

Email chain of Residual Designation Info request and response –

From: **Ed Burt** <eburt.hd@gmail.com>
Date: Thu, Aug 11, 2022 at 2:58 PM
Subject: GURR's 308 Letter Response
To: Voorhees, Mark <Voorhees.Mark@epa.gov>

8/11/2022

Hi Mark,

The Water & Sewer Commission had to cancel tonight's regular monthly meeting. Until we can reconvene for an official Commission response, I'd like to convey an initial reaction to GURR's Residual Designation Information.

GURR's lack of plans, inaccurate General Construction Permit and associated SWPPP and overall lack of details just amplifies the environmental concerns which lead to the Residual Designation Petition. Also, since the Petition was submitted in early June, additional information, explained below, further supports the details and concerns outlined in the Petition.

It is safe to say that we fully support an EPA site visit as soon as possible. I would also recommend that all on-going site activities should be halted until plans and permits are up to date and accurate.

Specific comments related to the GURR's response are below. If there are any questions, or anything else we can provide, please do not hesitate to contact me.

Thank you

Ed Burt, Hopedale Water & Sewer Commission

The narrative of GURR's official response states that:

1. "erosion control measures are installed, where appropriate and per the SWPP Plan. Tree Harvesting of approximately 100 Acres has been completed The SWPP is implemented continually, as it relates to tree harvesting, erosion control and field inspections. The SWPP implementation will continue in way of constructing the temporary sedimentation basins, manage and repair any erosion control (as needed) and field inspections / reports. The areas of tree harvesting still have the existing ground cover intact (stumps, topsoil, etc.), excluding the haul road required and rail spur to access the harvested trees. Well Water exploration activities have begun."

- Yet GURR's General Construction Permit and associated SWPPP state a clearing of approximately 30 acres for the purpose to access GURR's other 18 acre property.
- The SWPPP states that the receiving waters are not impaired, however the Mill River is in fact impaired for metals and pcbs.
- GURR's GCP/SWPPP is not just out of date, it is not, and may have never been accurate.
- Erosion control measures are installed – WHERE APPROPRIATE. According to who?

- After the WS Commission submitted the Residual Designation Petition, the Hopedale Conservation Committee filed a violation notice (attached), further supporting the detailed concerns outlined in the Petition. GURR has ignored this violation notice.
- GURR states that the “SWPP is implemented continually”, which implies an SWPPP that reflects current activities in relation to the final plans. To the best of our knowledge there is no final construction plan which raises the question if it is even possible for the SWPPP to be accurate. GURR’s next narrative point highlights a project that is being defined on the fly -

2. The site design / layout for this Rail and Logistics Project is underway including building layouts, rail logistics, roadways, and other necessary infrastructure. As the design continues, the preliminary stormwater design will be further defined. The stormwater design will include Best Management Practices (BMP’s), such as Detention Basins, Recharge Areas, Water Quality Basins. The stormwater design will mitigate all Pre & Post Peak Flow Rates, Remove the required annual loading of Total Suspended Solids, Phosphorous and Nitrogen as required by the EPA’s Region I Stormwater Requirements. Should a 404 permit be required with ACOE, such permit will be applied for.

- GURR’s latest project plan is certainly not reflected in the GCP, and may not even be viable. Attached is one of the Town’s affidavits specifically related to GURR’s most recent site plan. If the overall plan isn’t viable, again, how can its related SWPPP be accurate?

Regarding the formal detailed information provided.

- Without a plan, it is not surprising that the detailed response does not provide any details.

Regarding M Milanoski’s accompanying email:

- I agree that it is important to note that the Town is contesting the ownership of the property. That fact alone magnifies the importance that what is happening to the site every day should be environmentally sound.
- The WS Commission has been extremely conscious and careful about how we communicate these issues. We are not aware of any factual misrepresentations in our Petition, or with any of the information that we have communicated over the past 3 years.
- I feel obligated to respond to the two examples GURR’s President provided:
 1. I have never heard the term “virgin industrial zoned land”. The property was forestry and wetlands, a Watershed, providing the natural water filtration protection up gradient from the Town’s water supply. Losing this watershed will have an impact on the water supply which is the concern that has been consistently communicated over the past 3 years.
 2. Regarding the Flint Michigan reference, a question was asked about lead due to the land disturbance in an area of an abandoned skeet shooting range. I encourage you to listen to the meeting to hear for yourselves the question and response. This question is raised at about the 2 hour and 8 minute mark and runs for about 8 minutes. (Meeting video link: https://townhallstreams.com/stream.php?location_id=56&id=44509)

Voorhees, Mark

9:33 AM (2
hours ago)

to me, Newton, Jeff, Andrew, Stephanie, Denny, Mark, Laura

Hi Ed,

Per your request please see below The GURR response to the EPA's 308 letter request for information regarding site development activities. The message was sent to Newt. As we just discussed, we decided that I should serve as the EPA point contact for you so that we can organize the flow of information to the appropriate EPA persons since the issues you have raised are interrelated and cross program areas.

Thanks for your time
Mark

From: Michael Milanoski <mmilanoski@graftonuptonrr.com>

Sent: Friday, August 5, 2022 12:31 AM

To: Tedder, Newton <Tedder.Newton@epa.gov>

Cc: Flannery-Keith, Erin <Flannery-Keith.Erin@epa.gov>; Moraff, Kenneth <Moraff.Ken@epa.gov>

Subject: RE: URGENT LEGAL MATTER Request for Information Regarding 364 West Street Hopedale Massachusetts

Newton,

Attached is our response due on the 8th. Look forward to setting up a collaboration meeting with you in the near future.

It is also important to note that the Town of Hopedale is in the process of attempting to take 130+ acres of railroad property from the Grafton and Upton Railroad after a new board of selectmen took over the voting majority, they have an anonymous out-of-town funder who is paying the town's legal bills and after they let go of their two previous town attorneys that negotiated a settlement agreement with the Town and Grafton and Upton Railroad that is a legally binding agreement the new Board of Selectmen are attempting to Breach.

This breach of contract by the town has forced us to go to federal court and the chief justice agreed to put a stay on the town from recording their taking action given railroad property cannot be taken by a town or state government. Attached for your review is our filing with the federal court, my affidavits, and the settlement agreement.

My only purpose for sharing this information with you as I previously worked in the public sector for over 25 years as town managers and wanted EPA to understand what is behind this is politics and much if not all the information that is being share is not factually correct.

For example the Water Commission Chair has stated that our property/project that is on virgin industrial zoned land is going to contaminate the town's drinking water supply that is nearly three miles away, even though the Town Landfill is leaching into the Mill River, the former

Draper property with 21E sites appears to also be leaching into the Mill River with heavy metal, then there is the town Cemetery on the Mill River, followed by the Town Sewer treatment plant that discharges into the Mill River, then you find the Town well in part drawing from the Mill River while the town's wells have high levels of PFAS in them. This was followed by their water manger suggesting our railroad project may create another Flint Michigan despite this is virgin land and we will have all necessary stormwater built into the site and the town and railroad negotiated in our settlement agreement provided additional protection to the site.

We are a small business that generates less than a few million dollars in rail revenue that pays our employees, and their benefits, fuel, and rest is invested back into our rail infrastructure and maintenance. This project is designed to address significant supply chain logistics that needed to address in part the national supply chain. I believe this railroad transloading and logistics center is not only necessary for the freight rail system but will be an environmentally friendly master planned site we can all be proud of.

Regards,
Michael

Michael R. Milanoski, President
Grafton and Upton Railroad Company
42 Westboro Road, North Grafton, MA 01536
<http://graftonuptonrr.com/>
508-965-3493

From: Tedder, Newton <Tedder.Newton@epa.gov>
Sent: Tuesday, July 19, 2022 10:04 AM
To: Michael Milanoski <mmilanoski@graftonuptonrr.com>
Subject: RE: URGENT LEGAL MATTER Request for Information Regarding 364 West Street Hopedale Massachusetts

If you need any additional clarification please reach out as well. Happy to have a meeting as well as you suggested and we can nail down logistics etc after the 8th

[Newton Tedder](#)
Senior Permit Writer
Stormwater Section
EPA Region 1 Water Division
617-918-1038

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<https://www.epa.gov/npdes-permits/stormwater-tools-new-england>

From: Michael Milanoski <mmilanoski@graftonuptonrr.com>
Sent: Tuesday, July 19, 2022 9:52 AM
To: Tedder, Newton <Tedder.Newton@epa.gov>

Cc: Flannery-Keith, Erin <Flannery-Keith.Erin@epa.gov>; Moraff, Kenneth <Moraff.Ken@epa.gov>

Subject: RE: URGENT LEGAL MATTER Request for Information Regarding 364 West Street Hopedale Massachusetts

Thank you we will have everything that is available submitted by the 8/8/22.
Michael

Michael R. Milanoski, President
Grafton and Upton Railroad Company
42 Westboro Road, North Grafton, MA 01536
<http://graftonuptonrr.com/>
508-965-3493

From: Tedder, Newton <Tedder.Newton@epa.gov>

Sent: Tuesday, July 19, 2022 9:12 AM

To: Michael Milanoski <mmilanoski@graftonuptonrr.com>

Cc: Flannery-Keith, Erin <Flannery-Keith.Erin@epa.gov>; Moraff, Kenneth <Moraff.Ken@epa.gov>

Subject: RE: URGENT LEGAL MATTER Request for Information Regarding 364 West Street Hopedale Massachusetts

Mr Milanoski,

Thank you for your email. Per your request, the new deadline to respond to the attached information request will now be August 8, 2022. The date has not been changed in the original request but this email serves as granting you until August 8th to send in all requested materials.

Thank you

Newton Tedder
Senior Permit Writer
Stormwater Section
EPA Region 1 Water Division
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From: Michael Milanoski <mmilanoski@graftonuptonrr.com>

Sent: Monday, July 18, 2022 2:39 PM

To: Tedder, Newton <Tedder.Newton@epa.gov>

Subject: RE: URGENT LEGAL MATTER Request for Information Regarding 364 West Street Hopedale Massachusetts

Newton,

Appreciated the call last week. As mentioned, we had survey on site last week and was hopping to have results but still don't have yet. I'm told they are working to finalize and identify the areas where we have harvested the trees for lumber. Also, this is all consistent with the SWPP plan that was submitted.

We have not begun any land disturbance (stump removal) but for the construction access driveway and associated stormwater of plan.

Also, as a follow-up to our call you may have received some incorrect statements that GU built a new bridge over the Mill River. As I stated that is not correct, we did re-deck and existing bridge and embankment that has been there it looks like a 100 years. You will see in the picture 3 large I-beams that were pre-existing as was the embankment. We did remove the older 2x10 decking and replaced it with crane-mats to better distribute the weight.

That all being said I would respectfully request a 2-week extension that was due on July 25th to August 8th as we discussed. Once you have had a chance to review our response, I would suggest that we have a consultation meeting during the first week in September. Kindly keep in mind that as a railroad we understand and accept that we have to follow the clean water standards and other EPA regulations that we have every intention of doing as the project advances.

Regards,
Michael

Michael R. Milanoski, President
Grafton and Upton Railroad Company
42 Westboro Road, North Grafton, MA 01536
<http://graftonuptonrr.com/>
508-965-3493

From: Tedder, Newton <Tedder.Newton@epa.gov>
Sent: Tuesday, July 12, 2022 9:33 AM
To: Michael Milanoski <mmilanoski@graftonuptonrr.com>
Subject: FW: URGENT LEGAL MATTER Request for Information Regarding 364 West Street Hopedale Massachusetts

Mr Milanoski

We are just past the half way point in the time allotted to respond to the Section 308(a) information request delivered to you on June 22nd. I am reaching out to see if you have any questions on the request. As you know, a response is due July 25, 2022

Thank you

Newton Tedder

Senior Permit Writer
Stormwater Section
EPA Region 1 Water Division
617-918-1038

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<https://www.epa.gov/npdes-permits/stormwater-tools-new-england>

From: Tedder, Newton
Sent: Wednesday, June 22, 2022 4:32 PM
To: mmilanoski@graftonuptonrr.com
Cc: Moraff, Kenneth <Moraff.Ken@epa.gov>; Flannery-Keith, Erin <Flannery-Keith.Erin@epa.gov>
Subject: URGENT LEGAL MATTER Request for Information Regarding 364 West Street Hopedale Massachusetts

Dear Mr. Milanoski:

Enclosed you will find a request for information related to the development at 364 West Street in Hopedale Massachusetts (GURR_308_Hopedale_6-22-22_signed.pdf). This request is being made under Section 308(a) of the Clean Water Act. The purpose of this information request is to gather information that will allow EPA to properly respond to a Clean Water Act section 402 National Pollutant Discharge Elimination System Residual Designation Petition submitted by the Town of Hopedale on June 2, 2022 for stormwater discharges from the site (I have also enclosed the petition to this email). Accordingly, EPA requires Grafton and Upton Railroad Company to submit the information requested in the enclosed letter by July 25, 2022.

Thank you,

[Newton Tedder](#)
Senior Permit Writer
Stormwater Section
EPA Region 1 Water Division
617-918-1038