA SubCouncil may consider reimbursement for costs exceeding per-parcel amounts on a case-by-case basis if warranted by site- and parcel-specific conditions.
- If results of the due diligence analysis indicate that Land Protection 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 appraisals and other due diligence, proposals are selected for funding by the MA SubCouncil, the existing agreement will be amended by the Commonwealth to provide the approved project with funding for the purchase of the parcel and/or acquisition of necessary mechanism of parcel protection (e.g., Conservation Restrictions, Conservation Easements, Article 97, Fee Protection).

Land Protection projects that are selected to advance from Phase 1 to Phase 2 of the review process may be eligible to receive Round 3 funding even if the closing date of the Land Protection project occurs prior to the end of the Phase 2 review process; however, to remain eligible for Round 3 funding under this scenario, the closing date of a Land Protection project must occur no earlier than the date of the formal announcement from the MA SubCouncil that a proposal has been selected to advance from Phase 1 to Phase 2 of the review process.

The MA SubCouncil has targeted approximately \$2 million for Round 3 Land Protection funding but reserves the right to withhold some of this funding if the aggregate value of the selected proposals is less than this sum. The MA SubCouncil also reserves the right to conduct a second subround of funding under Round 3 if adequate funds remain following completion of the initial solicitation process (Phases 1 and 2) described above. A second subround may be necessary if proposed projects are not selected for funding or do not complete requirements in the necessary timeline. Proposals that do not advance to Phase 2 of the initial Round 3 process and proposals for which Phase 2 due diligence is not completed, may be considered again if the MA SubCouncil conducts a second subround of funding during Round 3.

### **3.3 CRITERIA EVALUATION**

CERCLA and NRD regulations require that restoration activities restore, rehabilitate, replace, or acquire the equivalent of the resources and services that were injured or lost, but do not address which restoration projects are preferred. Such decisions are left to the discretion of the MA SubCouncil. The Round 3 Land Protection funding process will concentrate on restoration through land acquisition to conserve habitat. The DOI regulations recommend the following factors to be considered in the evaluation and selection of preferred alternatives (43 CFR § 11.82).

- (1) Technical feasibility.
- (2) The relationship of the expected costs of the proposed actions to the expected benefits from the restoration, rehabilitation, replacement, and/or acquisition of equivalent resources.
- (3) Cost-effectiveness.
- (4) The results of any actual or planned response actions.
- (5) Potential for additional injury resulting from the proposed actions, including long-term and indirect impacts, to the injured resources or other resources.
- (6) The natural recovery period.
- (7) Ability of the resources to recover with or without alternative actions.
- (8) Potential effects of the action on human health and safety.
- (9) Consistency with relevant federal, state, and tribal policies.
- (10) Compliance with applicable federal, state, and tribal laws.

The MA SubCouncil previously developed an RPSP and PEA that described the process for soliciting, evaluating, and selecting individual restoration projects (Woodlot and IEC 2005b). The MA SubCouncil incorporated the ten factors described above into its Threshold and Evaluation Criteria. The RPSP and PEA established the format and content of submissions from parties requesting funds for restoration projects. Among the requirements, applicants will be asked to complete NEPA checklists that help identify potential environmental and socioeconomic impacts of their project<sup>11</sup>.

During Phase 1 of the Solicitation Process (described in Section 3.2 above), proposed Land Protection projects will be subject to a two-stage criteria evaluation process as described below.

### **3.3.1 Stage One: Threshold Criteria**

The first step in evaluating proposed projects will be to identify projects that meet the minimum requirements for consideration as restoration projects. These “Threshold Criteria,” listed below, are consistent with the goals of the MA SubCouncil, federal regulations, and other applicable federal, state, and local regulations and laws. As described in detail in the RPSP, the Threshold Criteria include:

1. Does the application contain the information necessary to proceed with an evaluation as described in the RPSP? (Answer must be “YES” to pass.)
2. Does the proposed project restore, rehabilitate, replace, and/or acquire the equivalent of natural resources or natural resource services that were injured by the release of PCBs or other hazardous substances? (Answer must be “YES” to pass.)

---

<sup>11</sup> No significant environmental impacts are anticipated for Round 3 Land Protection projects as they involve only land acquisition for habitat conservation.

3. Is the proposed project, or any portion of the proposed project, an action that is presently required under other federal, state, or local law? (Answer must be “NO” to pass.)
4. Is the proposed project, or any portion of the proposed project, inconsistent with any federal, state, or local law, regulation, or policy? (Answer must be “NO” to pass.)
5. Will the proposed project, in terms of its cost, be consistent with the stated goals of the MA SubCouncil to retain sufficient funds to 1) accomplish restoration over at least three rounds of proposal solicitations and 2) serve a wide geographic area that benefits the restoration priority categories? (Answer must be “YES” to pass.)
6. Will the proposed project, or any portion of the proposed project, be inconsistent with any ongoing or anticipated remedial actions (i.e., primary restoration) in the Housatonic River watershed? (Answer must be “NO” to pass.)

The Trustee representatives of the MA SubCouncil are solely responsible for determining whether a proposed project meets the Threshold Criteria. Proposed projects that meet all Threshold Criteria will be termed “Project Applications” and advance to Stage Two of the evaluation process, i.e., application of the Evaluation Criteria (see Section 3.3.2 below). The RPSP states that a public meeting will be held following the release of the Threshold Criteria Summary. However, unlike Rounds 1 and 2, parcel-specific Round 3 review and evaluation results will not be available for public review and comment before the MA SubCouncil decides upon funding awards. As described in Section 3.1 of this document, a more confidential process is required for Round 3 as necessary to accommodate land transaction negotiations that could be adversely affected by the public disclosure of certain information.

### **3.3.2 Stage Two: Evaluation Criteria**

At the completion of Stage One, the MA SubCouncil will assign Project Applications that meet the Threshold Criteria to members of the Review Team for review and evaluation. The Review Team will be comprised of staff from departments within EEA, USFWS, and Stantec Consulting Services Inc. (Stantec), with expertise relevant to Land Protection.

Each Project Application will be evaluated by at least two members of the Review Team and a Stantec staff member. Reviewers will not evaluate Project Applications on which

they are listed as the applicant or for which they have submitted letters of support<sup>12</sup>. A rating system (i.e., scores associated with High, Medium, and Low) will be used to apply the Evaluation Criteria to each Project Application. Each rating is associated with a number of points that vary depending on the question, allowing certain criteria to be weighted more heavily than others. Project Applications will be evaluated and scored individually using the following categories of criteria. Detailed explanations of the Evaluation Criteria are provided in the RPSP.

- Relevance and Applicability of Project
  - Natural Recovery Period
  - Location of Project
  - Sustainable Benefits
  - Magnitude of Ecological Benefits
  - Human Health and Safety
  - Benefits to Multiple Restoration Categories
  - Enhancement of Remediation/Response Actions
- Technical Merit
  - Technical/Technological Feasibility
  - Technical Capacity of Applicant and Project Team
  - Potential for Adverse Environmental Impacts
  - Measurable Results
  - Contingency Actions
  - Administrative Capacity of Applicant and Project Team
- Project Budget
  - Relationship of Expected Costs to Expected Benefits
  - Implementation-oriented
  - Budget Justification and Understanding
  - Leveraging of Additional Resources
  - Coordination and Integration
  - Comparative Cost-effectiveness

---

<sup>12</sup> The MA SubCouncil has developed a process by which potential conflicts of interest during the evaluation process will be minimized and identifiable should they occur. The MA SubCouncil may assign reviewers to applications submitted by the reviewer's agency division; however, no more than one review team member may be from the same agency division. Reviewers will not be eligible to review applications for which they are the applicant or have submitted a letter of support. Furthermore, based upon advice from the Massachusetts State Ethics Commission, reviewers will not be eligible to review applications if they might benefit as an employee from selection of a project for funding (e.g., funding of all or a part of their salary).

- Socioeconomic Merit
  - Enhancement of Public's Relationship with Natural Resources
  - Fostering Future Restoration and Stewardship
  - Community Involvement
  - Potential for Adverse Socioeconomic Impacts
  - Complementary with Community Goals
  - Public Outreach
  - Diverse Partnerships

Review Team members will independently apply the Evaluation Criteria to their assigned Project Applications and arrive at an individual score for each project. All Review Team members for the reviewed Project Application will subsequently meet to discuss the projects' merits and derive a single, consensus-based score for each Project Application. The review process for each of the reviewed Project Applications will be recorded in an Evaluation Summary Memo that will include the following: the consensus-based score for the project, the Review Team's rationale for the final consensus-based score, individual scores provided by each reviewer, and the agency affiliation of each Review Team member. The evaluation summary memo will be combined with independent analysis for use by the MA SubCouncil in selecting projects to be funded.



#### **4.0 PREFERRED ALTERNATIVES**

In the PEA, the MA SubCouncil evaluated strategies for accomplishing restoration within the Restoration Program, including a “No Action” alternative, and identified a preferred strategy. The preferred strategy was to implement projects in all four restoration priority categories (Alternative 6, “Blended Restoration Approach,” in the PEA). The four restoration categories are Aquatic Biological Resources and Habitat, Wildlife Resources and Habitat, Recreational Uses of Natural Resources, and Environmental Education and Outreach.

This Final Round 3 RP/SEA expands upon the preferred strategy of the PEA and the list of Preferred Alternatives identified in the Round 1 and Round 2 RP/SEAs but only with respect to the Aquatic Biological Resources and Habitat and Wildlife Resources and Habitat restoration categories. In addition, this document focuses on achieving such restoration through aquatic and wildlife habitat protections gained via land acquisitions and/or acquisitions of conservation easements.

For purposes of protecting the confidentiality of realty negotiations, parcel-specific projects are not described in this document; rather, the solicitation for specific projects will be released following release of this Final Round 3 RP/SEA, as described in Section 3.1 of this document. Projects to be funded via the Round 3 Land Protection and Habitat Conservation program will score highly on the MA SubCouncil’s Threshold and Evaluation Criteria. These projects will be publicly announced after the realty transactions have been completed.

## **5.0 COMPLIANCE WITH OTHER AUTHORITIES**

As discussed in Section 1.1, the two major federal laws guiding the restoration of the GE/Housatonic River Site are CERCLA and NEPA. CERCLA provides the basic framework for natural resource damage assessment and restoration, while NEPA sets forth a specific process of impact analysis and public review. The major state law governing the MA SubCouncil's NRD activities is M.G.L. Ch. 21E, and for evaluating environmental impacts is MEPA. However, in developing and implementing the Round 3 RP/SEA for the GE/Housatonic River Site, the MA SubCouncil and project applicants must comply with other applicable laws, regulations, and policies at the federal, state, and local levels. Section 5.1 below lists these potentially relevant laws and policies and discusses their applicability with respect to the restoration of the GE/Housatonic River Site.

In addition to laws and regulations, the MA SubCouncil must consider relevant environmental or economic programs or plans in developing and implementing the Round 3 RP/SEA for Land Protection. The most important of these is the clean-up of the Housatonic River environment, but other efforts are ongoing or planned in or near the affected environment. By coordinating restoration with all relevant programs and plans, the MA SubCouncil can insure that the restoration does not duplicate other efforts, but enhances the overall effort to improve the environment of the Housatonic River.

The following list of laws, policies, and directives may not be exhaustive for each proposed Preferred Alternative. The MA SubCouncil has a responsibility to require that activities using NRD funds comply with all relevant laws, policies, and directives. Project applicants receiving NRD funding will be responsible for obtaining all relevant permits and formally complying with any and all laws, policies, ordinances, or other local, Commonwealth, and federal requirements applicable to the expenditure of the NRD funding. While the Round 3 NRD funding will be disbursed by the Commonwealth, thereby automatically mandating compliance with certain Commonwealth requirements, project applicants receiving NRD funding may also be responsible for compliance with certain federal requirements applicable to the expenditure of the NRD funding.

### **5.1 LAWS**

#### **5.1.1 Federal Laws**

##### **Clean Water Act (CWA) (a.k.a., Federal Water Pollution Control Act), 33 U.S.C. § 1251 et seq.**

The CWA is the principle law governing pollution control and water quality of the Nation's waterways. Section 404 of the law authorizes a permit program for the disposal of dredged or fill material in the Nation's waters, administered by the ACOE. In general,

projects that move significant amounts of material into or out of waters or wetlands, e.g., dam removal, require 404 permits. In such cases, the project proponent; e.g., a municipality or local natural resources trust, must obtain the appropriate permits before implementing the regulated activities. In granting permits to applicants for dredge and fill, applicants may be required to undertake mitigation measures such as habitat restoration to compensate for losses resulting from the project.

Under Section 401 of the CWA, projects that entail discharge or fill to wetlands or waters within federal jurisdiction must obtain certification of compliance with water quality standards. The MassDEP implements the 401 Water Quality Certification Program through 314 CMR § 9.00. In general, projects with minor wetlands impacts are not required to obtain 401 Certification, while projects with potentially large or cumulative impacts to critical areas require certification.

The MA SubCouncil anticipates that Round 3 Land Protection projects will not require permitting under Sections 404 or 401 of the CWA; however, the MA SubCouncil will require project applicants to comply with the CWA if/as applicable.

**Endangered Species Act (ESA), 16 U.S.C. § 1531 et seq.**

The ESA establishes a policy that all federal departments and agencies seek to conserve endangered and threatened species and their habitats and encourages such agencies to utilize their authorities to further these purposes. Under the Act, the Department of Commerce and/or DOI publish lists of endangered and threatened species. Section 7 of the ESA requires that federal agencies and departments consult with the Department of Commerce and/or DOI to minimize the effects of federal actions on endangered and threatened species.

The bog turtle (*Clemmys muhlenbergii*) is listed under the ESA as a threatened species and exists in the Massachusetts section of the Housatonic River watershed.

The MA SubCouncil anticipates that Round 3 Land Protection projects will not have any adverse effects upon threatened or endangered species; however, project applicants will be required to comply with the Endangered Species Act if/as applicable.

**Fish and Wildlife Coordination Act (FWCA), 16 U.S.C. § 661 et seq.**

The FWCA requires that federal agencies consult with the USFWS, the National Marine Fisheries Service (NMFS), and state wildlife agencies for activities that affect, control, or modify waters of any stream or bodies of water, in order to minimize the adverse impacts of such actions on fish and wildlife resources and habitat. The federal agencies required to consult include permitting agencies such as the ACOE. This consultation is generally incorporated into the process of complying with Section 404 (see Clean Water Act, above), NEPA or other federal permit, license, or review requirements.

**Rivers and Harbors Act, 33 U.S.C. § 401 et seq.**

The Rivers and Harbors Act regulates development and use of the Nation's navigable waterways. Section 10 of the Act prohibits unauthorized obstruction or alteration of

navigable waters and invests the ACOE with authority to regulate discharges of fill and other materials into such waters. Actions that require Section 404 permits (see Clean Water Act, above) are likely to also require permits under Section 10 of the Rivers and Harbors Act, but a single permit generally serves for both.

**American Indian Religious Freedom Act of 1978 (42 U.S.C. 1996)**

Under this statute, information on American Indian, Eskimo, Aleut, and Native Hawaiian religious and heritage issues must receive good-faith consideration during planning and decision making. There are no federally recognized Native American Tribal Nations in the Massachusetts portion of the Housatonic River watershed.

**Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. 3001-3013)**

This law protects Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony on federally owned or controlled lands, Indian tribal lands, and Native Hawaiian land. Where applicable, the MA SubCouncil will require that the proper precautions and actions are taken with respect to these cultural resources.

**Antiquities Act (16 U.S.C. 431-433) and Archaeological Resources Protection Act (ARPA), as amended (16 U.S.C. 470aa-470 mm)**

The Antiquities Act was enacted in 1906 to protect historic and prehistoric ruins, monuments, and objects of antiquity on federally owned or controlled lands. The ARPA protects resources that are determined to be archaeological interest, at least 100 years old, and located on lands owned by the federal or tribal governments. Where applicable, the MA SubCouncil will require that the proper precautions and actions are taken with respect to these cultural resources.

**National Historic Preservation Act of 1966 (16 U.S.C. 470)**

Section 106 of this statute requires that federal agencies consider the effects of their actions on sites listed or eligible for listing on the National Register of Historic Places. If federal actions will impact such sites, the federal agency must consult with the state and local Historic Preservation Officers. The MA SubCouncil will require that potentially affected historic sites are identified and appropriately treated and will require project applicants to consult with state and local Historic Preservation Officers where applicable.

**Bald and Golden Eagle Protection Act of 1940, as amended (16 U.S.C. 668-668d)**

This law prohibits the killing, capturing, collecting, molestation, or disturbance of bald and golden eagles, their nests, and critical habitat. Projects that might affect these resources require consultation under the ESA to ensure that adverse impacts are avoided. Round 3 Land Protection projects are not anticipated to adversely affect bald and golden eagles, their nests, or critical habitat; however, project applicants will be required to comply with the Bald and Golden Eagle Protection Act where applicable

**Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. §§ 703-712 et seq.)**

Under this law, it is unlawful to kill, import, export, possess, buy, or sell any bird listed under the MBTA or its feathers, body parts, nests, and eggs. The Round 3 Land Protection projects are not anticipated to cause these illegal activities.

**Federal Advisory Committee Act (FACA) of 1972 (86 Stat. 770, 5 U.S.C. Appendix 2)**

The FACA applies to a formal group of private citizens brought together at the request of a federal agency to provide consensus advice or recommendations to the federal agency. Such a "FACA Committee" is required to be chartered with Congress. The USFWS is the federal Trustee agency on the MA SubCouncil and did not request consensus advice from any group of private citizens.

**5.1.2 State Laws**

**Massachusetts Endangered Species Act (MESA), M.G.L. Ch. 131A**

MESA works in much the same way as the federal ESA (Section 6.2.1, above) to list and protect rare species and their habitats. Like the federal ESA, MESA defines specific species as "endangered" or "threatened" and considers a third category as well: "species of special concern." MESA protects more species than the ESA; listed species include federally protected species as well as others of specific concern to Massachusetts. MESA is administered by the Massachusetts Natural Heritage and Endangered Species Program (NHESP), which identifies rare species habitats and other high-priority natural areas. Compliance of the proposed restoration with MESA overlaps ESA compliance. Where applicable, the MA SubCouncil will require project applicants to consult with NHESP to ensure that no aspects of the proposed activities would have a negative effect on species designated as endangered, threatened, or of special concern by the Commonwealth.

**Massachusetts Environmental Policy Act, M.G.L. Ch. 30 § 61 et seq.**

MEPA is the state equivalent of NEPA (Section 6.2.1, above). MEPA sets forth a process of environmental review and requires Commonwealth agencies to consider and minimize adverse environmental impacts of State actions on the environment. Like NEPA, MEPA requires public notification and comment before decisions are finalized. The documents used to assess impacts are the Environmental Notification Form (ENF) and Environmental Impact Report (EIR), which must be approved by the MEPA office within the EEA before major State actions can proceed. The law applies to projects directly undertaken by State agencies as well as private projects seeking permits, funds, or lands from the State, but does not apply to private projects requiring local approval only. MEPA review is expressly required for projects that dredge, fill, or alter more than one acre of wetlands.

Since MEPA is somewhat more inclusive than NEPA, some actions that do not require NEPA review may require review under MEPA; in such cases, the MA SubCouncil will require project applicants to complete the required MEPA review process.

**Public Waterfront Act ("Chapter 91"), M.G.L. Ch. 91**

Chapter 91 is designed to protect public rights in Massachusetts waterways, not unlike the federal Rivers and Harbors Act, above, which it predates. It ensures that public rights to fish, fowl, and navigation are not unreasonably restricted and that unsafe or hazardous structures are repaired or removed. Chapter 91 also protects the waterfront property owner's ability to approach his land from the water, and helps protect wetland resource areas by requiring compliance with the Wetlands Protection Act. It is administered by MassDEP's Division of Wetlands and Waterways through a program of permits and licenses. Chapter 91 authorization is required for alterations of tidelands, great ponds, and some rivers and streams, as well as for dredging and construction of piers, wharves, floats, retaining walls, revetments, pilings, bridges, dams, and some waterfront buildings. The Act requires public, municipal, and agency notification before a project is authorized and provides for public hearings, review by affected parties, and the imposition of conditions before authorization is granted. Certain Chapter 91 projects also require MEPA review (see above). The MA SubCouncil will require that project applicants comply with Chapter 91 requirements.

**Rivers Protection Act, St. 1996, Ch. 258**

The Rivers Protection Act, passed in 1996, modifies the Wetlands Protection Act (see below) to strengthen and expand existing protection of watercourses and the lands adjacent to them. The Act establishes a "riverfront area" that extends 200 feet (25 feet in certain urban areas) from the mean annual high water line on each side of perennially flowing rivers and streams. The Act requires projects in the riverfront area to meet two performance standards: no practicable alternatives and no significant adverse effect. While regulations for implementing the Rivers Protection Act have not yet been written, the MA SubCouncil intends to follow such developments in order to ensure that restoration actions are in full compliance with the Act.

**Wetlands Protection Act, M.G.L. Ch. 131 § 40**

The Wetlands Protection Act restricts the removal, filling, dredging or alteration of fresh and salt water wetlands and coastal areas. Permit authority for the administration of the law is delegated to local conservation commissions with oversight and involvement of the MassDEP. The Act requires landowners who plan work in a wetland to notify these entities as well as abutters and other nearby landowners, and provides for public hearings and the imposition of conditions before permission is granted. The MA SubCouncil will require that project applicants maintain compliance with the Wetlands Protection Act and Wetlands Protection Act Regulations, including obtaining the approval of the local conservation commission and/or other appropriate authorities before implementing actions within jurisdictional resource areas and notifying nearby landowners and other affected parties of planned actions as required.

**Other Potentially Applicable State Laws**

*Massachusetts Clean Water Act, M.G.L. Ch. 21 §§ 26 through 53*

Massachusetts 401 Water Quality Certification Program, 314 CMR § 9.00 (discussed under Clean Water Act above).

*Article 97 of the Constitution of the Commonwealth of Massachusetts*

Article 97 directs, in part, that land acquired by the state, for the purpose of conservation, shall not be used for other purposes or otherwise disposed of except by two-thirds vote of the state legislature. Round 3 Land Protection projects will be required to comply with Article 97 where applicable.

*Conservation Restrictions, M.G.L. Ch. 184 §§ 31 through 33*

Conservation restrictions are authorized by M.G. L. Ch. 184 §§ 31 through 33 and must be approved by the EEA.<sup>13</sup>

*Land Acquisition Regulations*

All acquisitions of real property for Article 97 purposes by any EEA agency must comply with the Land Acquisition Regulations, 301 CMR § 51.01

### **5.1.3 Local Laws**

As appropriate, Round 3 Land Protection projects will be required to consider and comply with local zoning ordinances, comprehensive plans, shoreline plans, growth management plans, construction grading or fill permits, noise permits, wetlands bylaws and permits, and other relevant laws, regulations, bylaws, and ordinances.

## **5.2 POLICIES AND DIRECTIVES**

### **5.2.1 Federal Policies and Directives**

The following describes federal policies and Presidential Executive Orders that may be relevant to proposed Round 3 Land Protection projects.

#### **U.S. Fish and Wildlife Service Mitigation Policy (Fish and Wildlife Service Manual, 501 FW 2)**

It is the policy of the USFWS to seek to mitigate losses of fish, wildlife, and their habitats, and uses thereof, from land and water developments. This policy seeks to ensure “no net loss” of fish and wildlife habitat. The MA SubCouncil does not anticipate that the Round 3 Land Protection projects will cause adverse impacts to wetlands; however, all Round 3 Land Protection projects will be required to comply with this policy if/as applicable.

#### **Executive Order 11988 – Floodplain Management**

This 1977 Executive Order directs federal agencies to avoid, to the extent possible, the long- and short-term adverse effects associated with the occupancy and modification of floodplains and to avoid direct or indirect support of development in floodplains

---

<sup>13</sup> Additional information is available in the EEA’s Massachusetts Conservation Restriction Handbook, available at <http://www.mass.gov/Eoea/docs/eea/dcs/crhandbook08.pdf>.

wherever there is a practicable alternative. Round 3 Land Protection projects will conserve, protect, and enhance wildlife habitat values in floodplain areas of the Housatonic River through the establishment of conservation restrictions that will prevent future development and the implementation of habitat restoration activities.

**Executive Order 11990 – Protection of Wetlands**

Issued by President Jimmy Carter in 1977, Executive Order 11990 instructs each federal agency to avoid, to the extent possible, the long- and short-term adverse effects associated with the destruction or modification of wetlands. Projects that may affect wetlands will require appropriate regulatory permits as outlined in the preceding sections. MA SubCouncil does not anticipate that Round 3 Land Protection projects will have adverse effects on wetlands.

**Executive Order 12898 – Environmental Justice**

This Order directs federal agencies to assess whether their actions have disproportionate adverse human health or environmental effects on minority or low-income populations. Based on a preliminary review of Environmental Justice population information obtained from the Massachusetts Geographic Information System (MassGIS), there are adjacent Environmental Justice populations in Pittsfield. It is anticipated that none of the Round 3 Land Protection projects will adversely affect human health or the environment in minority or low-income populations.

**Executive Order 13186 – Migratory Bird Protection**

This Order directs federal agencies to avoid or minimize, to the extent possible, adverse impacts on migratory birds while conducting agency actions. None of the Round 3 Land Protection projects are expected to cause adverse impacts to migratory birds. Rather, it is anticipated that Round 3 Land Protection projects will protect and enhance migratory bird habitat.

**5.2.2 State and Local Policies**

As appropriate, proposed projects will consider and comply with other relevant policies at the state and local levels (e.g., EEA Article 97 Land Disposition Policy and EEA Land Acquisition Policies for Title Examination Reports, Appraisals, Environmental Site Assessments and Surveys).



## 6.0 LIST OF PREPARERS

Todd Chadwell Stantec Consulting Services Inc. 11687 Lebanon Road Cincinnati, OH 45241	Michael Chelminski Stantec Consulting Services Inc. 30 Park Drive Topsham, ME 04086
John Lortie Stantec Consulting Services Inc. 30 Park Drive Topsham, ME 04086	Robin MacEwan Stantec Consulting Services Inc. 136 West Street, Suite 203 Northampton, MA 01060
Ken Munney U.S. Fish and Wildlife Service 70 Commercial Street, Suite 300 Concord, NH 03301-5087	Karen I. Pelto Massachusetts Department of Environmental Protection One Winter Street, 6 <sup>th</sup> Floor Boston, MA 02108

## **7.0 LIST OF AGENCIES, ORGANIZATIONS, AND PARTIES CONSULTED FOR INFORMATION**

Margaret Callanan, Deputy General Counsel, EEA

Mark Barash, Senior Attorney, Office of the Solicitor, U.S. DOI

Irene DelBono, Director, EEA Conservation Restriction Review Program

Robin Heubel, NRDAR Coordinator, Northeast Regional Office, USFWS

David Wilson, Attorney, State Ethics Commission

## **8.0 PUBLIC COMMENTS ON DRAFT ROUND 3 RP/SEA FOR LAND PROTECTION AND HABITAT CONSERVATION**

Public comments on the Draft Round 3 RP/SEA were accepted via letter and email during the 47-day public comment period, which began on August 2, 2012, and closed at 5:00 PM on September 17, 2012. Public comments received during the public comment period are included in Appendix C of this document.

Public comments were solicited following the presentation of the Draft Round 3 RP/SEA at a public meeting in Lenox, Massachusetts, on August 23, 2012. No public comments were submitted during the public comment portion of the public meeting. Meeting notes from the public meeting are included in Appendix D of this document.

Presented below is a summary of received public comments and MA SubCouncil's responses to public comments.

### **8.1 Public Comments and MA SubCouncil Responses**

Two public comments were received during the 47-day public comment period for the Draft Round 3 RP/SEA. Both comments referred to the variable and potentially unpredictable timelines of land acquisition/protection processes and requested that the Round 3 process provide for flexibility regarding the closing dates for land acquisition/protection agreements relative to Round 3 funding timelines and deadlines. The public comments are paraphrased below and are followed by the MA SubCouncil's response to comments. The comment letters are provided in their entirety in Appendix C of this document.

#### **8.1.1 Public Comment 1**

A public comment received from The Trustees of Reservations (dated September 13, 2012) stated that the timing of land protection projects is subject to many factors and that the duration of negotiations and the date of closing may be difficult to control. The comment letter requested that the Round 3 process allow flexibility relative to the date of closing for Land Protection projects. The comment letter suggested that projects ultimately selected for funding (at the end of Phase 2 of the review process) be allowed to receive funds even if the closing date of the land acquisition/protection process occurred prior to the end of the Phase 2 review and selection process – so long as the date of closing occurred after the project was formally selected to advance from Phase 1 to Phase 2 of the review process.

### **8.1.2 Public Comment 2**

A public comment received from the Housatonic Valley Association (dated September 14, 2012) stated that the land acquisition/protection process can be complex and difficult and requested that the Round 3 process allow for flexibility in project timing. This comment letter suggested that Round 3 requirements for the completion of land acquisitions/protection process should be “realistic in relation to the problems that may be encountered”.

### **8.1.3 MA SubCouncil Responses to Public Comments**

The two public comments received during the 47-day public comment period for the Draft Round 3 RP/SEA identified similar concerns regarding Round 3 project funding timelines relative to the potentially unpredictable timelines of the land acquisition/protection process. The MA SubCouncil acknowledges that the land acquisition/protection process is subject to numerous variables and that the timeline for closing of Land Protection projects may be unpredictable. The MA SubCouncil agrees that the Round 3 process should provide some flexibility to address this realistic concern.

Section 3.2 of the Final Round 3 RP/SEA has been modified to clarify that proposed projects that are selected to advance from Phase 1 to Phase 2 of the Round 3 review process may be eligible to receive Round 3 funding even if the closing date of the Land Protection project occurs prior to the end of the Phase 2 review process. The modified text states that to remain eligible for Round 3 funding under this scenario, the closing date of a Land Protection project must occur no earlier than the date of the formal announcement from the MA SubCouncil that a proposal has been selected to advance from Phase 1 to Phase 2 of the review process.

## **9.0 LITERATURE CITED**

[EEA] Executive Office of Environmental Affairs. 2003. Housatonic River 5-Year Watershed Action Plan. June.

[EEA] Executive Office of Environmental Affairs. 2005 (revised 2006). 2005 Massachusetts Comprehensive Wildlife Conservation Strategy. Online at [http://www.mass.gov/dfwele/dfw/habitat/cwcs/cwcs\\_home.htm](http://www.mass.gov/dfwele/dfw/habitat/cwcs/cwcs_home.htm).

[HRR] Housatonic River Restoration, Inc. 1999. Revised 2003. The Housatonic River Restoration Plan.

Roy F. Weston, Inc. 1998. Upper Reach-Housatonic River Ecological Risk Assessment. Prepared under EPA Contract No. 68-W5-0009. Roy F. Weston, Inc., West Chester, PA.

[Woodlot] Woodlot Alternatives, Inc. 2002a. Ecological Characterization of the Housatonic River. Prepared for the U.S. Environmental Protection Agency. September.

Woodlot. 2002b. Ecological Characterization of the Housatonic River Downstream of Woods Pond. Prepared for the U.S. Environmental Protection Agency. September.

[Woodlot and IEc] Woodlot Alternatives, Inc. and Industrial Economics, Inc. 2005a. Restoration Planning Strategy. Prepared for the Massachusetts SubCouncil of the Housatonic River Natural Resource Trustees. February 18, 2005.

Woodlot and IEc. 2005b. Restoration Project Selection Procedure (RPSP). Prepared for the Massachusetts SubCouncil of the Housatonic River Natural Resource Trustees. June 30, 2005.

**APPENDIX A**  
**Public libraries where documents can be accessed**

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

---

Great Barrington Mason Library  
231 Main Street  
Great Barrington, MA 01230-1604  
(413) 528-2403

Lee Library  
100 Main Street  
Lee, MA 01238  
(413) 243-0385

The Lenox Library  
18 Main Street  
Lenox, MA 01240  
(413) 637-0197

Berkshire Athenaeum  
One Wendell Avenue  
Pittsfield, MA 01201-6385  
(413) 499-9480

Bushnell-Sage Library  
48 Main Street  
Sheffield, MA 01257-0487  
(413) 229-7004

Stockbridge Library  
46 Main Street  
P.O. Box 119  
Stockbridge, MA 01262-0119  
(413) 298-5501

## **APPENDIX B**

### **Newspapers and radio and television stations used for public announcements**



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

---

**Newspapers** used for public outreach include:

- Berkshire Eagle, Pittsfield, MA
- Berkshire Record, Great Barrington, MA
- The Berkshire Beacon, Lenox, MA
- The Pittsfield Gazette, Pittsfield, MA
- The Republican, Springfield, MA
- The Advocate, North Adams, MA
- Shoppers Guide, Great Barrington, MA
- North Adams Transcript, North Adams, MA
- The Lakeville Journal, Lakeville, CT
- Litchfield County Times, New Milford, CT

**Radio stations** used for public outreach include:

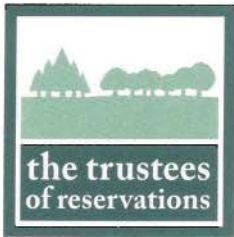
- WBEC 1420 AM, Pittsfield, MA
- WAMQ 105.1 FM, Great Barrington, MA
- WCFM 91.9 FM, Williamstown, MA
- WNAW 1230 AM, Pittsfield, MA
- WSBS 860 AM, Great Barrington, MA
- WUPE, Pittsfield and North Adams, MA
- WBRK, Pittsfield, MA
- WAMC, Albany, NY
- WCFM, Williamstown, MA
- WNAW, North Adams, MA
- WKZE, Red Hook, NY

**Television stations** used for public outreach include:

- WWLP-22News, Springfield, MA
- PCTV, Pittsfield, MA
- CTSB, Lee, MA
- WRGB, Albany, NY
- WNYT, Albany, NY
- WGGB, Springfield, MA
- WTEN, Albany, NY

**APPENDIX C**

**Public Comment on Round 3 Draft RP/SEA**



Pioneer Valley Regional Office  
193 High Street  
Holyoke, MA 01040

tel 413.532.1631

fax 413.532.7149

[www.thetrustees.org](http://www.thetrustees.org)

September 13, 2012

Ms. Robin Macewan  
Stantec Consulting, Inc.  
30 Park Drive  
Topsham, ME 04086

Re: Housatonic Draft Round 3 RP/SEA

Dear Ms. Macewan:

The Trustees of Reservations is delighted that the MA SubCouncil of the Housatonic River Natural Resource Trustees intends to distribute a third round of funds aimed at preserving exceptional natural resources within the Housatonic River watershed in Massachusetts. We appreciate the opportunity to provide feedback on the Draft Round 3 Restoration Plan and Supplemental Environmental Assessment (RP/SEA).

We are very pleased with the draft plan, and with the thoughtful, hard work that went into its creation, and we do have one comment to respectfully submit for your consideration. The timing of land protection projects is both delicate and hard to control. Many factors act to delay or expedite the duration of negotiations and the final timing of a closing. Not the least of these are the whims and financial requirements of the landowner, but other factors, such as the necessity of closing within a particular fiscal year in order to satisfy state grant or state agency requirements, can also force the timing in one direction or another.

We therefore request that the SubCouncil consider allowing for flexibility with regard to the date of closing for a land conservation project. Specifically, we request that any project which is ultimately selected for funding (at the close of Phase 2 of the Proposal Review Process) be permitted to receive funds after the closing date, if necessary, provided that the project did not close (i.e., deeds and/or conservation restrictions were not recorded) until some time after the date of the notification from the SubCouncil that the project was selected to advance from Phase 1 to Phase 2 of the Proposal Review Process. We note that the Connecticut SubCouncil has previously included such flexibility in its granting process.

We strongly believe that the conditions we request would better enable the MA SubCouncil to achieve the intended purposes of the Round 3 Restoration Plan, by enabling a greater number of projects that are both eligible and of interest to the SubCouncil to actually succeed. Without that flexibility, it may be that the proposed timeline for Round 3 (RFR release in early 2013, and final project selection sometime in 2014) may make it very hard for land trusts and landowners to successfully fit land protection projects into the SubCouncil's exact timeframe.

Thank you for your consideration of these comments. We look forward to reading the final Round 3 Restoration Plan!

Sincere regards,

Lee Alexander  
Community Conservation Specialist



**Housatonic Valley Association**

150 Kent Road  
P.O. Box 28  
Cornwall Bridge, CT 06754  
860-672-6678

1383 Pleasant Street  
P.O. Box 251  
South Lee, MA 01260  
413-394-9796

19 Furnace Bank Road  
P.O. Box 315  
Wassaic, NY 12592  
845-789-1381

[www.hvatoday.org](http://www.hvatoday.org)

September 14, 2012

Housatonic Draft RP/SEA  
Stantec Consulting Services Inc.  
30 Park Drive  
Topsham, ME 04086

Re: Draft RP/SEA for Round 3 of the GE/Housatonic NRD settlement

To Whom it May Concern,

I appreciate the opportunity to comment on the Draft RP/SEA for Round 3 of the GE/Housatonic NRD settlement. Since the focus of Round 3 is land protection, the guidelines presented seem to be very straight forward. Therefore the only comment that I would like to make on this program is that the grant process be adaptable enough to allow flexibility in the timing for the acquisition process to take place. Land acquisition activities are complex and difficult enough without having a restrictive time line that needs to be followed.

We would definitely appreciate it if the requirements for pursuing the completion of these acquisition projects be realistic to the problems that may be encountered.

Thank you,

Dennis Regan  
Berkshire Director

**APPENDIX D**

**Meeting Notes from the August 23, 2012, Public Meeting**

## Meeting Notes



**Stantec**

### Draft Round 3 Restoration Plan and Supplemental Environmental Assessment

GE/Housatonic River Natural Resource Restoration

---

Date/Time: August 23, 2012 / 5:30 pm  
Place: Lenox Town Hall, Lenox, Massachusetts  
Next Meeting: Not Scheduled  
Attendees: Karen Peltó (MassDEP): Trustee Representative, MA SubCouncil  
Kenneth Munney (USFWS): Trustee Representative, MA SubCouncil  
Robin MacEwan (Stantec): Consultant for MA SubCouncil  
Eric Ford (Stantec): Consultant for MA SubCouncil  
Public Attendees (See Attachment 1 [Attendance Sheet])  
Absentees: N/A  
Distribution: Project Website

---

#### Item:

#### Action:

##### Introduction

The meeting formally commenced at 5:40pm. Karen Peltó (KP) provided background information relative to the Massachusetts SubCouncil (MA SubCouncil) and Stantec, and defined the purpose of the meeting (to inform interested parties of the *Draft Round 3 Restoration Plan and Supplemental Environmental Assessment* [RP/SEA] in a public forum and solicit comments on the draft plan). Audience members (10 at the commencement of meeting) introduced themselves and their affiliation to the presentation team. The public was directed to a printed agenda and asked to sign-in with their name and affiliation.

##### Slideshow Presentation

At 5:44 pm, Robin MacEwan (RM) began the Draft Round 3 RP/SEA presentation. The 18-slide PowerPoint presentation provided background information on the project; the status of Round 1 and Round 2 projects; an introduction to the Draft Round 3 RP/SEA; an overview of the Round 3 review process; the project timeline; and information pertinent to the Round 3 Public Comment Period.

## **Open Forum<sup>1</sup>**

At 6:07 pm, RM finished the presentation and initiated the general question and answer session.

**Public Question 1:** *Lee Alexander (LA) of The Trustees of Reservations commented that the Draft Round 3 RP/SEA indicates that \$2 million are targeted for disbursement in Round 3 and asked if there was a per-project cap.*

**Response 1:** *KP explained that there is not a per project cap; however, the MA SubCouncil is interested in distributing funding to a diversity of resources and locations throughout the watershed.*

**Response 1:** *Ken Munney (KM) added that the MA SubCouncil wants the biggest “bang for the buck,” and that distributing funds throughout the watershed is very desirable. KM also provided an estimated per-project disbursement figure of no more than 25% of the total Round 3 allocation of \$2 million, dependent upon variables including the quality of proposed sites, the anticipated benefit of the project, and the spatial distribution of proposed properties within the watershed.*

**Response 1:** *KP emphasized that the entire \$2 million of Round 3 funding probably won’t be awarded to one, single project.*

**Public Question 2:** *Dennis Regan (DR) from the Housatonic Valley Association asked if conservation restrictions/easements can be part of proposals.*

**Response 2:** *KP indicated that both fee acquisition and conservation restrictions/easements would be considered.*

**Response 2:** *KM added that there would likely be more conservation restrictions than outright acquisitions given the available funds and because conservation restrictions typically involve greater land conservation for less money.*

**Public Question 3:** *Gene Chague, a local sportsman, asked if applicants can “team up” with other entities,*

---

<sup>1</sup> All questions and answers are paraphrased and do not represent direct quotes.

*including land trusts, to create a larger and/or more beneficial project.*

**Response 3:** *KM indicated that multiple entities can contribute to a proposal. He added that the MA SubCouncil is always looking for ways to leverage funds (e.g., matching funds) to achieve greater natural resource benefits and that project collaborations between entities are one way to do so. KP added that projects with multiple partners will score higher on evaluations, as part of the project criteria scoring matrix.*

**Public Question 4:** *Erik Bruun (EB) of Project Native asked whether Round 3 funding can be used for other initiatives (e.g., habitat restoration) associated with a particular parcel.*

**Response 4:** *KP indicated that funding can only be used for land protection and habitat conservation; funding cannot be used for habitat restoration or recreational improvements. KP added that such work could be associated with a project, but that funding for activities other than land protection and habitat conservation would have to come from a separate source. She also stated that it may be beneficial for such additional work to be part of a project, referencing Public Question 3 and indicating that this would be a good way to team with other entities to create a more beneficial project.*

**Public Question 5:** *Greg Federspiel from the Town of Lenox asked if having a commitment (e.g., Purchase and Sale [P&S] agreement) in place by the owner to sell the property is a prerequisite for consideration, noting that the possibility exists that a P&S agreement could expire before the parcel selection process is completed.*

**Response 5:** *KM indicated that the MA SubCouncil is looking for parcels that will not expire before they complete the Round 3 project selection process. KM continued by commenting that the MA SubCouncil will be looking at the potential of a property to still be available at the completion of the Round 3 project selection process, but having a P&S agreement up front is not a necessity.*

**Response 5:** *KP added that Phase 1 of the Request For Responses (RFR) includes determining an opinion of value of the parcel and an estimated cost of*



*performing due diligence. In Phase 2, proponents of selected projects will be asked to perform due diligence and provide a letter of interest or commitment from the landowner.*

**Response 5:** *KM indicated that it's possible that the option to acquire or conserve a selected property may expire before the Round 3 project selection phase is complete. The MA SubCouncil would then consider evaluation of other parcels as replacement for the expired option.*

**Public Question 6:** *LA commented that when working with landowners, the speed of the process can be extremely variable. LA asked whether a selected project would still be eligible if the sale has to close before the Phase 3 selection and award process is complete and, if not, would the entity be reimbursed. She referenced a project funded by the CT SubCouncil that was determined to be eligible for funding even though the deal had closed prior to completion of the CT SubCouncil's selection and award process.*

**Response 6:** *KM asked who was involved with the project.*

**Response 6:** *LA indicated that it was a project between the Trustees of Reservations and the Nature Conservancy. She could not recall the name of the project.*

**Response 6:** *KP indicated that she will consult with sister agencies that run land grant programs and find out how they handle these situations. From a procurement standpoint, the Commonwealth of Massachusetts has a mechanism called a "settlement and release" that allows funds to be expended before a contract is executed, so it would be possible from an administrative standpoint. However, KP indicated that she was not sure if it's possible from a land grant standpoint and would include a final determination in the finalized meeting notes<sup>2</sup>.*

MA SubCouncil to provide final determination as to whether selected parcels may be eligible for funding if the applicant must close the sale prior to execution of a contract with the MA SubCouncil.

**Response 6:** *RM requested LA to submit this question as a Public Comment to allow the MA SubCouncil to further review and respond to the question.*

---

<sup>2</sup> Further response on this topic will instead be provided in the MA SubCouncil's response to Public Comments.

**Public Question 7:** *Jess Toro (JT) from Native Habitat Restoration asked if the costs associated with due diligence are eligible for reimbursement.*

**Response 7:** *KP responded that those costs come into play during Phase 2 of the RFR process and that certain Phase 2 due diligence costs are reimbursable. Reimbursement rates have been established based on typical costs that state agencies (who purchase land) pay for appraisals, title searches, etc. Maximum reimbursement amounts are identified in the Draft Round 3 RP/SEA.*

**Public Question 8:** *JT asked if an extended option period is also eligible for reimbursement as an applicant may need to invest additional funds to extend an option.*

**Response 8:** *KP indicated that this is something that the MA SubCouncil would like to address as a Public Comment for consideration in the Final RP/SEA.*

**Public Question 9:** *JT asked whether due-diligence costs may be reimbursed if an application is not selected for Phase 2 of the RFR.*

**Response 9:** *KP explained that, as currently drafted, reimbursement only applies to those projects selected for Phase 2. She indicated, however, that the MA SubCouncil would like to know how the process has worked for other projects people have been involved with. She also commented that while the MA SubCouncil's criteria are well-established through previous planning efforts, they welcome comments on the attributes that parcels would have to contain in order to meet those criteria. KP requested feedback during the Public Comment period on the proposed evaluation and prioritization of properties.*

**Public Question 10:** *LA asked if one applicant can submit multiple projects for consideration.*

**Response 10:** *KP indicated that one applicant can submit multiple applications.*

**Public Question 11:** *DR asked if the applicant will have to document the nature of a property relative to how impacted or damaged it may be.*

**Response 11:** *KP explained that the MA SubCouncil will be looking for compensatory restoration projects that preserve the type of habitat injured and do not require investigation into the extent or magnitude of contamination or natural resource injuries. She continued by explaining that linking resources is critical and that proposed land protection and habitat conservation projects should protect species or habitat that was injured.*

**Public Question 12:** *Alan Papsun (unknown affiliation) asked whether the land has to abut the river to be eligible for funding.*

**Response 12:** *KP explained that a parcel does not have to abut the river.*

**Response 12:** *KM added that the MA SubCouncil is looking at resources injured from contamination and that the purpose of Round 3 is to protect the same types of resources within the watershed through land protection and habitat conservation. He also indicated that if the land abuts the river, there could be a contaminant issue, which may preclude the site from being a viable option.*

**Comment:** *EB thanked the MA SubCouncil for their efforts in linking the river/watershed and the surrounding communities. EB stated that he wanted to commend the MA SubCouncil for making an effort to think and act in a nuanced way and he expressed his appreciation to the MA SubCouncil.*

**Response to Comment:** *KM thanked EB for the kind words and indicated that finding ways to benefit diverse habitats and resources has been a primary goal of both the current MA SubCouncil and their predecessors. KM mentioned that he would pass the message along to his predecessors.*

**Public Question 13:** *LA asked what mechanisms the MA SubCouncil will use to inform the public that the Final Round 3 RP/SEA and RFR have been released.*

**Response 13:** *KM indicated that the MA SubCouncil would use the same mechanisms and media sources used in the past. She also asked the audience what, if any, additional mechanism would be useful.*

**Response 13:** *LA indicated that she would like to see an email distribution list.*

**Response 13:** *KP explained that, in addition to formal notification, she has been keeping a list of applicants for previous Rounds, land trusts, non-profits, etc. She encouraged the audience to provide their email addresses to the MA SubCouncil before they leave.*

**Response 13:** *KM asked that the audience add their email to the sign-in sheet.*

**Response 13:** *RM explained that a list of media outlets used for notification is provided in the Draft Round 3 RP/SEA and encouraged the audience to review this list and suggest additional outlets for consideration.*

**Response 13:** *KM commented that he did not want to see interested parties miss out on this opportunity.*

**Response 13:** *LA indicated she would send the MA SubCouncil a list of interested parties that did not receive notification.*

**Response 13:** *KP requested that the list be sent directly to her.*

### **Public Comment Period**

At 6:36 pm, RM opened the Public Comment Period. RM asked if anyone would like to submit public comments at this time. RM also indicated that it may be easier for interested parties to submit comments in writing and reminded the audience that written comments may be submitted to the mail and email addresses provided on the meeting agendas and in the PowerPoint presentation.

KM strongly suggested submitting comments in writing to ensure that everyone's opinion is documented accurately and not misinterpreted when considered. KM also expressed the need for all interested parties to know what is going on, especially new entities/players not involved with the previous Rounds.

No comments were received from the public.

August 23, 2012

Draft Round 3 Restoration Plan and Supplemental Environmental Assessment

Page 8 of 8

The meeting adjourned at 6:38 pm.

The foregoing is considered to be a true and accurate record of all items discussed. If any discrepancies or inconsistencies are noted, please contact the writer immediately.

**STANTEC CONSULTING SERVICES INC.**

A handwritten signature in blue ink, appearing to read 'E. Ford', is positioned above the printed name.

Eric C. Ford

Wetland and Soil Scientist, Environmental Services

[eric.ford@stantec.com](mailto:eric.ford@stantec.com)

**Massachusetts SubCouncil, Housatonic River Natural Resource Trustees  
General Electric/Housatonic River Natural Resource Restoration**

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

**Thursday, August 23, 2012**

**5:30 - 7:30 PM**

**Lenox Town Hall**

**6 Walker Street**

**Lenox, Massachusetts**

**Public Meeting  
Attendance Sheet**

<b>Name</b>	<b>Organization</b>
Robin MacEwan	Stantec
Eric Ford	Stantec
Bob Ford	Mass Audubon
Gene Chague	Sportsman
Jess Toro	Native Habitat Restoration
Alan Papscon	
Erik Bruun	Project Native
Dennis Regan	HVA
Billie Best	Project Native
Shep Evans	HVA
Greg Federspiel	Town of Lenox
Lee Alexander	The Trustees of Reservations