



The
City of
Pittsfield
MASSACHUSETTS

Mayor James M. Ruberto

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Date: May 12, 2006

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Urgent

For Review

Please Reply

- Comments: Threshold criteria comments



The
City of
Pittsfield
MASSACHUSETTS

Mayor James M. Ruberto

May 10, 2006

Housatonic River Natural Resources Trustees
c/o Woodlot Alternatives
30 Park Drive
Topsham, ME 04086-1737

RE: City of Pittsfield Natural Resources Damages Fund Proposal
Revitalization of the West Branch of the Housatonic River

This correspondence is in regards to the recent City of Pittsfield submission of the "Revitalization of the West Branch of the Housatonic River" proposal to the Housatonic River Natural Resources Trustees. The Greenway Component of that proposal was deemed ineligible to proceed to Stage 2 evaluation because it was considered to fail Stage One Threshold criterion 3: "proposed project is not an action presently required under federal, state, or local law." The specific reason cited for failure was "many of the activities comprising the Greenway component of the proposal appear to be minimum requirements of the City of Pittsfield's NPDES Phase II Small MS4 Stormwater Permit."

The City of Pittsfield formally requests reconsideration of and change of the decision by the Massachusetts Sub Council of the Housatonic River Natural Resource Trustees for the following reasons.

Intent of the NPDES Phase II Small MS4 Stormwater Program

According to guidance documents provided by EPA, "The Phase II program for MS4s is designed to accommodate a general approach using a Notice of Intent (NOI) as the permit application. The operator of the regulated small MS4 must include in its permit application, or NOI, its chosen BMPs and measurable goals for each minimum control measure. To help permittees identify the most appropriate BMPs for their program, EPA issues a Menu of BMPs to serve as guidance. NPDES permitting authorities can modify the EPA menu or develop their own list." Provided the permittee, in this instance the City of Pittsfield, addresses the 6 program elements, termed minimum control measures, (Public Education and Outreach, Public Participation / Involvement, Illicit Discharge Detection and Elimination, Construction Site Runoff Control, Post-Construction Runoff Control and Pollution Prevention 'Good Housekeeping) in some way, shape, or form, there is wide latitude as to how a municipality can meet the Phase II requirements. There is no "prescriptive, top-down" way for the municipality to meet the requirements. The City of Pittsfield, through its NOI, has proposed how it would comply with the Phase II requirements. The content of the NOI is all that that City of Pittsfield has to comply with. The EPA has approved the City's NOI. The only relevant documents are the Phase II NOI and subsequent Annual Reports.

(Copies of Pittsfield's Phase II NOI and subsequent Annual Reports will be provided if you have not had an opportunity to review them. Pittsfield staff is available to review the contents of these documents.)

Content of the City of Pittsfield NOI versus Primary Intent of the Proposal

The specific reason cited for failure of the Stage One evaluation was "many of the activities comprising the Greenway component of the proposal appear to be minimum requirements of the City of Pittsfield's NPDES Phase II Small MS4 Stormwater Permit."

This is simply not the case. The following is a description of the extreme differences between the two.

- The Phase II NOI makes no mention of developing a Greenway Plan.
- One of the main emphases of the "Revitalization of the West Branch of the Housatonic River" proposal (referred to as NRD proposal) is the improvement to the riparian habitat along the West Branch, including a stream inventory and evaluation. The Pittsfield Phase II NOI contains no requirement for riparian habitat inventory, evaluation or improvement.
- The NRD proposal would identify areas in need of river clean-up. The Phase II NOI contains no mention of this.
- The NRD proposal has a significant component related to recreational improvement and enhancement, including an inventory and evaluation of existing parks, park land and river access areas. The Phase II NOI makes no mention of this.
- The NRD proposal has an extensive public participation and involvement process related to the West Side neighborhood envisioned and regular meetings and interactive engagement. The Phase II NOI provides only limited public participation activities, such as twice yearly bill inserts.

Eighty percent (80%) of the NRD proposal is clearly and substantially different from Phase II NOI.

Stormwater Aspect of the NRD Proposal

The stormwater component of the NRD Proposal (estimated at 20% of the proposal) has some cross reference to the Phase II NOI. However, the Phase II NOI contains general unspecified recommendations for the whole city and makes no specific mention of the West Side neighborhood.

For instance, the Phase II NOI contains a general Minimum Control Measure to Identify Illicit Discharges. This is a broad unspecified goal that would identify illicit discharges based on an observed problem or random opportunity basis. There is no specific mention that illicit discharges would be identified along the West Branch Housatonic River. While it is technically true that that City, through its Phase II NOI would ultimately be required to identify illicit discharges along the West Branch as part of a city-wide plan, there is no indication in the Phase II NOI as to when that would occur. There is no requirement in the Phase II NOI that the City inspects or identifies a certain number of discharges each year or in a specific area of town. It was believed that the NRD proposal would substantially expedite illicit discharge detection along the West Branch, thereby potentially accelerating water quality improvements. Inasmuch as one of the restoration priorities are to "restore aquatic biological resources directly or enhance the

habitats or these resources (*e.g., enhancements in water quality*) it was believed the NRD proposal would advance that priority to a much greater degree than would occur through the long-term implementation of the Phase II NOI.

The NRD proposal would evaluate the physical condition of the inlet and outfall structures in the vicinity of the West Branch in the West Side neighborhood. This would lead to improved treatment of stormwater quality. There is no such requirement in the Phase II NOI. (The requirement for structural storm water management facilities identified in the City's Phase II NOI applies only to new development and redevelopment, little of which has occurred in the West Side neighborhood.

The Phase II NOI contains a requirement for storm system GIS mapping. The results of this work would be used, not duplicated, in the NRD proposal to assist in evaluation of the storm system. The Phase II NOI contains no requirement for GIS evaluation.

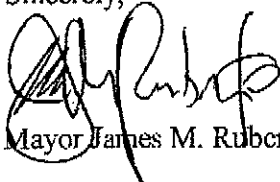
The NRD proposal contains a significant component related to stormwater at Wahconah Park. The Pittsfield Phase II NOI contains no specific stormwater requirements related to Wahconah Park. The items contained in the Pittsfield Phase II NOI relating to municipal property, such as catch basin cleaning, parking lot sweeping, etc. are not part of the NRD proposal.

The illicit discharge item of the Phase II NOI is 1 of 29 items contained in it. It is a relatively small component of the overall permit. Thus, the overall overlap between the Phase II NOI and NRD proposal is relatively insignificant.

Thank you for the opportunity to provide these comments and your willingness to reconsider your initial decision. In your reconsideration we also ask that you consider the importance of the proposed project to Pittsfield's overall revitalization efforts. In recent years Pittsfield has taken tremendous steps towards reinvigorating and reviving our neighborhoods. This has been hard and deliberate work requiring a neighborhood by neighborhood approach, in some instances house by house. This proposal would serve as an important catalyst to one of the most troubling remaining neighborhoods, the West Side. The resources and expertise this proposal would bring are sorely needed.

City of Pittsfield staff is at your complete disposal to work with you to re-shape this proposal if necessary. Furthermore, the City requests a meeting with the reviewers where we could go over in greater detail the NRD proposal and the Phase II NOI to elaborate the significant and substantial differences.

Sincerely,



Mayor James M. Ruberto