

## **Attachment 5**

### **Excerpts from Designation of the Upper Housatonic River Area of Critical Environmental Concern**



*The Commonwealth of Massachusetts*  
*Executive Office of Energy and Environmental Affairs*  
100 Cambridge Street, Suite 900  
Boston, MA 02114

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

IAN A. BOWLES  
SECRETARY

Tel: (617) 626-1000  
Fax: (617) 626-1181  
<http://www.mass.gov/envir>

**DESIGNATION** of the  
**UPPER HOUSATONIC RIVER**  
**AREA OF CRITICAL ENVIRONMENTAL CONCERN**

located in portions of the  
MUNICIPALITIES OF LEE, LENOX, PITTSFIELD AND WASHINGTON  
WITH SUPPORTING FINDINGS

Following an extensive formal review required by the regulations of the Executive Office of Energy and Environmental Affairs (301 CMR 12.00) including nomination, review, on-site visits, research, public information meetings, a public hearing and written comment period, and evaluation of all public comment and assembled data, I, the Secretary of Energy and Environmental Affairs, hereby designate the Upper Housatonic River, located in portions of the municipalities of Lee, Lenox, Pittsfield and Washington, as an Area of Critical Environmental Concern (ACEC). I take this action pursuant to the authority granted me under Mass. Gen. L. ch. 21A, § 2(7).

I also hereby find that the wetland resource areas included in the Upper Housatonic River ACEC are significant to the protection of groundwater supply and public water supply, the prevention of pollution, flood control, the prevention of storm damage, the protection of fisheries, and the protection of wildlife habitat - all of which are public interests defined in the Wetlands Protection Act and regulations promulgated thereunder.

**I. Procedures Leading to ACEC Designation**

On September 2, 2008 I received a letter of nomination from 43 Massachusetts citizens, including State Representatives Denis Guyer, Smitty Pignatelli, and Christopher Speranzo, and State Senator Ben Downing, pursuant to the ACEC Regulations at 301 CMR 12.05. In a letter dated September 29, 2008 I accepted the Upper Housatonic River ACEC nomination for full review. In this letter I outlined the ACEC nomination review process including the initial public information meetings to be held in October of 2008. Notice of these public information meetings was included in the October 8, 2008 issue of The Environmental Monitor, published by the Massachusetts Executive Office of Energy and Environmental Affairs (EEA); in an September 30, 2008 press release, issued by EEA; in an article published in the Berkshire Eagle on October 4, 2008; and in an update posted on the ACEC Program website.



development organizations, and 54 citizens, as well as 979 individuals on two petitions were received in the course of the public participation and review process. Support for the designation with boundaries as nominated was stated in 114 of the 136 comments; 14 comments supported the designation with proposed boundary changes or exemptions; 6 comments opposed designation, and 2 comments were neutral. All 979 petitioners were supportive of the designation. Further details are provided in Section IV. Discussion of the Criteria for Designation, (9) Supporting Factors.

## **II. Description of the Resources of the Upper Housatonic River ACEC**

### **Resource Overview**

A brief summary of the resources of the ACEC is provided in this designation document. Additional useful information regarding these resources is provided in the Upper Housatonic River ACEC nomination document (dated August 29, 2008, submitted September 2, 2008) and other materials and correspondence assembled as part of the nomination review.

The total acreage included in the area as originally nominated was approximately 12,280 acres. The size of the designated ACEC is approximately 12,276 acres (acreages based on Massachusetts Geographic Information System (MassGIS) digital data), approximately 1,614 acres in Lee (13% of the ACEC), 3,517 acres in Lenox (29%), 3,166 acres in Pittsfield (26%), and 3,978 acres in Washington (32%). The ACEC includes all nine of the inland resource features listed in the ACEC Regulations (Fishery Habitat, Inland Wetlands, Inland Surface Waters, Water Supply Areas, Natural Hazard Areas, Agricultural Areas, Historical/ Archaeological Resources, Habitat Resources, and Special Use Areas) of which a minimum of four are required for nomination review (301 CMR 12.06).

The boundary focuses on the 13-mile corridor of the Upper Housatonic River from southern Pittsfield to northern Lee, and portions of the supporting watersheds that drain into the river from the east and west. This section of the Housatonic River includes a complex ecosystem that includes the river, adjacent wetlands and floodplains, several coldwater tributary streams, large expanses of wildlife and rare species habitat, and the steep, forested, western slopes of October Mountain State Forest. There are also historical and archaeological resources, farmland and open space, and scenic and recreational areas. Acreages, numbers, and percentages of important resource features include:

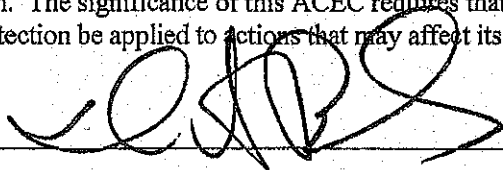
- Public and private non-profit open space totals approximately 7,788 acres, or 63% of the ACEC (including 1,057 acres in Lee; 1,239 in Lenox; 1,578 in Pittsfield; and 3,914 in Washington). The largest permanently protected areas within the ACEC are October Mountain State Forest (approximately 5,517 acres or about 1/3 of this state forest managed by the DCR), and the state George Darey Wildlife Management Area (818 acres managed by the Division of Fisheries and Wildlife (DFW)).
- Approximately 8,373 acres or 68% of the ACEC is comprised of forest, of which 6,605 acres are protected open space, and 985 acres or 8% are farmland according to the state's 1999 Land Use data (detailed in the Habitat Resources Section).
- There are 1,845 acres of wetlands identified by MassGIS data, of which 559 acres are shrub swamp, 529 acres are forested wetlands, and 390 acres are open water.
- The regionally significant biodiversity and wildlife habitat in the designated area is indicated by the exceptional number of rare species (32), Certified and Potential Vernal Pools (46), and the combined total of 11,405 acres or 93% of the area delineated as viable habitat by the DFW's Natural Heritage & Endangered Species Program (NHESP). Of this total, 7,869 acres (64%) of the ACEC is designated as BioMap Core Habitat and Supporting

regional priorities for the area, establishing specific objectives that can be accomplished through partnerships. I strongly encourage the formation of an ACEC stewardship group that develops stewardship goals and objectives and carries out actions developed among the communities, and all levels of government, community and environmental organizations, and residents. The Upper Housatonic River ACEC designation can provide a regional planning framework to encourage this coordination and positive stewardship for environmental resource management and open space preservation. EEA and ACEC Program staff can provide technical assistance to the stewardship committee.

**Conclusion**

Based on the foregoing, I am pleased to exercise the authority granted to me pursuant to Mass. Gen. L. ch. 21A, § 2(7), to designate the Upper Housatonic River as an Area of Critical Environmental Concern. The significance of this ACEC requires that the highest standards of environmental review and protection be applied to actions that may affect its resources.

Signed: \_\_\_\_\_



Date: \_\_\_\_\_

3/30/09

Ian A. Bowles  
Secretary of Energy and Environmental Affairs

March 30, 2009