

BERKSHIRE REGIONAL PLANNING COMMISSION
1 FENN STREET, SUITE 201, PITTSFIELD, MASSACHUSETTS 01201
TELEPHONE (413) 442-1521 · FAX (413) 442-1523
www.berkshireplanning.org

SHEILA IRVIN, Chair
KYLE HANLON, Vice-Chair
MARIE RAFTERY, Clerk
CHARLES P. OGDEN, Treasurer

NATHANIEL W. KARNS, A.I.C.P.
Executive Director

SPECIAL MEETING NOTICE

A special meeting of the Berkshire Regional Planning Commission
will be held on:

Thursday, September 11, 2014, at 7:00 p.m.

Berkshire Regional Planning Commission Offices
Pittsfield, Massachusetts

Meeting Material: All written materials for the meeting are posted on BRPC's website:
www.berkshireplanning.org. Click on the calendar date for the meeting and materials available
will be listed.

AGENDA

I. Opening (7:00-7:05)

- A. Call to Order
- B. Roll Call
- C. Approval of Minutes of July 10, 2014 Meeting

II. Comments from the Public (7:05—7:10)

Members of the public may offer comments regarding topics which are on the agenda or other matters which they wish to bring to the Commission's attention. Comments are limited to no more than three minutes and are to be directed to the Commission.

III. Delegate & Alternate Roles & Responsibilities (7:10-7:25)

IV. FY2015 Commission Organization (7:25-7:35)

- A. Endorsement of At-Large Executive Committee Member Appointments
- B. Meeting Schedule for FY 2015 – time of meetings?
- C. State Ethics Forms & Certificate

V. Delegates' Issues (7:35-7:45)

Delegates and Alternates may bring up any issue not on the agenda.

VI. Final Proposed Housatonic Rail Passenger Station Locations (7:45-8:05)

The Commission was briefed last January on the work that was being done studying possible passenger rail station locations along the Housatonic Railroad line. The Study is out for final public comment and Senior Planner Brian Domina will present the recommendations to the Commission.

VII. Consideration of Comments Regarding Proposed Remedy for Clean-up/Capping of PCB's from Rest of Housatonic River (8:05-8:50)

The U.S. Environmental Protection Agency released its proposed "Remedy" for removing and capping the PCB contamination in the Housatonic River in June. The public comment period on the Remedy ends on October 1, 2014. Senior Planner Lauren Gaherty will present a brief overview of the EPA proposal and a draft set of lengthy comments on the proposal. This is a major clean-up with many ramifications for the clean-up period (approximately 15 years) and for several generations to come. BRPC staff and the six directly affected municipalities have been focused on this for the past 2+ years. By submitting written comments on the issues which are important to us, we maintain legal standing to be involved in the future final permitting process.

VIII. Approval of Executive Committee Actions between July 11 and September 11, 2014 (8:50-8:55)

IX. Executive Director's Report (8:55-9:00)

- A. BRPC Meeting – Thursday, September 18, 2014, 6 p.m. – 8 p.m., Berkshire Community College – Proposed Northeast Expansion Natural Gas Pipeline – Kinder Morgan and Conservation Law Foundation
- B. Regional Community Forum on Housing – Saturday, September 13, 10:30-12:30 p.m., Goshen Town Hall
- C. EPA Comment Period for Proposed Clean-up of PCB's from Housatonic River & Notice of Public Hearing
- D. MassDevelopment Resources for Economic Development Workshop – Tuesday, September 30th, Westover AFB
- E. Community Innovation Challenge Grant Applications due October 10th
- F. BRPC Annual Dinner – Thursday, October 16th, 5:30 p.m., Pittsfield Country Club
- G. Fifth Thursday Dinner for Planning & Zoning Boards – October 30th
- H. Filing for Intervenor Status with Federal Energy Regulatory Commission Regarding Tennessee Gas Pipeline Company's Connecticut Expansion Project
- I. Other

X. Adjournment (9:00)

Other interested citizens and officials are invited to attend.

City and Town Clerks: Please post this notice pursuant to M.G.L. Chapter 39, Section 23B

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DRAFT MINUTES OF THE BERKSHIRE REGIONAL PLANNING COMMISSION MEETING

Thursday, July 10, 2014
At the Berkshire Regional Planning Commission Office
1 Fenn Street, Suite 201, Pittsfield, MA 01201

I. Call to Order

A. The meeting is called to order at: 7:00 PM

Chair Sheila Irvin reminded all per the open meeting law, BRPC records all meetings. Others may record the meeting after informing the chair. Any documents presented must be left with the chair at the meeting.

B. Introductions/Roll Call

The following Commission members are present:

John Duval – Adams Alternate
Mark Holmes – Egremont Delegate
Richard Roussin – Hinsdale Alternate
Jack Hickey – Lanesborough Alternate
Robert Bott – Mount Washington Delegate
James Lovejoy – Mount Washington Alternate
James Mullen – New Marlborough Delegate
Kyle Hanlon – North Adams Delegate
Sheila Irvin – Pittsfield Delegate
Rene Wood – Sheffield Alternate
Marie Raftery – Stockbridge Alternate
Sarah Hudson – Tyringham Alternate
Amy Jeschawitz – Williamstown Delegate
Roger Bolton – Williamstown Alternate

Staff Present:

Nat Karns - Executive Director
Tom Matuszko – Assistant Director
Marianne Sniezek - Office Manager
Melissa Provencher – Senior Planner

Others Present:

Steven Musser

C. Approval of Minutes of Commission Committee Meeting of May 15, 2014 Meeting

Rene Wood moved to approve the minutes; seconded by Kyle Hanlon. Unanimously approved with 4 abstentions.

II. Public Comments – none

III. Delegate & Alternate Issues – Jim Lovejoy remarked about the Wireless Telecommunications Legislation (S.2183 and the House Economic Development Bill –H.4187, Sections74 & 75). Jim stressed Rural Communities need to pay attention to these bills.

Nat informed all the Regional Issues Committee will meet on Monday, July 14th to review these bills.

Rene Wood encouraged members to write letters to Senator Ben Downing and Representative Smitty Pignatelli if you are opposed to these bills. Rene also mentioned the Massachusetts Municipal Association (MMA) is concerned over these bills.

IV. Election of BRPC Officers for FY 2015

The Nominating Committee proposed the following slate of officers for FY 2015:

Chair:	Sheila Irvin, Pittsfield Delegate
Vice Chair:	Kyle Hanlon, North Adams Delegate
Clerk:	Marie Raftery, Stockbridge Alternate
Treasurer:	Charles Ogden, Egremont Alternate

Jamie Mullen made a motion to approve the proposed FY2015 slate of officers after no other nominations were presented; seconded by Sarah Hudson. Unanimously approved.

V. Endorsement of Committee Chair and At-Large Executive Committee Member Appointments

Nat explained the following people have agreed to be Committee Chairs:

Rene Wood – Commission Development Committee
Roger Bolton – Clearinghouse Review Committee
James Mullen – Regional Issues Committee

Sarah Hudson made a motion to accept Committee Chairs; seconded by Kyle Hanlon. Unanimously approved.

Nat explained he has been in contact with two people to consider being At-Large Committee Members. One At-Large Member must have transportation knowledge. At this time the At-Large Committee Members have not been determined.

VI. Consideration of Clearinghouse Review Committee Comments on Connecticut Expansion Project of the Tennessee Gas Pipeline (Sandisfield and Tyringham) Expanded Environmental Notification Form

James Mullen introduced the review by the Committee. Jamie explained Melissa and a Sandisfield resident whose land would be impacted attended the Clearinghouse Committee meeting. In the packet are the comments resulting from that meeting. Jamie asked the Commission to consider endorsing the comments.

Jack Hickey moved to approve the comments as sent, seconded by Rene Wood. Unanimously approved.

Rene Wood pointed out on page 8, alternate sites that maybe closer and have less impacts where not mentioned. A suggestion was made to add a comment that no other alternative site was considered. The following other suggestions were made:

- Page 9 - Boot cleaning be added to avoid any contamination.
- Page 10 – Include the specific sections of the Massachusetts General Law
- Page 10 – Call out equipment towns may not have but will need.

Kyle Hanlon moved to send from the Commission additional comments discussed as a follow up to the previous comments sent; seconded by Roger Bolton. Unanimously approved.

VII. Consideration of Comments on H.4065 – An Act Promoting the Planning and Development of Sustainable Communities

Nat explained over a year ago the Commission sent an extensive comment letter. Things have been modified in the new bill as a result from that previous letter from the Commission.

Nat asked the Commission to consider tonight a revised letter that overall supports the new bill, H.4065, An Act Promoting the Planning and Development of Sustainable Communities and also requests consideration of concerns the Commission has. After review of the bill the Regional Issues Committee supports the bill but also had some concerns about the bill. The letter supports the changes to the Zoning Enabling Act and includes recommendations concerning the added new sections in chapter 40X consolidated permitting, chapter 40Y Planning Ahead for Growth plans and master planning in Chapter 41.

Nat also informed the group the Ways and Means Committee can add money to this bill which would be necessary to implement it.

Sheila asked the Commission if they were comfortable with the recommendation from the Regional Issues Committee and would anyone like to comment or make a motion to approve the letter. Rene asked Massachusetts Municipal Association (MMA) be copied on the letter.

Rene Wood moved to approve the draft letter as written and copy to MMA; seconded by Kyle Hanlon. Unanimously approved.

VIII. Approval of Executive Committee Actions between May 16 and July 10, 2014

Rene Wood moved to approve; seconded by Roger Bolton. Unanimously approved.

Nat explained Sam Haupt had a comment on the use of the word “flagrantly” in the Clearinghouse Review Report for the Intersection Improvement Project in Adams. The concern in the review was the late filings with MEPA by MassDOT. The letter stated it was too late in the process to allow meaningful input. Nat asked the Commission if he should write a letter to the Secretary of Energy and Environmental Affairs and the Secretary of MassDOT regarding the timing of MEPA filings. The timing of the filings has been an ongoing concern.

Rene Wood moved to approve a letter; seconded by Jamie Mullen. Unanimously approved.

IX. Executive Director’s Report

A. 2015 District Local Technical Assistance & Community Innovation Challenge Grant Funding

B. Nominations for 2014 Charles Kusik Award for Outstanding Contributions to Planning in Berkshire County – Nat encouraged all to send in nominations.

C. MassBroadband 123 – Get Connected – Monday, July 14th, Crowne Plaza Hotel, Pittsfield

D. New Planning Board and Zoning Board of Appeals Member Training – Thursday, July 31st, BRPC

E. New Pavement Management Assessments in Great Barrington and Lee

F. Assistance to Sandisfield in Procuring Public Works Construction Services for Various Segments of New Hartford Road

G. Other –

- Nat encouraged all Delegates to vote to allow or not allow the Executive Committee to act on behalf of the Commission for Fiscal Year 2015.
- Also on the table were handouts for upcoming public meetings regarding the Passenger Rail Station locations and information about the Rest of River cleanup comment period extension.

X. Adjournment

Jamie Mullen made a motion to adjourn; seconded by Rene Wood. Unanimously approved. Adjourned at 6:15 pm.

Materials distributed or presented during this meeting:

Meeting Agenda

Draft Meeting Minutes

Approval of Executive Committee Actions Memo

Executive Director’s Report

Authorization for Executive Committee to Act on Behalf of the Commission letter/form

Clearinghouse Review Report – Connecticut Expansion Project

Draft Letter RE: H.4065, an Act Promoting the Planning and Development of Sustainable Communities

BRPC Staff Summary Comments on H.4065

H.4065 docket

Clearinghouse Review Report – Intersection Improvement Adams

Nomination Form Kusik Award

MassBroadband 123 – Invite

New Planning Board and Zoning Board of Appeal Training

Public Meetings Passenger Rail Station Locations

EPA Extends Comment Period on Proposed Cleanup Plan

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MEMORANDUM

TO: Berkshire Regional Planning Commission
FROM: Nathaniel W. Karns, AICP, Executive Director
DATE: September 4, 2014
SUBJ: FY 2015 Commission Organization

A. Endorsement of At-Large Executive Committee Member Appointments

Chair Sheila Irvin has appointed the following as At-large Executive Committee Members:

Sam Haupt (Peru Delegate) – transportation expertise
John Duval (Adams Alternate)

In accordance with the BRPC Bylaws, the Commission is asked to approve the appointments.

B. Meeting Schedule for FY 2015 – time of meetings?

Attached is the regular meeting schedule for both the Commission and Executive Committee for FY 2015. Obviously, given this special meeting, there can be other called meetings during the course of the year, although that is infrequent. The Commission has generally met at 7 p.m., except for the summer meeting which is scheduled for an earlier start. The Executive Committee has requested that the Commission decide if it would like to have earlier meeting starts (and ends) or stick with the 7 p.m. time?

C. State Ethics Forms & Certificate

Attached are the Summary of the Conflict of Interest Law with the acknowledgement of receipt at the bottom of the last page. We need this acknowledgement back annually for our files in order to be in compliance with the law. In addition, a number of you will be approaching your 2 year anniversary and have to take the on-line training and provide us a copy of the certificate that you have done so. If you have done this for your town or city clerk already, just provide us a copy. Thanks. If you have questions, contact Office Assistant Judy Wagner at 413-442-1521, ext. 10 or jwagner@berkshireplanning.org or Office Manager Marianne Sniezek at ext. 13 or msniezek@berkshireplanning.org.

Attachments (3): Schedule of Meetings for FY 2015
Ethics Acknowledgement of Receipt
Ethics Test Certification

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SCHEDULE OF MEETINGS FOR FY2015

Commission & Executive Committee Meetings

Commission Meetings	Executive Committee Meetings
	Thursday, August 7, 4:00 p.m.
Thursday, September 18, 7:00 p.m.	Thursday, September 4, 4:00 p.m.
	Thursday, October 2, 4:00 p.m.
Thursday, November 20, 7:00 p.m.	Thursday, November 6, 4:00 p.m.
	Thursday, December 4, 4:00 p.m.
Thursday, January 15, 7:00 p.m.	Thursday, January 8, 4:00 p.m.
	Thursday, February 5, 4:00 p.m.
Thursday, March 19, 7:00 p.m.	Thursday, March 5, 4:00 p.m.
	Thursday, April 2, 4:00 p.m.
Thursday, May 21, 7:00 p.m.	Thursday, May 7, 4:00 p.m.
	Thursday, June 4, 4:00 p.m.



Summary of the Conflict of Interest Law for Municipal Employees

This summary of the conflict of interest law, General Laws chapter 268A, is intended to help municipal employees understand how that law applies to them. This summary is not a substitute for legal advice, nor does it mention every aspect of the law that may apply in a particular situation. Municipal employees can obtain free confidential advice about the conflict of interest law from the Commission's Legal Division at our website, phone number, and address above. Municipal counsel may also provide advice.

The conflict of interest law seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service, as described below. The sections referenced below are sections of G.L. c. 268A.

When the Commission determines that the conflict of interest law has been violated, it can impose a civil penalty of up to \$10,000 (\$25,000 for bribery cases) for each violation. In addition, the Commission can order the violator to repay any economic advantage he gained by the violation, and to make restitution to injured third parties. Violations of the conflict of interest law can also be prosecuted criminally.

I. Are you a municipal employee for conflict of interest law purposes?

You do not have to be a full-time, paid municipal employee to be considered a municipal employee for conflict of interest purposes. Anyone performing services for a city or town or holding a municipal position, whether paid or unpaid, including full- and part-time municipal employees, elected officials, volunteers, and consultants, is a municipal employee under the conflict of interest law. An employee of a private firm can also be a municipal employee, if the private firm has a contract with the city or town and the employee is a "key employee" under the contract, meaning the town has specifically contracted for her services. The law also covers private parties who engage in impermissible dealings with municipal employees, such as offering bribes or illegal gifts.

II. On-the-job restrictions.

(a) Bribes. Asking for and taking bribes is prohibited. (See Section 2)

A bribe is anything of value corruptly received by a municipal employee in exchange for the employee being influenced in his official actions. Giving, offering, receiving, or asking for a bribe is illegal.

Bribes are more serious than illegal gifts because they involve corrupt intent. In other words, the municipal employee intends to sell his office by agreeing to do or not do some official act, and the giver intends to influence him to do so. Bribes of any value are illegal.

(b) Gifts and gratuities. Asking for or accepting a gift because of your official position, or because of something you can do or have done in your official position, is prohibited. (See Sections 3, 23(b)(2), and 26)

Municipal employees may not accept gifts and gratuities valued at \$50 or more given to influence their official actions or because of their official position. Accepting a gift intended to reward past official action or to bring about future official action is illegal, as is giving such gifts. Accepting a gift given to you because of the municipal position you hold is also illegal. Meals, entertainment event tickets, golf, gift baskets, and payment of travel expenses can all be illegal gifts if given in connection with official action or position, as can anything worth \$50 or more. A number of smaller gifts together worth \$50 or more may also violate these sections.

Example of violation : A town administrator accepts reduced rental payments from developers.

Example of violation : A developer offers a ski trip to a school district employee who oversees the developer's work for the school district.

Regulatory exemptions . There are situations in which a municipal employee's receipt of a gift does not present a genuine risk of a conflict of interest, and may in fact advance the public interest. The Commission has created exemptions permitting giving and receiving gifts in these situations. One commonly used exemption permits municipal employees to accept payment of travel-related expenses when doing so advances a public purpose. Another commonly used exemption permits municipal employees to accept payment of costs involved in attendance at educational and training programs. Other exemptions are listed on the Commission's website.

Example where there is no violation : A fire truck manufacturer offers to pay the travel expenses of a fire chief to a trade show where the chief can examine various kinds of fire-fighting equipment that the town may purchase. The chief fills out a disclosure form and obtains prior approval from his appointing authority.

Example where there is no violation : A town treasurer attends a two-day annual school featuring multiple substantive seminars on issues relevant to treasurers. The annual school is paid for in part by banks that do business with town treasurers. The treasurer is only required to make a disclosure if one of the sponsoring banks has official business before her in the six months before or after the annual school.

(c) Misuse of position. Using your official position to get something you are not entitled to, or to get someone else something they are not entitled to, is prohibited. Causing someone else to do these things is also prohibited. (See Sections 23(b)(2) and 26)

A municipal employee may not use her official position to get something worth \$50 or more that would not be properly available to other similarly situated individuals. Similarly, a municipal employee may not use her official position to get something worth \$50 or more for someone else that would not be properly available to other similarly situated individuals. Causing someone else to do these things is also prohibited.

Example of violation : A full-time town employee writes a novel on work time, using her office computer, and directing her secretary to proofread the draft.

Example of violation : A city councilor directs subordinates to drive the councilor's wife to and from the grocery store.

Example of violation : A mayor avoids a speeding ticket by asking the police officer who stops him, "Do you know who I am?" and showing his municipal I.D.

(d) Self-dealing and nepotism. Participating as a municipal employee in a matter in which you, your immediate family, your business organization, or your future employer has a financial interest is prohibited. (See Section 19)

A municipal employee may not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children, and siblings) has a financial interest. He also may not participate in any particular matter in which a prospective employer, or a business organization of which he is a director, officer, trustee, or employee has a financial interest. Participation includes discussing as well as voting on a matter, and delegating a matter to someone else.

A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little. It also does not matter if you are putting money into your pocket or taking it out. If you, your immediate family, your business, or your employer have or has a financial interest in a matter, you may not participate. The financial interest must be direct and immediate or reasonably foreseeable to create a conflict. Financial interests which are remote, speculative or not sufficiently identifiable do not create conflicts.

Example of violation : A school committee member's wife is a teacher in the town's public schools. The school committee member votes on the budget line item for teachers' salaries.

Example of violation : A member of a town affordable housing committee is also the director of a non-profit housing development corporation. The non-profit makes an application to the committee, and the member/director participates in the discussion.

Example : A planning board member lives next door to property where a developer plans to construct a new building. Because the planning board member owns abutting property, he is presumed to have a financial interest in the matter. He cannot participate unless he provides the State Ethics Commission with an opinion from a qualified independent appraiser that the new construction will not affect his financial interest.

In many cases, where not otherwise required to participate, a municipal employee may comply with the law by simply not participating in the particular matter in which she has a financial interest. She need not give a reason for not participating.

There are several exemptions to this section of the law. An appointed municipal employee may file a written disclosure about the financial interest with his appointing authority, and seek permission to participate notwithstanding the conflict. The appointing authority may grant written permission if she determines that the financial interest in question is not so substantial that it is likely to affect the integrity of his services to the municipality. Participating without disclosing the financial interest is a violation. Elected employees cannot use the disclosure procedure because they have no appointing authority.

Example where there is no violation : An appointed member of the town zoning advisory committee, which will review and recommend changes to the town's by-laws with regard to a commercial district, is a partner at a company that owns commercial property in the district. Prior to participating in any committee discussions, the member files a disclosure with the zoning board of appeals that appointed him to his position, and that board gives him a written determination authorizing his participation, despite his company's financial interest. There is no violation.

There is also an exemption for both appointed and elected employees where the employee's task is to address a matter of general policy and the employee's financial interest is shared with a substantial portion (generally 10% or more) of the town's population, such as, for instance, a financial interest in real estate tax rates or municipal utility rates.

Regulatory exemptions. In addition to the statutory exemptions just mentioned, the Commission has created several regulatory exemptions permitting municipal employees to participate in particular matters notwithstanding the presence of a financial interest in certain very specific situations when permitting them to do so advances a public purpose. There is an exemption permitting school committee members to participate in setting school fees that will affect their own children if they

make a prior written disclosure. There is an exemption permitting town clerks to perform election-related functions even when they, or their immediate family members, are on the ballot, because clerks' election-related functions are extensively regulated by other laws. There is also an exemption permitting a person serving as a member of a municipal board pursuant to a legal requirement that the board have members with a specified affiliation to participate fully in determinations of general policy by the board, even if the entity with which he is affiliated has a financial interest in the matter. Other exemptions are listed in the Commission's regulations, available on the Commission's website.

Example where there is no violation: A municipal Shellfish Advisory Board has been created to provide advice to the Board of Selectmen on policy issues related to shellfishing. The Advisory Board is required to have members who are currently commercial fishermen. A board member who is a commercial fisherman may participate in determinations of general policy in which he has a financial interest common to all commercial fishermen, but may not participate in determinations in which he alone has a financial interest, such as the extension of his own individual permits or leases.

(e) False claims. Presenting a false claim to your employer for a payment or benefit is prohibited, and causing someone else to do so is also prohibited. (See Sections 23(b)(4) and 26)

A municipal employee may not present a false or fraudulent claim to his employer for any payment or benefit worth \$50 or more, or cause another person to do so.

Example of violation : A public works director directs his secretary to fill out time sheets to show him as present at work on days when he was skiing.

(f) Appearance of conflict. Acting in a manner that would make a reasonable person think you can be improperly influenced is prohibited. (See Section 23(b)(3))

A municipal employee may not act in a manner that would cause a reasonable person to think that she would show favor toward someone or that she can be improperly influenced. Section 23(b)(3) requires a municipal employee to consider whether her relationships and affiliations could prevent her from acting fairly and objectively when she performs her duties for a city or town. If she cannot be fair and objective because of a relationship or affiliation, she should not perform her duties. However, a municipal employee, whether elected or appointed, can avoid violating this provision by making a public disclosure of the facts. An appointed employee must make the disclosure in writing to his appointing official.

Example where there is no violation : A developer who is the cousin of the chair of the conservation commission has filed an application with the commission. A reasonable person could conclude that the chair might favor her cousin. The chair files a written disclosure with her appointing authority explaining her relationship with her cousin prior to the meeting at which the application will be considered. There is no violation of Sec. 23(b)(3).

(g) Confidential information. Improperly disclosing or personally using confidential information obtained through your job is prohibited. (See Section 23(c))

Municipal employees may not improperly disclose confidential information, or make personal use of non-public information they acquired in the course of their official duties to further their personal interests.

III. After-hours restrictions.

(a) Taking a second paid job that conflicts with the duties of your municipal job is prohibited. (See Section 23(b)(1))

A municipal employee may not accept other paid employment if the responsibilities of the second job are incompatible with his or her municipal job.

Example : A police officer may not work as a paid private security guard in the town where he serves because the demands of his private employment would conflict with his duties as a police officer.

(b) Divided loyalties. Receiving pay from anyone other than the city or town to work on a matter involving the city or town is prohibited. Acting as agent or attorney for anyone other than the city or town in a matter involving the city or town is also prohibited whether or not you are paid. (See Sec. 17)

Because cities and towns are entitled to the undivided loyalty of their employees, a municipal employee may not be paid by other people and organizations in relation to a matter if the city or town has an interest in the matter. In addition, a municipal employee may not act on behalf of other people and organizations or act as an attorney for other people and organizations in which the town has an interest. Acting as agent includes contacting the municipality in person, by phone, or in writing; acting as a liaison; providing documents to the city or town; and serving as spokesman.

A municipal employee may always represent his own personal interests, even before his own municipal agency or board, on the same terms and conditions that other similarly situated members of the public would be allowed to do so. A municipal employee may also apply for building and related permits on behalf of someone else and be paid for doing so, unless he works for the permitting agency, or an agency which regulates the permitting agency.

Example of violation : A full-time health agent submits a septic system plan that she has prepared for a private client to the town's board of health.

Example of violation : A planning board member represents a private client before the board of selectmen on a request that town meeting consider rezoning the

client's property.

While many municipal employees earn their livelihood in municipal jobs, some municipal employees volunteer their time to provide services to the town or receive small stipends. Others, such as a private attorney who provides legal services to a town as needed, may serve in a position in which they may have other personal or private employment during normal working hours. In recognition of the need not to unduly restrict the ability of town volunteers and part-time employees to earn a living, the law is less restrictive for "special" municipal employees than for other municipal employees.

The status of "special" municipal employee has to be assigned to a municipal position by vote of the board of selectmen, city council, or similar body. A position is eligible to be designated as "special" if it is unpaid, or if it is part-time and the employee is allowed to have another job during normal working hours, or if the employee was not paid for working more than 800 hours during the preceding 365 days. It is the position that is designated as "special" and not the person or persons holding the position. Selectmen in towns of 10,000 or fewer are automatically "special"; selectman in larger towns cannot be "specials."

If a municipal position has been designated as "special," an employee holding that position may be paid by others, act on behalf of others, and act as attorney for others with respect to matters before municipal boards other than his own, provided that he has not officially participated in the matter, and the matter is not now, and has not within the past year been, under his official responsibility.

Example : A school committee member who has been designated as a special municipal employee appears before the board of health on behalf of a client of his private law practice, on a matter that he has not participated in or had responsibility for as a school committee member. There is no conflict. However, he may not appear before the school committee, or the school department, on behalf of a client because he has official responsibility for any matter that comes before the school committee. This is still the case even if he has recused himself from participating in the matter in his official capacity.

Example : A member who sits as an alternate on the conservation commission is a special municipal employee. Under town by-laws, he only has official responsibility for matters assigned to him. He may represent a resident who wants to file an application with the conservation commission as long as the matter is not assigned to him and he will not participate in it.

(c) Inside track. Being paid by your city or town, directly or indirectly, under some second arrangement in addition to your job is prohibited, unless an exemption applies. (See Section 20)

A municipal employee generally may not have a financial interest in a municipal contract, including a second municipal job. A municipal employee is also generally prohibited from having an indirect financial interest in a contract that the city or town has with someone else. This provision is intended to prevent municipal employees from having an "inside track" to further financial opportunities.

Example of violation : Legal counsel to the town housing authority becomes the acting executive director of the authority, and is paid in both positions.

Example of violation : A selectman buys a surplus truck from the town DPW.

Example of violation : A full-time secretary for the board of health wants to have a second paid job working part-time for the town library. She will violate Section 20 unless she can meet the requirements of an exemption.

Example of violation : A city councilor wants to work for a non-profit that receives funding under a contract with her city. Unless she can satisfy the requirements of an exemption under Section 20, she cannot take the job.

There are numerous exemptions. A municipal employee may hold multiple unpaid or elected positions. Some exemptions apply only to special municipal employees. Specific exemptions may cover serving as an unpaid volunteer in a second town position, housing-related benefits, public safety positions, certain elected positions, small towns, and other specific situations. Please call the Ethics Commission's Legal Division for advice about a specific situation.

IV. After you leave municipal employment. (See Section 18)

(a) Forever ban. After you leave your municipal job, you may never work for anyone other than the municipality on a matter that you worked on as a municipal employee.

If you participated in a matter as a municipal employee, you cannot ever be paid to work on that same matter for anyone other than the municipality, nor may you act for someone else, whether paid or not. The purpose of this restriction is to bar former employees from selling to private interests their familiarity with the facts of particular matters that are of continuing concern to their former municipal employer. The restriction does not prohibit former municipal employees from using the expertise acquired in government service in their subsequent private activities.

Example of violation : A former school department employee works for a contractor under a contract that she helped to draft and oversee for the school department.

(b) One year cooling-off period. For one year after you leave your municipal job you may not participate in any matter over which you had official responsibility during your last two years of public service.

Former municipal employees are barred for one year after they leave municipal employment from personally appearing before any agency of the municipality in connection with matters that were under their authority in their prior municipal positions during the two years before they left.

Example : An assistant town manager negotiates a three-year contract with a company. The town manager who supervised the assistant, and had official responsibility for the contract but did not participate in negotiating it, leaves her job to work for the company to which the contract was awarded. The former manager may not call or write the town in connection with the company's work on the contract for one year after leaving the town.

A former municipal employee who participated as such in general legislation on expanded gaming and related matters may not become an officer or employee of, or acquire a financial interest in, an applicant for a gaming license, or a gaming licensee, for one year after his public employment ceases.

(c) Partners. Your partners will be subject to restrictions while you serve as a municipal employee and after your municipal service ends.

Partners of municipal employees and former municipal employees are also subject to restrictions under the conflict of interest law. If a municipal employee participated in a matter, or if he has official responsibility for a matter, then his partner may not act on behalf of anyone other than the municipality or provide services as an attorney to anyone but the city or town in relation to the matter.

Example : While serving on a city's historic district commission, an architect reviewed an application to get landmark status for a building. His partners at his architecture firm may not prepare and sign plans for the owner of the building or otherwise act on the owner's behalf in relation to the application for landmark status. In addition, because the architect has official responsibility as a commissioner for every matter that comes before the commission, his partners may not communicate with the commission or otherwise act on behalf of any client on any matter that comes before the commission during the time that the architect serves on the commission.

Example : A former town counsel joins a law firm as a partner. Because she litigated a lawsuit for the town, her new partners cannot represent any private clients in the lawsuit for one year after her job with the town ended.

* * * * *

This summary is not intended to be legal advice and, because it is a summary, it does not mention every provision of the conflict law that may apply in a particular situation. Our website, <http://www.mass.gov/ethics> contains further information about how the law applies in many situations. You can also contact the Commission's Legal Division via our website, by telephone, or by letter. Our contact information is at the top of this document.

Version 6: Revised May 10, 2013

* * * * *

ACKNOWLEDGMENT OF RECEIPT

I, _____, an employee at _____, hereby acknowledge that I received a
(first and last name) *(name of municipal dept.)*
copy of the summary of the conflict of interest law for municipal employees, revised May 10, 2013, on _____.
(date)

Municipal employees should complete the acknowledgment of receipt and return it to the individual who provided them with a copy of the summary. Alternatively, municipal employees may send an e-mail acknowledging receipt of the summary to the individual who provided them with a copy of it.



Conflict of Interest Law Online Training Programs

Please review these instructions prior to beginning the online training program:

- **Web browser-** The programs were developed to work with the Internet Explorer web browser. The programs may also work with other web browsers such as Firefox or Safari, but some pages do not display properly using the Google Chrome web browser. It is recommended that you **do not use Google Chrome** to run either program.
- **Pop-up blockers-** Some of the information presented in each program, such as the program completion certificate, is displayed using pop-up windows, therefore **you must disable any pop-up blockers on your computer**. If you are using Internet Explorer, you can do this by clicking "Tools" at the toolbar at the upper left-hand side of the browser page, and then look for "Pop-up Blocker" in the drop-down menu. Hover your mouse over that selection to see if the option to turn off pop-up blockers appears, and if so, turn off pop-up blockers. If you are able to proceed through the entire program but your completion certificate does not display properly, you can temporarily disable the pop-up blocker by holding down the "Ctrl" key on your keyboard, and then click the "View Certificate" button on the program. If you are using Safari, you can disable the pop-up blocker by clicking "Safari", then click "Preferences", then click "Security", and then uncheck the box "Block Pop-up Windows".
- **Program freezes or slow page downloads-** You need to have a media flash player downloaded on your computer to run the video segments. Click the link to download the [Adobe Flash Player](#) if you find that the video does not play or the program appears to freeze and a page will not display properly. If you continue to experience slow downloads, the issue could be with your computer or internet connection.
- **Print your completion certificate-** Remember to print your completion certificate to submit to your employer, and please retain a copy for your records. **The Ethics Commission will not have any records to verify that you completed the program.**
- **Electronically saving the completion certificate-** To electronically save your completion certificate, you must convert it to a .pdf and then save it to your computer or network. You can also print and scan the completion certificate or save it to your computer as a screenshot. Either way, the completion certificate can then be emailed to your employer as an attachment.
- **Obscured text-** If any text on a page is obscured, you will need to adjust your browser view setting. To adjust your browser view setting, click "View" at the toolbar at the upper left-hand side of the browser page, then select "Zoom" from the drop-down menu and select 100%.

To begin the Conflict of Interest Law online training program, click one of the program links below. If you are unsure which link to click, please ask your employer or contact the State Ethics Commission at 617-371-9500.

FOR STATE AND COUNTY EMPLOYEES

Click the link below

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Click the link below

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Please contact Marisa Donelan, the Commission's Public Education and Communications Division Deputy Chief, at 617-371-9524 or mdonelan@eth.state.ma.us if you have any questions.

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Executive Director

September 12, 2014

Dean Tagliaferro
EPA New England, c/o Weston Solutions
10 Lyman Street, Suite 2
Pittsfield, MA 01201

Re: Comments on the *Draft Modification to the Reissued RCRA Permit for Public Comment – June 2014* and the *Statement of Basis for EPA’s Proposed Remedial Action for the Housatonic River “Rest of River” (June 2014)*

Dear Mr. Tagliaferro:

The Berkshire Regional Planning Commission (BRPC) submits these comments to the U.S. Environmental Protection Agency (EPA) on the Draft Modification to the Reissued RCRA Permit (hereafter referred to as the Permit). BRPC notes that the Permit proposes a cleanup approach for the Housatonic Rest of River (ROR) that is, as EPA staff have stated, a “balance” between a wide-reaching, extensive removal of PCBs and a minimalistic, hot-spot-only removal of PCBs from the Housatonic Rest of River. BRPC largely agrees with this approach, although there are areas where we believe the Permit should be made stronger or more protective of local authority and natural resources, and areas where we believe more detailed language is necessary to clearly state cleanup standards. In the first section of our comments we discuss our overarching comments to the Permit, and in the second section we make specific comments on the Statement of Basis and the Permit, referenced by section and page.

Overarching Support

The BRPC supports several aspects of the Permit, including these that we feel compelled to list.

- The EPA’s and the Commonwealth’s requirement that all removed contaminated sediment and floodplain soil be disposed of at an existing hazardous waste landfill, utilizing the use of rail if possible. Use of any temporary disposal areas or treatment facilities required for the Housatonic site should be limited to contamination resulting from GE’s Pittsfield site, similar to a restriction contained in EPA Region 2’s permit for GE’s Hudson River site.

- The EPA's requirement that additional testing be conducted to confirm PCB concentrations and spatial dispersion throughout the Rest of River area prior to conducting cleanup activities.
- The EPA's requirement to employ adaptive management strategies throughout the life of the cleanup. As part of this support, we request that the EPA assertively challenge General Electric (GE) to search for opportunities to employ new or emerging technologies that could have the ability to treat PCBs in situ. GE should be required to make good faith efforts to utilize less-invasive innovative technologies at the earliest opportunity within Reach 5A. If results are favorable, the pilot projects can serve as examples of what can be done as work progresses downstream through the river system.
- The EPA's requirement that GE work closely with dam owners to seize upon new opportunities to maintain, repair or remove dams in a timely manner. We support the EPA's PCB contamination threshold of 1 mg/kg for dam impoundment sediment.

Municipal Involvement

We formally support the Housatonic Rest of River Municipal Committee's request that the Berkshire County Rest of River municipal governments be given equal status to GE and the States in reviewing, approving, disapproving or modifying design and implementation plans for each stage of ROR cleanup. We request that the Permit insert language that clearly denotes this equality. We offer as an example the Federal Energy Regulatory Commission's Order Granting Authorization Under Section 3 of the Natural Gas Act and Issuing Certificates, issued June, 10, 2014 (FERC permit issued to Cameron LNG, LLC, and Cameron Interstate Pipeline, LLC (Docket Numbers CP-13-25-000 and CP-13-27-000)). Page 28 of that Order specifically gives deference to local authorities, stating:

78. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this authorization. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.

We cite a somewhat typical FERC permit requirement due to the fact that FERC has federal preemption authority over local and state permitting processes and requirements for interstate gas pipelines but explicitly requires that companies seek those local and state permits and only overrides them if they are contrary to the FERC permit or effectively prohibit the construction of the permitted activity.

We believe that the Permit should require GE to post several financial guarantees in a form acceptable to the municipalities to ensure compensation to municipal governments, property owners and others who may face financial losses due to cleanup or post-cleanup activities.

Level of Cleanup

We find it unacceptable that the cleanup strategy proposed by the Permit and Statement of Basis allows such significant amounts of post-cleanup PCB contamination to remain behind in such a dynamic river system, especially given the projected increase in the number, severity and recurrence times of storm events due to climate change. It is these conditions that lead us to believe that the cleanup is based on an over-reliance of engineering to encapsulate and control the

PCBs being left behind after the cleanup. This approach will be leaving a legacy of contamination in the environment that we pass on to our children and grandchildren.

It was our impression from public meetings, education workshops and charrettes held in 2011 that the EPA was favoring a more comprehensive cleanup that would remove a good deal of the PCBs from the environmental and result is reduced concentrations in wildlife. EPA consultants described in some detail how restoration of the natural landscape and habitats could successfully be conducted. This paradigm has shifted, and the approach now being offered by the EPA mimics the Commonwealth's stance, which favors leaving PCBs permanently behind to minimize short-term ecological disruption. We disagree with this paradigm shift and support the EPA's earlier approach to remove more PCBs to gain increased long-term resiliency of species and habitat.

Reach 5A contains a significant portion of existing PCBs and, where feasible, we request that the EPA remove PCBs to the greatest extent possible in this upper reach of the Rest of River to reduce the possibility of re-contaminating lower reaches during and post-construction. This includes Core Area habitats.

We believe that the EPA should set uniform Performance Standards that include more exact cleanup levels for all of the Rest of River areas in Reaches 5-9. There are currently several different PCB concentration levels that trigger cleanup actions in the various river reaches and backwaters, with some significantly high levels being left in upper reaches, while there are no thresholds at all set for some areas. While we support the 5 mg/kg level for riverbank in Reach 5A, we question the wisdom of allowing PCB contamination to remain at levels up to 50 mg/kg in riverbank in Reach 5B. We also note that there is no planned remediation of bank in Reach 5C, yet according to a presentation by Ed Garland of HDR/HydroQual at the 2011 charette in Lenox, the mean PCB concentration in this reach is 30 mg/kg. While we support the 1 mg/kg concentration level for the Reach 7 impoundments, we also call for thresholds levels similar to this to be set for Woods Pond and Rising Pond. We discuss our concerns in more detail in the Attachment. Similarly we question the wisdom of leaving high concentrations of PCBs to remain in several Exposure Areas of floodplain

GE Responsibility in Perpetuity

We are not convinced that the Permit and Statement of Basis state clearly and definitively enough that GE and any of its successors will remain responsible for monitoring and controlling post-cleanup PCBs releases in perpetuity. The cleanup will require a robust, ongoing sampling and monitoring program, and there must be an absolute guarantee that a responsible party will have the necessary financial assets to control PCB contamination for decades and generations to come. The direct cost of this will be substantial and must be fully-funded from the outset and as part of the provisions of the Permit. We do not believe in today's economic, fiscal and ideological environment that it is prudent to assume that either GE or the federal government will be able, willing, or required to take on a major economic burden several decades into the future. Given the dynamic nature of the river, the significant concentrations of PCB's which will remain in core habitats, in banks protected through bio-engineering, or remaining in the river under engineered caps, coupled with the already obvious but increasing expected impacts of climate change, it is highly probable that unacceptable concentrations of PCB's will be exposed far into the future and various areas will have to be revisited, possibly multiple times. The permit must include a significant number of triggers, not requiring a reopening of the entire permit, which will cause actions to immediately be

taken, without further delay by GE or other parties. We suggest that EPA Region 1 look to the permit requirements in the clean-up of GE's Hudson River site (in Region 2) which contains explicit language ensuring that GE has to maintain the site in perpetuity, no matter what the cause of any failure in the Remedy.

There appears to be some inconsistencies between the standards as they are listed in the Permit, the Statement of Basis and the EPA's Proposed Cleanup Plan maps. These inconsistencies should be reconciled in the Final Permit that is issued. We will note these inconsistencies in our comments below.

Sincerely,

Nathaniel W. Karns, AICP
Executive Director

Cc: The Honorable Elizabeth Warren, U.S. Senator
The Honorable Edward Markey, U.S. Senator
The Honorable Richard Neal, U.S. House of Representatives
Ms. Gina McCarthy, Administrator, U.S. Environmental Protection Agency
The Honorable Deval Patrick, Governor
The Honorable Benjamin Downing, State Senator
The Honorable Patricia Farley-Bouvier, State Representative, 3rd Berkshire
The Honorable Smitty Pignatelli, State Representative, 4th Berkshire
Ms. Maeve Vallety Bartlett, Secretary, Executive Office of Energy & Environmental Affairs
Dr. David Cash, Commissioner, Department of Environmental Protection
Ms. Mary Griffin, Commissioner, Department of Fish & Game

ATTACHMENT

Comments Specific to the *Statement of Basis for EPA's Proposed Remedial Action for the Housatonic River "Rest of River" (Statement)*

River Sediment and Banks, pp. 4-8. The second full paragraph on page 13 states that "Eroding contaminated riverbanks are a significant source of PCBs in Reach 5, currently contributing an estimated 45% of the PCB load to the river and therefore are an important consideration in evaluating remedial alternatives." A presentation given at the 2011 charettes in Lenox states that 49% of PCB inputs are from river sediments. The presentation further states that 41% of bank PCBs are redistributed onto floodplain, 34% are redistributed into the river channel. Given these statistics, we request that the threshold for cleanup action for river sediment and banks within Reaches 5A-C be a consistent > 5 mg/kg.

Inconsistencies, narrative on pp. 4-7 and Table 1 on p. 20. Page 4 states that "the Proposed Cleanup Plan requires the removal of river bed sediment throughout Reach 5A and soil in eroding river banks contaminated with more than 5 mg/kg PCBs". Yet Table 1 states simply that "2.5 ft removal and capping" will occur in Reach 5A, and that "Removal/stabilization of erodible river banks in Reach 5A and banks in reach 5B w/ PCBs >50 mg/kg". Page 14 of the Permit that deals with Reach 5A does not indicate any mg/kg threshold for river sediment and indicates that only soil from "eroding" riverbanks with contamination of ≥ 5 mg/kg will be removed. These thresholds should be clarified so that the Statement and the Permit clearly are in agreement.

Pages 5-6 of the Statement and Page 16 of the Permit that deals with Reach 5C state only that river sediment will be removed, giving no threshold levels in either document. A threshold for this reach of the river should be established.

River Sediment and Banks, P. 5. The general hierarchy for reconstruction of remediated riverbanks indicates that employing bio-engineering "soft" techniques is the most preferred option, that an engineered cap extending into the river bank covered with a bio-engineering/"soft" layer is a lesser preferred option and that rip-rap capping and hard armoring are least preferred. Given the dynamic nature of this river system, the statistics described above, and the expected impacts of climate change, we are very skeptical about the long-term efficacy of engineered approaches (including bioengineering and capping) to containing the very significant remaining contamination. The recent failure of a stormwater outfall and the cap in Silver Lake, in a much more contained and small-scale situation, only reinforces this skepticism. Failing more robust removal of PCB's than called for in the remedy, we request that the EPA look more favorably upon the option that involves an engineered cap extending into the river covered with bio-engineering/soft techniques in any areas that have the potential to erode in storm events with relatively low recurrence intervals, such as 10-year flood events. We believe that the engineered cap will be less prone to erosion and re-exposure of contaminated soils while the bio-engineered layer will provide some erosion control and habitat values. The combination should have more resiliency than either one alone.

Site Description, p. 13. "The first 10 ½-mile stretch starting at the confluence of the East and West Branches to Woods Pond is referred to as Reaches 5 and 6...and is estimated to contain approximately

90% of the mass of PCBs that remain in the river system (river and floodplains).” Approximately 90% of these PCBs are located within Reach 5A. Given this statistic we urge the EPA to require that GE remove PCBs within Reaches 5 and 6 to the greatest extent feasible. We find it unacceptable that much of the contamination in the river system would remain in place, in both the river itself and in the floodplain. As we understand it, the remediation approach being proposed by the EPA will remove less than 25% of the PCB-contaminated soils and sediment exceeding 1 ppm from the river and floodplain -- leaving over 75% of the contamination behind. This approach will be leaving a legacy of contamination in the environment that we pass on to our children and grandchildren.

It was our impression from public meetings, educational workshops and charrettes that the EPA was leaning towards a more comprehensive cleanup that would remove a good deal of the PCBs from the environment and result in reduced concentrations in wildlife. The approach now being offered by the joint federal and state agencies mimics the Commonwealth's stance, which would favor leaving PCBs permanently behind to avoid short-term ecosystem disruption. It appears that the paradigm has been flipped from maximizing clean-up in order to meet standards while minimizing ecological disruption to giving priority to minimizing short-term ecological disruption at the expense of maximizing clean-up.

As part of this request we ask that the EPA reconsider the relaxed performance standards that it has set for Core Habitat areas (Core Areas 1-4 as described in the Division of Fisheries & Wildlife (DFW) letter of July 31, 2012). Although we have the highest respect for biologists at the DFW and the Natural Heritage and Endangered Species Program (NHESP), we are not convinced that leaving high PCB concentrations behind in Core Areas is scientifically justified. Neither the EPA, DFW nor NHESP have offered evidence demonstrating that Core Area habitats would be irreparably and permanently damaged by cleanup activities. To the contrary, the remediation pilot project already conducted on a vernal pool in Pittsfield indicates that the post-construction functionality of this pool had returned within a breeding season or two after construction. Some studies conducted on frogs of various species taken from the Rest of River study area state that PCBs are implicated in lower species richness and density, reproductive stress, malformations, abnormal development and skewed sex ratios. Leaving high concentrations of PCBs in vernal pools and other amphibian habitat would diminish the long-term resiliency of these species. As such, we believe that all vernal pools and contributing habitats should be remediated to meet the 3.3 kg/mg target.

It is our understanding that the majority of rare, endangered or threatened species in Core 1 habitat are plant species and, because PCBs pose a low risk to plants, the NHESP proposes to allow high PCB concentrations to avoid removing or killing the existing rare/endangered/threatened plant populations. We believe this is short-sighted and unbalanced, as the PCBs left behind will undoubtedly continue to migrate and serve as a contamination source, continuing to threaten the long-term sustainability of PCB-sensitive wildlife. Where feasible, we urge the EPA to require in the Permit that GE investigate methods to collect individual plants and animals from local populations of particularly vulnerable species, hold them during cleanup activities, and then re-establish them once construction has ended

One hundred years ago, almost all of the river floodplain was in active agricultural use. It is quite probable that the very significant ecologically rich areas which exist today were almost non-existent in that setting and thus have established themselves over the intervening decades as the river has

naturally reclaimed much of its floodplain. As discussed at the Rest of River Municipal Committee work session of February 27, 2014, in which EPA and DFW staff were present, it was estimated that the floodplain forests were probably in the order of 60 years old. The fact that these habitats have managed to become established as well as they have, despite the level of contamination, is a testament to natural ecological resiliency which we believe that the clean-up program should fully respect. It is reasonable to expect that post-construction restoration efforts, such as replanting floodplain vegetation, will reduce the re-establishment time to less than 60 years.

Additionally, it is our understanding that the abundance and diversity of benthic organisms and fish populations in the first two miles of cleanup have started to rebound in just the short time since that clean-up was completed. This is further testimony that the natural systems of the river can rebound. Studies indicate that piscivorous species such as mink, otter, and bald eagles are at intermediate to high risk due to PCBs in fish in the upper reaches of Rest of River. Studies also provide ample evidence that otter and mink, which should be prevalent in this ecosystem, are seldom found in these reaches. While not rare and endangered, the relative lack of these species shows that the presence of PCBs, in current concentrations, has a negative effect on the long-term sustainability of certain species within the Rest of River.

Comments specific to the *Draft Modification to the Reissued RCRA Permit for Public Comment – June 2014*

Definitions, pp. 4-6. The cove/pond areas located along Columbia Street in Lee, tested by the EPA for PCBs in 2012, must be added to the definition of “Backwaters” in the Definitions section and on maps being referenced by the Permit. Six of the 10 samples met cleanup thresholds, and additional sampling is needed to accurately show PCB concentrations and distribution. Although EPA staff has repeatedly reassured town officials that these areas are being considered by the EPA as Backwaters and will be cleaned up to meet the Performance Standards of the Permit, nowhere in the Permit does it specifically speak to these areas. These areas are not shown on any maps being referenced by the Permit, including Figs. 3-17 of the CMS, Fig. 4 of the Permit, nor EPA’s Proposed Cleanup Plan Reach 7/8 Sediment and Floodplain Combination Alternative 9 map.

Definitions, pp. 4-6. The word “Long-Term” is used throughout the Permit, but this word is never defined.

Definitions, pp. 4-6. We believe that the Site should be defined, with two sub-categories of Primary Site and Secondary Site. The Primary Site would include those areas which contain any contamination above the minimum standard. The Secondary Site would be those areas which are not contaminated but are subject to clean-up operations impacts (processing, transport, noise, dust, glare). We believe that the Permit should specifically include Primary and Secondary Site approval processes, giving considerable deference to local permitting processes and involvement in approval of operational plans, particularly in Secondary Sites.

Approval Process, p. 7 footnote, Section II Special Conditions, p. 12. BRPC fully supports the request of the municipalities of the Rest of River for equal status to GE and the States in reviewing, approving, disapproving or modifying design and implementation plans for each stage of the cleanup. According to the footnote on p. 7 to Section II.A., all submittals pursuant to the Permit, including the approval, disapproval or modification process, will be done in consultation with the States in accordance with the CD. The municipalities are notably left out of this process. Even

Pittsfield, a CD signatory, is not mentioned. Language must be added to the Permit stating clearly that the EPA and GE must work closely with the municipalities and the public to ensure public review of proposed cleanup approaches and scopes of work. This is needed to guarantee that the municipalities and the public will be involved in all work going into the future – years and decades from now and in perpetuity. To date, EPA staff have a record of working closely with Pittsfield in the cleanup of the GE site and first two miles. There is a concern, however, that such a relationship could change in the future. It is clear that many members of the U.S. Congress would like to rein in the EPA's authority, so to be protective of municipal interests into the future, we believe that Berkshire municipalities must be added to the list of entities that must be consulted for submittals under this Permit.

It is also our belief that municipal permits should be treated as Applicable or Relevant and Appropriate Requirements (ARARs) and included in the permit as such. Local Conservation Commissions are charged with enforcing the Massachusetts Wetlands Protection Act and are acting as agents for the State in doing so. Local Boards of Health are the primary enforcers of public health monitoring and requirements at the local level and have considerable power to deal with public health issues, acting independently. The State Zoning Enabling Law (C.40A) allows municipalities to prohibit hazardous waste treatment facilities in non-industrially zoned areas but does not allow them to prohibit such facilities in industrially zoned areas. Even in industrial areas it allows site plan review which allows imposition of requirements which can serve to lessen the impacts of such facilities. Thus the State law reflects the need to respect local authority regarding some placements of such facilities while not allowing communities to totally exclude them.

This section of the permit should reflect the need to fully involve the directly affected municipalities in determining the impacts of construction activities and equipment on local infrastructure and on proximate neighborhoods. It should specifically indicate that the Transportation Impact Assessments Scope of Work provided to EPA will be followed and that municipal governments will have the ability to review and approve physical and operational plans for haul routes, public roads to be used, staging areas, and processing facilities which are within 2,000 feet of residences.

Sec. I.F. Inspection and Entry, p. 8. The language in this section of the Permit seems to relate only to property owned by GE. We ask that the EPA review this language to ensure that it has the authority to enter and inspect any aspect of the cleanup, regardless of property ownership or location.

Sec. II.B.1.a.(1) Downstream Transport. How does this Performance Standard meet State and Federal Water Quality Standards for Class B Waters?

Sec. II.B.1.g.(2) Impoundments, p. 19. We appreciate that the issue of dam impoundments has risen to the forefront and that these are discussed in the Permit. However, we are concerned that the wording of the Permit does not convey the tight timelines or short windows of opportunity that may develop in the event that a dam must be repaired, where funding has been located for removal, or a development opportunity is found for a property which includes an impoundment. GE must be required to make progress at the speed an improvement or redevelopment opportunity requires, not at a pace which could forestall opportunities that are presented. We therefore request that the wording be strengthened by adding the word "prompt" in front of "good-faith" in the second

sentence to ensure a prompt response by GE when circumstances require such action. Specific clean-up plans should be developed for each impoundment in the very near term (years 1-2), with a requirement that the work being initiated and completed in an expedited fashion (within 1 year of notification that work is required to respond to an improvement or redevelopment opportunity) as needed to take advantage of opportunities which are not yet known. Clean-up plans which are not yet implemented should be required to be updated on a regular basis in order to account for the active adaptive management approach which the permit favors.

Sec. II.B.1.f., Woods Pond, p. 18. The Permit does not set any PCB threshold levels as Performance Standards for sediment in Woods Pond. We request that the EPA set a mg/kg threshold for this section of river that would be protective of human health and the environment.

Sec. II.B.h.(4) Rising Pond, p. 21. This section states that the engineered cap shall result in a final grade consistent with original grade. We question why Rising Pond is not being deepened in a manner similar to Woods Pond. If the proposed cleanup activities at Woods Pond will result in a solids trapping efficiency of 30%, would not a similar cleanup effort at Rising Pond result in a greater solids trapping efficiency? This is all the more important at this site as it is the last chance in Massachusetts to capture resuspended PCBs during construction and during post-construction severe storm events.

Sec. II.B.j.(3)b. Cap erosion protection layer, p. 23. We appreciate the EPA's attempt to address increase in flood events because of climate change by requiring that GE consider the impacts of climate change on flood return interval events. We request that the Permit direct the GE to use the newest and best data sets to reflect ever-changing precipitation and flow conditions resulting from climate changes. As an example of an improved data set, the EPA and GE should consider consulting the Northeast Regional Climate Center at Cornell University.

Sec. II.B.2.b. Vernal Pools, p. 26-27. We propose that all vernal pools be cleaned up to the Vernal Pool-specific Cleanup Standard of 3.3 mg/kg total PCBs, regardless of their location within or outside of Core Habitat Areas. As stated previously, we do not believe that DFW and NHESP have provided scientific evidence to demonstrate that the short-term risk of cleaning up vernal pools or other rare/endangered/threatened species habitat areas is greater than the long-term benefits of removing concentrations of PCBs which exceed standards from the environment.

Sec. II.B.3.c.(5), Restoration Corrective Measures Coordination Plan, p. 29. We urge the EPA to require the GE to consider measures to protect rare, endangered or threatened species, such as capturing individuals, holding them during cleanup activities, and then re-introducing them once construction has ended. If holding plants or animals is not feasible, might this be an opportunity to capture them and introduce them safely elsewhere? This may help to increase the diversity of isolated amphibian populations where a limited gene pool threatens their long-term sustainability. Might a species such as the Jefferson salamander benefit from such a program? Such efforts would be consistent with the concept of conducting pilot programs as part of the Rest of River cleanup.

Sec. II.B.4.b. Long-Term Operations, Monitoring, and Maintenance, p. 31. This section states that long-term monitoring and maintenance shall be conducted until the Long-term Biota Benchmarks have been achieved. For fish, this is 0.064 mg/kg. What if this benchmark is achieved, and severe storm events occur that reintroduce PCBs into the environment? If monitoring is no longer

occurring, how will we know that PCBs have been reintroduced? Even if PCBs are reintroduced into water and sediment, it could take years for these to show up in fish tissue. How does the EPA require GE to return to Rest of River and resume control and cleanup activities?

We believe that there should be a requirement for ongoing, regular monitoring of sediments and sediment transport as long as areas of PCB contamination above a minimal level of concentration (5 mg/kg?) are known to remain in the river channel, banks or floodplain. This requirement should remain in place essentially in perpetuity, with commensurate requirements for additional clean-up, without triggering a modification to the permit, as called for by the monitoring. Continual monitoring of GE's ability to fund additional clean-up work required and to conduct the required monitoring should also be required.

Sec. II.B.4.a.(1). Baseline and Construction Monitoring, p. 30. Please insert language to state clearly that the pre-construction baseline monitoring program include water, sediment and biota sampling for sites previously tested throughout Reaches 5 through 9 before any cleanup construction is undertaken.

Sec. II.B.5. Sequencing Implementation of Corrective Measures, p. 31. We recommend that the GE be directed to conduct a re-evaluation of PCBs in Woods Pond and Rising Pond prior to placement of capping layers. Suggested language, to be inserted at the end of the third sentence in the first paragraph after the word "completed": "... and after the Permittee has demonstrated that PCB concentrations in sediment and water depths in Woods Pond and Rising Pond meet the performance standards established in S.II.B.1.f and S.II.B.1.h. respectively."

Sec. II.B.11.c. Water Withdrawals and Uses, p. 36. We request that the EPA add new wording to this section: (4) Permittee shall reimburse entities which experience financial losses due to a degradation in water quality or quantity due to corrective measures and/or construction within Reaches 5-16." This language is to protect Rest of River businesses who rely on the river's flow, particularly the Onyx Mill in Lee, the last working paper mill in the town, and the Glendale Hydro-Electric facility in Stockbridge, the only operating hydro-electric facility in Berkshire County.

Sec. II.B.11. Requirements for the Rest of River Statement of Work, pp. 37-40. Massachusetts General Laws enable local governments to impose reasonable policies, laws, bylaws and regulations on land use activities to protect human health and the environment. This includes the right of local boards to hire consultants to aid them in reviewing and conditioning projects within their jurisdictions. Because the Rest of River cleanup has extensive environmental and human health implications and spans across several municipal jurisdictions, we believe that the most comprehensive and efficient means to meet the intent of these Home Rule provisions would be to require GE to fund the hiring of consultants to serve local boards in reviewing and commenting on plans, statements of work and other submittals during the cleanup, and to aid said boards in reviewing air and water quality monitoring and other data that is generated during construction and monitoring.

Sec. II.B.11.b.(1). Overall Strategy and Schedule for Implementation of the Corrective Measures, p. 38. This section lists floodplain and sediment but is silent on bank, backwaters, and impoundments. Please add these three to ensure a comprehensive strategy and schedule.

Sec. II.B.11.I.(2). Quality of Life Compliance Plan, Continued Recreation Activities, p. 39.

Municipalities and other entities with expertise and involvement in recreation activities along the Rest of River should be heavily consulted during the development of this section of the Compliance Plan. Every reasonable effort should be made to avoid and minimize disruption of recreation activities while achieving the Remedy objectives and standards. Where avoidance and minimization is not possible, mitigation should be required, in the form of replacement activities and facilities while use is disrupted, replacement upon completion, enhancement through improved or additional facilities, or monetary compensation. The most appropriate forms of such mitigation should be developed through involvement of both GE and the affected parties, with services of a mediator to be paid for by GE but selection of the mediator to be with concurrence of those involved.

Sec. II.B.11.I.(3) Quality of Life Compliance Plan, Road use, p. 39. Compliance with the Transportation Impact Assessments Scope of Work provided to EPA staff on January 7, 2014 should be required of GE and explicitly called out in this section. The assessment methodology is intended to provide a quantifiable and fair method to ensure that any damage to local infrastructure caused by clean-up operations is repaired and that traffic management is in place during the course of the project which fully involves the municipalities and allows them to protect the interests of their citizens and affected neighborhoods, both in the primary and secondary site.

Sec. II.B.11.I.(4).(b). Quality of Life Compliance Plan, community complaints and concerns, p. 39. As established for the Hudson River clean-up, GE should be required to have a 24-hour, seven-days-a-week telephone call-in center where citizens can talk directly to a staff person regarding issues and questions regarding clean-up activities

Sec. II.B.11.I. Quality of Life Compliance Plan, p. 39. BRPC does not believe that the four areas to be included in the Plan are sufficient. We request that the following also be included:

- (5) Property Value, including a requirement that GE establish a fund, controlled by a local non-profit or governmental housing organization, such as the Berkshire County Regional Housing Authority or Berkshire Housing Development Corporation, to compensate homeowners for documented losses to home values caused by clean-up activities or the presence of contamination on their residential properties which affects their ability to sell their properties at a fair market value if such activities or contamination was not present.
- (6) Municipal Property Tax Revenue Compensation, requiring that GE compensate municipalities affected by documented reduced property valuations due to clean-up activities or the presence of pollution on properties. GE should also be required to document the value of clean up facilities and equipment with such value to be subject to approval by the municipal Assessor, such property shall be subject to property taxes (facilities as Commercial; equipment as Personal Property) and be required to pay subject property taxes.
- (7) Decommissioning Plans for sites and infrastructure necessary to accomplish the clean-up should be developed and implemented, subject to review and approval by municipal authorities.
- (8) An interagency working group should be established, similar to what has been done for the Hudson River Clean-up, involving federal, state and local agencies, to work together to maximize benefits and minimize negative impacts from each stage of clean-up and to assist in locating resources to assist the municipalities in accomplishing community goals during the

course of the clean-up and provide facilitation resources to this group to assist it in achieving its objectives.

Table 1, Cleanup Standards for PCBs for Floodplain Soil by Exposure Area – Current Use. Cleanup standards for Exposure Areas 61-66, which seem to be utility rights of way, have the highest cleanup standards of all areas and uses. We urge the EPA to reclassify these areas as General Recreation, older child (high use), as these areas are frequented by local adults and children who hike, dog walk, bike, motor bike, and ride ATVs.

Figure 6 Estimated Timeline. This figure indicates that cleanup activities in Woods Pond (Reach 6) will be implemented in two phases, namely that cleanup on the pond will occur in Years 1-3 and that a cap will be placed in Years 8-10. Cleanup of river and floodplain upstream of the pond, in Reaches 5A-5C and in Backwaters, will be conducted in Years 1-8. We are concerned that Woods Pond will be re-contaminated in the intervening Years 4-8 as cleanup activities dislodge and resuspend PCBs upstream. Section II.B.1.f(1) describes sediment removal and capping requirements, and Section II.B.1.f(2) describes post-construction long-term monitoring. The Permit does not require GE to re-evaluate the PCB concentrations in the pond before the cap is placed. We believe that the Permit should explicitly state that GE, in consultation with the EPA, will re-test and evaluate PCB concentrations throughout the pond before any capping activities are begun. We restate our request that the EPA set a PCB threshold performance standard for the pond to gauge whether sediment removal should be conducted prior to capping.

Attachment D: TSCA 40 CFR Section 761.61(C) Determination. The seventh bullet states: “Temporarily stockpiles TSCA-regulated material will be bermed and properly covered to capture runoff...” Locating a hazardous waste facility is not a permitted use within the Upper Housatonic River ACEC according to Massachusetts CMR. The Permit should more clearly define the term “temporarily”, list exactly what types of hazardous materials will be allowed on site, and discuss the conditions under which such a facility must operate.

These comments were formally approved/approved as amended by the Full Commission on September 11, 2014.

BERKSHIRE REGIONAL PLANNING COMMISSION
1 FENN STREET, SUITE 201, PITTSFIELD, MASSACHUSETTS 01201
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SHEILA IRVIN, Chair
KYLE HANLON, Vice-Chair
MARIE RAFTERY, Clerk
CHARLES P. OGDEN, Treasurer

NATHANIEL W. KARNS, A.I.C.P.
Executive Director

MEMORANDUM

TO: Delegates and Alternates, Berkshire Regional Planning Commission
FROM: Nathaniel W. Karns, AICP, Executive Director
DATE: September 4, 2014
SUBJ: Approval of Executive Committee Actions

In accordance with the bylaws, all actions taken by the Executive Committee on the Commission's behalf must be endorsed at the next Commission meeting.

The Executive Committee took the following actions at its August 7, 2014 meeting:

- Approved the Executive Director on behalf of the Commission to Enter into Agreements with Municipalities for Technical Assistance Services for FY 2015.
- Approved the Executive Director on behalf of the Commission to Submit Grant Application on behalf of Berkshire Boards of Public Health Association for a Hoarding Task Force.
- Approved the appointment of Kyle Hanlon as BRPC's member to the Mohawk Trail Woodland Partnership Project Advisory

The Executive Committee took the following actions at its September 4, 2014 meeting:

- Approved to File for Intervenor Status with the Federal Energy Regulatory Commission regarding the Tennessee Gas Pipeline Connecticut Expansion Project (copy of filing attached)
- Approved to allow the Executive Director to file any statements or motions as needed to represent Berkshire County in regards to the Tennessee Gas Pipeline Connecticut Expansion Project.
- Approved Submitting Grant Application to the U.S. Food & Drug Administration for projects and training to enhance conformance with the Voluntary National Retail Food Regulatory Program Standards (Retail Program Standards).
- Approved Submitting Community Incentive Challenge Grant Application(s) to the Executive Office of Administration & Finance

Attachment: Motion to Intervene before FERC for TGP Connecticut Expansion Project

BERKSHIRE REGIONAL PLANNING COMMISSION
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NATHANIEL W. KARNS, A.I.C.P.
Executive Director

BEFORE THE UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Tennessee Gas Pipeline Company, L.L.C.
Connecticut Expansion Project

Docket No. CP14-529-000

MOTION TO INTERVENE OF THE BERKSHIRE REGIONAL PLANNING COMMISSION

The Berkshire Regional Planning Commission is established under authority of Massachusetts General Laws Chapter 40B (the Regional Planning Law) as a governmental substate district. BRPC is the state-designated regional planning agency for the 32 municipalities in Berkshire County. Our mission is to serve our communities by providing technical assistance, maintaining a forum for the discussion of regional issues, and to advocate on behalf of our region and its local governments. Nearly four miles (3.8 miles) of the Connecticut Expansion pipeline will cross properties located within the Town of Sandisfield within Berkshire County. A pig receiver and Mainline Valve will be located at the terminus of the project in the Town of Sandisfield. In addition, a 3 acre pipeyard will be located in the Town of Tyringham, also within Berkshire County. Transportation routes for equipment and materials will cross at a minimum three other towns, Lee, Monterey and Otis, all within Berkshire County.

Pursuant to Commission Rules 385.214(b) and 157.10, the Berkshire Regional Planning Commission moves to intervene in the above captioned proceeding. This intervention is timely filed.

I. CONTACT INFORMATION

Please enter the Berkshire Regional Planning Commission below on the official service list for Docket No. CP14-529-000. All pleadings, filings and correspondence in this proceeding should be served on the following:

Nathaniel W. Karns, AICP
Executive Director
Berkshire Regional Planning Commission
1 Fenn Street, Suite 201

Pittsfield, MA 01201
nkarns@berkshireplanning.org
(413) 442-1521 ext. 26

II. MOTION TO INTERVENE

The Berkshire Regional Planning Commission seeks to intervene as its member communities (at a minimum, Sandisfield, Tyringham, Lee, Otis, and Monterey) are directly impacted by the proposed pipeline. The pipeline will cross 3.8 miles of property within the Town of Sandisfield and is proposed to cross Article 97 lands (conservation and recreation lands protected under Article 97 of the Massachusetts Constitution) held by the Department of Conservation and Recreation. In addition to Sandisfield and Tyringham, the conveyance of equipment and materials necessary to construct the project will impact local roadways and residences in the Towns of Lee, Monterey and Otis, at a minimum. The Berkshire Regional Planning Commission seeks to intervene to monitor this proceeding and address potential effects to land, wetlands, riverfront and waterfront, rare and endangered species, transportation, and homes in close proximity to the proposed pipeline.

The Berkshire Regional Planning Commission does not have enough information to take a position on the proposed project at this time, but reserves the right to do so in later comments as more information on the impacts emerges. The Berkshire Regional Planning Commission has reviewed and commented extensively on the information the applicant submitted to the Massachusetts Environmental Policy Act Office in the form of an Expanded Environmental Notification Form. The Secretary of the Massachusetts Executive Office of Energy and Environmental Affairs has required that the applicant submit a Draft Environmental Impact Report prior to proceeding to a Final Environmental Impact Report due to the extensive unknown or incomplete information needed to properly assess the proposed pipeline's environmental and community impacts, with which decision the BRPC fully concurs. Subsequent to the Secretary's decision, the applicant filed its application with FERC, apparently determining that it would not utilize the recommended Pre-Permitting Process. Thus filing as an Intervenor is BRPC's only recourse to seek to avoid, minimize, or properly compensate for the environmental and community impacts which may reasonably be expected from a project of this nature.

WHEREFORE, for the foregoing reasons, the Berkshire Regional Planning Commission requests that the Commission GRANT this motion to intervene.

Respectfully submitted,



Nathaniel W. Karns, A.I.C.P.
Executive Director
Berkshire Regional Planning Commission
1 Fenn Street, Suite 201
Pittsfield, MA 01201

nkarns@berkshireplanning.org
(413) 442-1521 ext. 26

August 20, 2014

BERKSHIRE REGIONAL PLANNING COMMISSION
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NATHANIEL W. KARNS, A.I.C.P.
Executive Director

MEMORANDUM

TO: Berkshire Regional Planning Commission
FROM: Nathaniel W. Karns, AICP, Executive Director
DATE: September 4, 2014
SUBJ: Executive Director's Report

A number of items warrant mention:

- A. BRPC Meeting – Thursday, September 18, 2014, 6 p.m. – 8 p.m., Berkshire Community College – Proposed Northeast Expansion Natural Gas Pipeline – Kinder Morgan and Conservation Law Foundation

Attached is a flyer for the Commission meeting on the proposed natural gas pipeline which, due to the expected heightened degree of public interest in this project, will be held at Berkshire Community College's West Street campus. Kinder Morgan will present its plans and answer questions from the Commission members. Then an attorney from the Conservation Law Foundation is going to make a presentation and answer questions about the licensing process for such projects and how groups such as BRPC and our municipalities can best be involved. This will not be a public hearing but is a Commission meeting and it is an important step in the Commission members to be as well informed as possible going into the lengthy public process which leads to a potential permit from the Federal Energy Regulatory Commission.

- B. Regional Community Forum on Housing – Saturday, September 13, 10:30 a.m. -12:30 p.m., Goshen Town Hall

Attached is a flyer and agenda for a housing forum aimed primarily at smaller western Massachusetts towns being sponsored by the Massachusetts Housing Partnership and Hilltown Community Development Corporation. Depending on the turnout and the information provided, we will make a decision about whether it might be useful to have a similar forum in Berkshire County.

- C. EPA Comment Period for Proposed Clean-up of PCB's from Housatonic River & Notice of Public Hearing

EPA has set the public comment period for the PCB clean-up for the Rest of River to October 1, 2014 (public announcement attached). The legally required public hearing is scheduled for Tuesday, September 23, 2014 starting at 6:30 at the Lenox Memorial Middle and High School.

However, for anyone wishing to maintain legal standing during subsequent phases of this lengthy process, comments on the proposed clean-up must be submitted in writing or by email.

D. MassDevelopment Resources for Economic Development Workshop – Tuesday, September 30th, Westover AFB

Attached is the notice of the annual workshop developed by MassDevelopment aimed at western Massachusetts economic development needs. This year's workshop is at Westover Air Force Base; last year's was held in Adams.

E. Community Innovation Challenge Grant Applications Due October 10th

The news release announcing the request for applications for Community Innovation Challenge Grants is attached. Applications are due no later than October 10th. If you have an idea that might fit, you should immediately contact Assistant Director Tom Matuszko at 442-1521, ext. 34, or tmatuszko@berkshireplanning.org. There is always much more competition for these grants than there is funding available.

F. BRPC Annual Dinner – Thursday, October 16th, 5:30 p.m., Pittsfield Country Club

The announcement and registration form for this year's 48th BRPC Annual Dinner is attached. This should be a good program with our state legislators participating and providing us insights into some of the key legislative issues that involve regional and local planners and officials. We will also be presenting the 2014 Charles Kusik Award.

G. Fifth Thursday Dinner for Planning & Zoning Boards – October 30th

The next Fifth Thursday Dinner will be on October 30th. The details are just beginning to be developed but go ahead and put this event on your calendars.

H. Filing for Intervenor Status with Federal Energy Regulatory Commission Regarding Tennessee Gas Pipeline Company's Connecticut Expansion Project

As provided under Executive Committee actions, BRPC has filed for Intervenor status with FERC regarding the pipeline expansion project proposed in Sandisfield, which also impacts Tyringham directly, as well as roads and abutting homes in Lee, Monterey and Otis (at a minimum). By filing as an Intervener, we retain rights to more fully participate in the FERC permitting process.

We also filed a motion opposing the requested Expedited Process which TGP had requested in which they indicated there were minimal environmental and community impacts. This position is directly contradicted by the requirement by the Secretary of Energy & Environmental Affairs that had been issued two weeks before the FERC filing, that TGP prepare a full Draft Environmental Impact Report, before preceding to preparation of a Final EIR. Subsequent to BRPC's motion, a number of state agencies and environmental organizations filed similar requests to deny TGP's expedited review request and refuting the claim of limited environmental and community impacts.

We will keep the Commission posted regarding the various ongoing steps as this process unfolds. The next steps for FERC are apparently to determine who should be granted Intervenor Status and to determine whether TGP can immediately proceed to a simpler Environmental Assessment or whether a full Environmental Impact Statement must be scoped out. An EIS is actually prepared by FERC, not by TGP.

Attachments (6):
Notice of Northeast Gas Pipeline Project BRPC Public Meeting
Notice of Regional Community Forum on Housing
EPA Comment Period and Public Hearing for Proposed Clean-up Plan for
Housatonic River "Rest of River"
Notice of MassDevelopment Workshop – Resources for Economic Development
Announcement of Funding for Community Innovation Challenge Grants
Notice of BRPC 48th Annual Meeting and Dinner



*Berkshire
Regional
Planning
Commission*

NORTHEAST GAS
PIPELINE PROJECT
BRPC PUBLIC MEETING

SEPT. 18, 2014
BRPC COMMISSION
MEETING

Public Meeting

BRPC will be hosting both Kinder Morgan representatives and a representative from the Conservation Law Foundation at a Commission meeting, to be held at **Berkshire Community College Koussevitzky Auditorium on Thursday, September 18, 2014, 6 p.m.** This will be a public meeting and the public is welcome to attend and listen but this will not be a public hearing, rather an opportunity for the Commission members to become more informed regarding Kinder Morgan's plans and be better educated regarding both the need for the pipeline and the federal permitting process which such a project entails.

SAVE THE DATE!
SEPT. 18, 2014

Where: BCC
TIME: 6 pm

Presentations by:
Kinder Morgan &
Conservation Law
Foundation

CHECK BRPC'S WEBSITE
FOR AGENDA AND
MEETING MATERIALS

www.berkshireplanning.org

BERKSHIRE
REGIONAL
PLANNING
COMMISSION

1 Fenn St. Ste 201
Pittsfield, MA 01201

www.berkshireplanning.org

email:
info@berkshireplanning.org

*Please join State Representative Steve Kulik,
State Senator Ben Downing,
Mass Housing Partnership, and Hilltown CDC*

for a

Regional Community

Forum on Housing

Saturday, September 13th, 2014

10:30am to 12:30pm

Goshen Town Hall

40 Main St, Goshen

*What are your community's housing
needs and what resources are available
to meet them?*

*Come discuss these issues and solutions
with your elected representatives and
state and local officials!*

Please RSVP to Carsten Snow, csnow@mhp.net if you will attend!



**Sponsored by Massachusetts Housing Partnership and
Hilltown CDC**

Regional Community Forum on Housing Issues

Saturday, September 13th

10:30 -12:30

Goshen Town Hall

Agenda

10:30 – 10:40 Welcome and Introductions

Rep. Steve Kulik and Sen. Ben Downing

10:40 – 11:10 Overview of MHP Rural Initiative

Rita Farrell and Carsten Snow, Mass. Housing Partnership

Dave Christopolis, Hilltown CDC

11:10 – 11:30 Breakout into small groups for discussion

- What are the current affordable housing needs in your town/in the region?
- How can housing development act as a catalyst for village center development in the Hilltowns?
- How could a regional approach to housing work? What would your community's contribution be?

11:30 – 12:15 Break to get lunch; Reconvene as larger group to discuss answers from smaller group sessions

12:15 – 12:30 Case study and site visit- Goshen Senior Housing at The Parsonage



EPA New England News Release
Protecting Human Health and the Environment

News Release

U.S. Environmental Protection Agency
New England Regional Office
July 09, 2014

Contact: David Deegan, (617) 918-1017

EPA Extends Comment Period for Proposed Cleanup Plan for Housatonic River “Rest of River”

Public Hearing to be Held on Tuesday, September 23

(BOSTON) – EPA has scheduled a formal public hearing and is extending the public comment period regarding its Draft Modification to General Electric’s Reissued RCRA Permit (also referred to as the Proposed Cleanup Plan for the Housatonic River Rest of River).

EPA will hold a public hearing on the Draft Modification to the RCRA Permit on September 23 at 6:30 p.m. at Lenox Memorial Middle and High School (Duffin Theater). In response to several requests for extension, public comments on the Draft Permit will also be accepted through October 1, 2014.

The Draft Modification to the RCRA Permit sets forth EPA’s Proposed Remedial Action and Operation and Maintenance requirements for the Rest of River. The Rest of River begins at the confluence of the East and West branches of the Housatonic River in Pittsfield, Massachusetts and extends into Connecticut.

At the end of May, EPA released its Statement of Basis for EPA’s Proposed Remedial Action for the Housatonic River “Rest of River” and the associated Draft Modification to the RCRA Permit. Public Informational meetings were held on June 18 in Lenox, Massachusetts and June 24 in Kent, Connecticut.

Copies of the Statement of Basis and the Draft Modification to the RCRA Permit are available for review at, at the EPA office in Boston, on the EPA Region 1 website at <http://www.epa.gov/region1/ge/proposedcleanupplan.html>, and at local information repositories (see website for locations).

Additional information on the Rest of River can be found
at: <http://www.epa.gov/region1/ge/thesite/restofriver.html>.
#

Learn More about the [Latest EPA News & Events in New England](http://www.epa.gov/region1/newsevents/index.html)
(<http://www.epa.gov/region1/newsevents/index.html>)

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Kelsey O'Neil
Congressional Liaison, Community Involvement Coordinator
oneil.kelsey@epa.gov
Office: 617-918-1003
Cell: 857-998-0226

SAVE THE DATE

Resources for Economic Development September 30, 2014

8:30 a.m. - Registration/Breakfast

9:00 a.m. - Program/Workshops

Noon - Lunch/Networking

1:00 p.m. - Westover Air Force Base will provide a 45-minute behind-the-scenes C5 aircraft tour.

Westover Club
130 Galaxy Road, Chicopee

*RSVP by Friday, September 5 to Sheri Corbeil at
scorbeil@massdevelopment.com.*

*Westover requires attendees provide a **driver's license number** and **date of birth** with RSVP information in order to attend the event .*



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DEVAL PATRICK
GOVERNOR

GLEN SHOR
SECRETARY

Media Contact

Alex Zaroulis (ANF)
(617) 727-2040, ext. 35488

Meghan Kelly (ANF)
(617) 727-2040 ext. 35457

For Immediate Release - August 12, 2014

Patrick Administration Announces up to \$3 Million in Funding for Fourth Round of Community Innovation Challenge Grants

Boston (August 11, 2014) - Secretary of Administration and Finance Glen Shor today announced the fourth round of Community Innovation Challenge (CIC) grants for Fiscal Year 2015. Building upon the success of the three previous rounds of CIC grants, up to \$3 million will be made available to support local government innovations through regional collaborations.

“Over the past three years, the Patrick Administration has supported our municipal partners in driving change and developing new and efficient models of service delivery,” said Secretary of Administration and Finance Glen Shor. “This additional funding provides municipalities with another opportunity to participate in the CIC program to further highlight best practices for all 351 of our cities and towns.”

CIC grants provide financial support for one-time or transition costs related to innovative regionalization and other efficiency initiatives in local governments. By improving effectiveness and efficiency of services, the Commonwealth is able to spend taxpayer money more efficiently, maximizing the impact of every dollar spent.

Since the launch of the CIC program in 2012, the Patrick Administration has invested \$10.25 million in 74

unique projects which involve 242 cities and towns, or 69 percent of the Commonwealth's municipalities. In addition to enabling savings, the program has allowed cities and towns to continue or restore core services and increase the efficiency of their operations. Nearly 4 million Massachusetts' residents live in a city or town that participates in the CIC program.

Along with the announcement of a fourth round of funding, Secretary Shor also announced that FY 2013 project success stories are now available on the [CIC program website](#). "These reports, along with the 27 reports for FY 2012 projects, will provide all municipal officials in the Commonwealth with roadmaps to develop innovative, regional projects," said Secretary Shor. The reports include step-by-step implementation guides, line item budgets, measurable outcomes and discussions of challenges faced and solutions achieved.

Regionalization efforts have been increasingly critical on the local level. Providing municipalities with the resources to collaborate on shared initiatives allows for reduced costs, improved services and increased efficiency in the delivery of services.

"The Community Innovation Challenge grant project facilitated by the City of Chelsea in partnership with Revere and Everett benefits our communities as funding allows for outside – impartial resources- to assist us with problem identification and solution development related to the quality of crime data. Crime data is a critical element for government officials to consider as we attempt to increase quality of life in our communities. Funding for this project is allowing the cities to conduct pilot data audits to identify and correct crime data reporting discrepancies that will establish a process for adoption by other municipalities in the Commonwealth - ultimately leading to enhanced data driven decision-making strategies and use of data for performance management that are comparable form community to community," said Brian Kyes, Chief of Police for the city of Chelsea.

"The CIC program has enabled Hawlemont Regional Elementary School to accelerate the development of an innovative agriculturally-based curriculum. The students are buzzing with excitement about school at an unprecedented level. I anticipate Hawlemont will lead the way for other rural elementary schools across the Commonwealth and beyond," said Michael Buoniconti, Superintendent for the Hawlemont Regional School District.

How to Apply

Applications, information session dates and times, and guidelines are now available on the CIC program website: www.mass.gov/ANF/CIC.

Berkshire Regional Planning Commission 48th Annual Meeting and Dinner

Thursday, October 16, 2014

5:30–6:30 PM Social Hour (Cash Bar)

6:30 PM Dinner (Buffet Style) & Discussion

Pittsfield Country Club

639 South Street in Pittsfield, MA

Legislative Round Table

This year's annual dinner will provide an opportunity to learn about legislative priorities from our Berkshire state legislators and to discuss key issues with them in a legislative round table. Join our five invited Berkshire state legislators: State Senator Ben Downing, Representative Smitty Pignatelli, Representative Tricia Farley-Bouvier, Representative Gailanne Cariddi and Representative Paul Mark for an evening of informative discussion.



For additional details, cost information and to RSVP please see the attached return sheet

Contact Judy Wagner at jwagner@berkshireplanning.org or (413) 442-1521 ext 10 for further details

Annual Dinner – October 16, 2014
“Legislative Round Table”

Please remit payment to BRPC, 1 Fenn Street, Suite 201, Pittsfield, MA 01201 prior to the event

Name	Title	Organization/Town

Location

Pittsfield Country Club

639 South Street in Pittsfield, MA

5:30–6:30 PM Social Hour (Cash Bar)

6:30 PM Dinner (Buffet Style) & Discussion

Please join us for a buffet dinner

** Please note on this form if you have special dietary restrictions and we will do our best to accommodate your needs*

Cost Information

\$38.00 per person

Reservations **must** be received by: **October 9, 2014** - Late reservations will not be accepted
Cancellations received after October 9th are non-refundable.

Please contact Judy Wagner: jwagner@berkshireplanning.org or 413-442-1521 ext. 10 for details.