

# THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



## Department of Agricultural Resources

### State Reclamation and Mosquito Control Board

251 Causeway Street, Suite 500, Boston, MA 02114

617-626-1700 fax: 617-626-1850 www.mass.gov/agr



DEVAL L. PATRICK  
Governor

TIMOTHY P. MURRAY  
Lieutenant Governor

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SCOTT J. SOARES  
Commissioner

#### MEMBERS

Lee Corte-Real, **Chairman**  
Department of Agricultural  
Resources (DAR)

Anne Carroll  
Department of Conservation  
And Recreation (DCR)

Gary Gonyea  
Department of Environmental  
Protection (DEP)

**DATE: Wednesday, October 27, 2010**  
**TIME: 10:00 AM-NOON**  
**LOCATION: UMASS Eastern Extension Center, 240 Beaver Street, Waltham, MA**  
*1<sup>st</sup> Floor Conference Room*

#### Meeting Agenda

#### ADMINISTRATION

Mark S. Buffone  
Executive Director

Alisha Bouchard  
Project Administrator

- A. *Start:* Call to Order by Chairman Corte-Real, and Attendance.
- B. *Minutes/Summary:* The Board will consider for approval the meeting minutes of the June 23<sup>rd</sup>, 2010 and August 4<sup>th</sup>, 2010 meeting. **(Voting Required)**
- C. *Devens Enterprise Zone:* The Board will consider voting to allow Devens to become part of the Central MA Mosquito Control Project **(Voting Required)**
- D. *New Budget Policy Amendments:* The Board will consider voting to adopt refinements to the new Budget Policy approved in March, 2010. **(Voting Required)**
- E. *FY 12 Mosquito Control Budget:* The Board will discuss and review any budget facts, data, concerns, public meetings.
- F. *Public comment/input period:* The Board will provide an opportunity for the general public to speak and listen to their concerns.
- G. *Other Business:*
  - NPDES Update-Gary Gonyea
  - Mosquito Control Project 2010 Annual Reports
  - 2011 Meeting Schedule
  - Northeast Mosquito Control Association Meeting
- H. *Adjournment:* The Board will officially adjourn the meeting.

#### MOSQUITO CONTROL PROJECTS & DISTRICTS

Berkshire County Mosquito  
Control Project

Bristol County Mosquito  
Control Project

Central Massachusetts  
Mosquito Control Project

Cape Cod Mosquito  
Control Project

East Middlesex Mosquito  
Control Project

Norfolk County Mosquito  
Control Project

Northeast Massachusetts  
Mosquito & Wetland  
Management District

Plymouth County Mosquito  
Control Project

Suffolk County Mosquito  
Control Project

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Control Project

Northeast Massachusetts  
Mosquito & Wetland  
Management District

Plymouth County Mosquito  
Control Project

Suffolk County Mosquito  
Control Project

**Subject:** Meeting Minutes

**Date:** Wednesday, October 27, 2010

**Place:** UMASS Eastern Extension Center (*Waltham Field Station*)  
240 Beaver Street  
Waltham, MA 02452-8022

**Present:**

#### **Board and Administration:**

Lee Corte-Real, Department of Agricultural Resources, Chairman  
Anne Carroll, Department of Conservation and Recreation, Member  
Gary Gonyea, Department of Environmental Protection, Member  
Mark Buffone, Executive Director  
Alisha Bouchard, Projects Administrator

#### **Mosquito Control Project Commissioners:**

Carolyn Brennan, Plymouth County Mosquito Control Project  
Lee Peck, Plymouth County Mosquito Control Project

#### **Mosquito Control Project Directors/ Superintendents /Assistants:**

Ellen Bidlack, Plymouth County Mosquito Control Project  
Jack Card, Northeast MA Mosquito Control & Wetlands Management District  
Tim Deschamps, Central MA Mosquito Control Project  
John Doane, Cape Cod Mosquito Control Project  
David Henley, East Middlesex Mosquito Control Project  
Bruce A. Landers, Suffolk County Mosquito Control Project  
Dave Lawson, Norfolk County Mosquito Control Project  
Priscilla Matton, Bristol County Mosquito Control Project  
Timothy McGlinchy, Central MA Mosquito Control Project  
Gabrielle Sakolsky, Cape Cod Mosquito Control Project  
John Smith, Norfolk County Mosquito Control Project  
Anthony "Tony" Texeira, Plymouth County Mosquito Control Project

**Others:**

Heidi Ricci, Mass Audubon

Lee S. Smith, Devens-MassDevelopment

- A. Call to Order by Chairman Corte-Real, and Attendance.** Chairman Lee Corte-Real called the meeting to order at 10:01 AM.
- B. *Minutes/Summary:* The Board will consider for approval the meeting minutes of the June 23<sup>rd</sup>, 2010 and August 4<sup>th</sup>, 2010 meeting. (Voting Required)**
- B.1: Background:** The Chairman stated that the minutes were sent out for review and approval, and asked members if there were any comments, changes, or amendments regarding the minutes. Hearing none, he entertained a motion to approve the minutes of June 23<sup>rd</sup> and August 4<sup>th</sup>, 2010.
- B.2: Questions and Discussions:** Attendance was duly noted for the record by Gary Gonyea stating that Anne Carroll was present representing the Department of Conservation and Recreation and Gary Gonyea representing the Department of Environmental Protection and noted the Executive Director, Mark Buffone present. The Chairman apologized for not calling roll and recognized himself as a representative of the Department of Agricultural Resources and stated there was a quorum. Gary Gonyea proceeded to make a motion regarding the minutes.
- B.3: Action Taken:** G. Gonyea moved to approve the meeting minutes of both the minutes of June 23<sup>rd</sup> and August 4<sup>th</sup>, 2010. The motion was seconded by A. Carroll and was minutes were voted unanimously 3-0.
- C: *Devens Enterprise Zone:* The Board will consider voting to allow Devens to become part of the Central MA Mosquito Control Project (Voting Required)**
- C.1: Background:** M. Buffone explained to the Board that Lee Smith representing Deven-MassDevelopment was present to answer questions. Tim Deschamps, Director of Central MA Mosquito Control provided the following bullets as background regarding this matter.
- March 28, 2007 Board meeting Board considered Devens membership
  - Board conditionally approved asking for 3 towns that make up Devens Enterprise Zone, Shirley, Harvard, and Ayer sign off on membership
  - Not until November 2009 was the issue brought again when Joint Board of Selectmen of the 3 towns asked T. DesChamps to make a presentation
  - Due to several reschedules of meeting and presentation, no action resulted
  - The Central MA Commission voted unanimously on September 8, 2010 to accept Devens as part of our service area. No Commissioners had any objections; since Devens is only about 5 square miles, has a low residential population and they feel that the program can incorporate them without any problems i.e. no additional staff, equipment purchases, etc. would be needed.
  - The \$12,000 annual assessment amount calculated is acceptable to Mass Development.

The below written synopsis from T. Deschamps was requested by the Board prior to the meeting.

## **DEVENS SYNOPSIS**

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*October, 2010*

Devens approached CMMCP in the summer of 2006 regarding our program. In August 2006 a summary of services offered was sent to Charles Duval who worked for Devens in the Highway Department. One meeting was held and a tour of Devens was given to CMMCP.

At the March 28, 2007 SRMCB meeting, item #6 on the agenda was discussion of a letter the Devens Enterprise Zone (DEZ) sent the SRMCB requesting permission to join the Central Mass. Mosquito Control Project. SRMCB voted to approve membership, but under certain conditions (from the 3/28/07 SRMCB meeting minutes, in italics):

- 1. MassDevelopment will provide the Control Board with a letter of support and request to participate in the Project from the Devens Citizens Advisory Committee;*
- 2. MassDevelopment will provide a notarized certificate of vote on its Board of Directors authorizing its Executive Vice President for Devens Operations to seek membership in the Project.*
- 3. MassDevelopment will work with the SRMCB and the Dept. of Revenue to determine the appropriate membership fee and mechanism for direct payment of the fee by MassDevelopment.*

*After the motion to accept was seconded. It was restated that there was a motion on the table to conditionally accept the Devens Enterprise Zone application for membership into the Central MA Mosquito Control project as conditioned, and in addition that MassDevelopment seek clarification with the three (3) communities or with the Attorney General office the legal basis for their participation or denial of participation in the mosquito district. The Board felt this necessary in order to avoid these towns fighting the SRMCB and MassDevelopment. Either the towns have to give something to MassDevelopment supporting or having no objection or the Board.*

CMMCP had little to no further contact with Devens until November of 2009. The Joint Boards of Selectmen (JBOS) from the towns of Harvard, Shirley and Ayer made several attempts over the next 5-6 months to schedule an informational meeting with CMMCP but each time the meeting was rescheduled, and ultimately no meeting was ever held. It is the understanding at CMMCP that Shirley and Ayer Boards of Selectmen voted to allow DEZ to join without conditions, and Harvard voted to allow acceptance conditional to a review by the Attorney General on DEZ's authority to grant permission to join.

CMMCP began receiving information from DEZ counsel Lee Smith in April or May 2010 regarding the assessment amount. Through subsequent e-mail and phone conversations between DEZ, SRMCB, CMMCP and Dept. of Revenue it was determined that CMMCP would have to come up with an assessment amount, SRMCB could issue an invoice and DEZ would pay SRMCB the agreed upon assessment.

CMMCP determined in August 2010 that \$12,000 would be the assessment, DEZ voted to accept in September 2010 and SRMCB is working on the invoicing procedure.

At the Sept. 8, 2010 CMMCP Commission meeting it was voted unanimously to accept Devens as part of the CMMCP service area.

### **C.2: Questions and Discussion:**

Chairman Corte-Real raised the issue of the funding mechanism and asked if this was still a problem. A. Bouchard, Projects Administrator stated that fiscal has handled this matter and can generate a bill via the MMARS accounting mechanism in the amount of \$12,000 and invoice Mass Development. She stated that all that needed to be done is to secure a vendor code # or tax id #. Mass Development would in turn submit a check payable to the Commonwealth of MA. Thereafter, fiscal will deposit the funds into Central's Mosquito Control Project account.

The Chairman mentioned that he was aware of opposition from groups within some and asks if T. Deschamps discussed with individual towns. T. DesChamps answered saying that no negative comments or concerns have been received from any resident or town officials.

Lee Smith commented that there was opposition from Harvard and they have requested Devens to seek an opinion from the Attorney General. It was Devens position that the other towns have no jurisdiction to determine whether or not membership should be granted or whether the Devens Enterprise Zone must apply for it. The AG stated that their office could not render an opinion because of their status as a state agency. Thereafter, an opinion was sought from Bob Ritchie, MDAR General Counsel who agreed with the Devens position that they do not need the consensus of the 3 towns. He stated that Devens has written consent from Ayer and Shirley, and he heard that Harvard has conditionally approved it subject to the AG opinion.

Heidi Ricci, a resident of Shirley, and associate member of the Shirley Conservation Commission, requested that a copy of the legal opinion and commented that there has been no public process where the public input was sought. Her concern was that there should be a town vote to join the mosquito control district.

Chairman Corte-Real commented that the Devens Enterprise Zone does not fit into the model of standard communities within the Commonwealth.

She questioned the legality and requested that any applications be limited to the portion of the Devens Enterprise Zone within the town of Ayer which is a member of the district.

Lee Smith stated that the towns do not have any jurisdiction over the Devens Enterprise Zone (DEZ) and the residents of the DEZ have been adamantly requesting mosquito control services for 3 years. In terms of the town meeting, based on the AG and MDAR Counsel opinions, no one can require a town meeting to endorse membership. He commented that the DEZ operates just like a municipality but is not a municipality.

Heidi Ricci respectfully requested a copy of the legal opinions and stated she was very concerned about the process since there has been no public discussion in the Town of Shirley regarding this matter.

T. Deschamps remarked that the majority of area that the DEZ covers is Harvard and Ayer. He explained that the DEZ mosquito program consist of catch basin treatments for West Nile virus control, surveillance, and limited spraying around parade grounds for events, and some small ditch system maintenance that would be monitored. He stated that there would be no significant pesticide applications.

Lee Smith commented that MassDevelopment would not have any objection to sending some type of notice to the surrounding towns explaining exactly where and what the applications would be, and discuss to anyone interested what would be anticipated. Further, MassDevelopment would voluntarily keep the surrounding towns informed through the Joint Board of Selectmen meeting on the proposed mosquito control program and take any public comments.

**C.3: Action Taken:** The Board recognized the authority of the DEZ but was in consensus that an outreach effort to neighboring towns explaining that the mosquito control program planned for the DEZ will be limited is in order so that the public will have an understanding of what is occurring. Chairman Corte-Real asked the members if they would like to table the matter. Gary Gonyea made a motion to approve the request for membership pending distribution of both the AG's and MDAR General Counsel opinions. Further, the Board requests that MassDevelopment via Joint Board of Selectmen meeting answer any questions that the public what the proposed mosquito control program entailed and take any public comments. The motion was seconded by A. Carroll and was minutes were voted unanimously 3-0.

**D: New Budget Policy Amendments:** The Board will consider voting to adopt refinements to the new Budget Policy approved in March, 2010. (Voting Required)

**D.1: Background:** The Chairman asked the Executive Director to bring the Board up to date on this matter. M. Buffone stated that after the original policy was adopted in March 2010, several other concerns were raised about the new policy. This newest revision would further clarify and define the Board's decision making process as well as outline a time line where a process of feedback and input could occur. Mr. Buffone highlighted the pertinent amendments to the Board.

**D.2: Questions and Discussions:** There were a number of questions and comments regarding the revisions. The Board members and Executive Director answered by highlighting the amended language. The Board members emphasized that the changes were to clarify and not change substantially the intent of the policy. The Executive Director explained that the policy with these revisions help support approval of their mosquito control program budgets. Several of the mosquito control programs told the Board the dates of their public meeting such as Cape Cod on November 16<sup>th</sup> and Norfolk County on January 12<sup>th</sup>. There were a couple of comments that were raised regarding reference to state funds on Page 1 of the policy originally approved in March 2010.

Gary Gonyea emphasized that this policy and public meetings satisfies a requirement from the MEPA Certificate that the programs present what they did the prior year to their member communities. Secondly, this is state money being used for mosquito control purposes with these budgets set by Commissions, and the Board wants to make sure that those budgets are distributed to member communities since they do not have a process of input in the budget process. A question was asked pertaining to public meetings where few, if any public persons, attended. Gary Gonyea stated that in these circumstances that the mosquito program might follow up to the cities and towns with a letter that explains they held a public meeting and received no negative input and explain that they were proceeding with the budget as proposed even though the policy does not require it. There was further issue with the word unanimous in the policy. The Board clarified that if the Board will deem unanimous support as a compelling reason to support the increases of a mosquito control program's budget. However, the Board does not seek unanimous support.

M. Buffone recommended that the Board needs to carry out its statutory obligation and if the Board deems it necessary, it can change the policy at a future point. The executive director noted that senior policy decision maker and others supported the idea of a unanimous support since it clearly signals that proposed increases in budgets were well supported at the local level especially in difficult financial times.

**D.3: Action Taken:** Gary Gonyea made a motion to accept the policy amendment as written and move forward and revisit it one year to insure that the policy meets the objectives of the policy was meant to address, if necessary. The motion was seconded by A. Carroll and voted unanimously 3-0

- E:** *FY 12 Mosquito Control Budget:* The Board will review budget facts, data, concerns, public meetings and discuss accordingly.
- E.1:** **Background:** M. Buffone stated that the Board received budget information of the mosquito control programs from Alisha Bouchard. He explained that this is an opportunity to review this information and get feedback from the mosquito control programs as discussed previously. He commented that the mosquito programs expressed concern that the Board is not discussing the budget, sooner than later, especially if the Board is inclined to vote for level funded budgets. M. Buffone informed the Board that Projects Administrator Alisha Bouchard was present to summarize the details of the information provided to the Board and answer questions. Alisha began by describing the FY 12 budgets and stated that the many of the requests are still subject to Commission approval. She noted that 3 of the 9 mosquito control programs requested level funded budgets including Berkshire, Central, and Suffolk. The Projects Administrator informed the Board of the other projects and the proposed increases for FY 12. She told the Board that the total was almost 10.8 million dollars. A. Bouchard stated that the budget numbers were preliminary estimates that accompanied spending plans and subject to final approval of the various mosquito control project commissions. G. Gonyea commented that narratives are important to help the Board understand what the proposed increases will cover. He emphasized in these fiscal times that increases that propose adding new FTE's should/must be justified. A. Bouchard highlighted the Board's administrative budget which last fiscal year reduced the budget by 24% but in the meantime, the Board had to absorb significant chargeback's for MDAR administrative services for HR, fiscal and procurement services. She went on to explain item by item the proposed Board administration budgets.
- E.2:** **Questions and Discussions:** A request was made to have the projects administrator send the Board's administration budget for public meetings. In addition, she stated that she would send the breakdown of your member municipalities' contribution by town. A. Bouchard remarked that the amount of funding for the Board's Administrative budget averages approximately 3% of the total project funding. G. Gonyea asked the projects administrator if she had a list of all the payroll increases submitted by the mosquito control projects per 14 D. She read aloud those projects that have submitted payroll increases including but not limited to, increases in payroll (with retroactive), COLA, and seasonal increases that were approved by various mosquito control Commissions. G. Gonyea expressed concern in light of the fiscal difficulties facing many communities state-wide that projects have approved increases and that the Board per section 14 D has no authority over these personal increases. The Executive Director remarked that this discussion was again an opportunity for the mosquito control projects representatives to help the Board understand fully the proposed FY 12 budget increases along with justification for these increases. There was a request to post on the Board's website the dates and locations of the public meetings held by the various mosquito control projects.
- E.3:** **Action Taken:** No vote taken but the Board requested that this agenda item be placed on the next meeting agenda.
- F:** *Public comment/input period:* The Board will provide an opportunity for the general public to speak and listen to their concerns.
- F.1:** **Background:** Chairman Corte-Real asked if there was any other input not heard.
- F.2:** **Questions and Discussions:** Heidi Ricci asked if there was going to be any results of the aerial spraying, results of the monitoring made available. The Executive Director answered that there would be an "end of season meeting" on November 19<sup>th</sup> at the State Labs from 10:30 AM to noon where the various environmental groups would be invited to hear public presentations and results of the aerial spraying that occurred on August 5-7, 2010.

F.3: **Action Taken:** The Executive Director stated he would ask the state lab surveillance representatives to include Heidi in the final notification of this public meeting.

G: **Other Business:** *The Board would hear brief updates on the following items:*

1. NPDES Update-Gary Gonyea
2. Mosquito Control Project 2010 Annual Reports
3. 2011 Meeting Schedule
4. Northeast Mosquito Control Association Meeting

G.1: **Background:** Chairman Corte-Real asked those who would be presenting updates to keep them brief since the Board was running over its allotted meeting time.

***NPDES Update-Gary Gonyea updated the Board concerning National Pesticide Discharge Elimination System Permit describing the process.***

Current Plans (which Gary stated can be subject to change) the anticipated issue date of the General permit is December, effective April 2011.

All Applications (Notices of Intent) are to be sent to Bob Kubit, MassDEP and EPA

- 1) NOI Form - to be developed by EPA
- 2) Each mosquito program will need to file a NOI (different areas, pesticides, application methods)
- 3) Each Mosquito program will need to develop as part of NOI:
  - a) Pesticide Discharge Management Plan (see outline on p.16, section 5.1)
  - b) There will be a requirement of a Visual Monitoring Plan
  - c) Reporting Protocol - there will be an **annual report of pesticide usage** (include with the Board's Annual Reporting format and post on SRMCB website - format could be Excel spreadsheet, Database etc)
- 4) One Copy to EPA - contact is George Papadopoulos (617) 918-1579  
[papadopoulos.george@epamail.epa.gov](mailto:papadopoulos.george@epamail.epa.gov)
- 5) One Copy to DEP - contact is Bob Kubit (508)767-2854 [robert.kubit@state.ma.us](mailto:robert.kubit@state.ma.us)
- 6) **Application Fee of \$385** - Include Transmittal Form for Payment (on DEP Web site - category BRPWM14 - see links below)
- 7) <http://www.mass.gov/dep/water/approvals/surffms.htm#npdes2>  
<http://www.mass.gov/dep/service/online/forms.htm>
- 8) MassDEP will coordinate permit review with DAR - DEP will send copy of NOI to MDAR
- 9) DAR reviews, sends DEP notification of NOI approval
- 10) DEP sends EPA notification of State concurrence with Permit Conditions
- 11) EPA sends mosquito control program letter authorizing coverage under PGP
- 12) Mosquito control program will apply once - will be good for life of the General Permit (up to five years)
- 13) Mosquito control program will need to submit **Annual Compliance Fee \$175**
- 14) Mosquito control program will need to reapply when the General Permit expires (new NOI, etc.)
- 15) DEP will coordinate training effort in January; focus on Process, reporting requirements, etc.

John Smith offer to the Board that Dave Lawson has volunteered to develop a checklist to comply with the actual Program General Permit (PGP) Gary Gonyea said he would forward to John Smith. G. Gonyea made a number of suggestions to the mosquito control programs to stay ahead of this issue by cutting and pasting in an electronic format items such as existing MOU's, pesticide usage, and other annual report information such as person name, date, location, type of application, amount of material, and treatment area.

G. Gonyea remarked Bob Kubit would coordinate training in January on the PGP process. A discussion ensued on location. The Board members requested that this training be held separate from the Board meeting. It was anticipated that 1-2 persons from each mosquito control program and Board members would attend. The DEP office in Worcester, MA was suggested as a possible location.

### ***Mosquito Control Project 2010 Annual Reports***

M. Buffone informed the Board that it was time for mosquito control programs to submit the Annual Reports for the 2010 season. M. Buffone asked the Board what date would be adequate for submission. He added that if there were any refinements to the template, the Board should announce and/or discuss what it would like to see. Each year since 2007, refinements have been made. He remarked that Tim DesChamps has been point person to make changes in template for Board. Finally, he noted that the Board will need to determine a due date for these reports.

### ***2011 Meeting Schedule***

M. Buffone proposed Board meeting dates for 2011 and remarked that these dates mirrored the 2010 dates acceptable to the Board. He highlighted the dates and locations as follows: Chairman Corte-Real asked if other programs that might want to host the Board meeting since some programs have expressed disappointment that the Board does not come to Commission meetings held in other parts of the state. Tim DesChamps mentioned that that he would look into an alternate site, a local library in Central Ma and could be available without costs. Other individuals would look into the Cape and West Boylston sites. P. Matton would look into new site for October meeting or M. Buffone would see if the MDAR Amherst office was available.

*Proposed 2011 Meeting Schedule and other meetings can be scheduled on an as needed basis.*

*Wednesday, January 26, 2011-Waltham @ UMASS Eastern Extension Center (Waltham Field Station), 240 Beaver Street, Waltham, MA 02452 @ 10AM*

*Wednesday, March 23, 2011 Cape Cod Community College, Room 213, Lorusso Applied Technology Building, 2240 Iyannough Road (Route 132), West Barnstable, MA 02668*

*Wednesday, May 25, 2011-MA DCR West Boylston Field Office, 180 Beaman Street, West Boylston, MA 01583 (Budget Certification Meeting)*

*Wednesday, October, 26, 2011-Waltham@ UMASS Eastern Extension Center (Waltham Field Station), 240 Beaver Street, Waltham, MA 02452 @ 10AM*

### ***Northeast Mosquito Control Association Meeting***

M. Buffone informed the Board that the 56<sup>th</sup> Annual NMCA Meeting will be held at the Resort & Conference Center at Hyannis, MA from *December 6-8, 2010*. He cited the room cost and registration fee and encourage that all board members attend if possible.

G.2: **Questions and Discussions:** Various comments and suggestions were made.

G.3: **Action Taken:** Gary Gonyea made motion that the annual reports for the Board highlighting the 2010 mosquito season using the same template in previous years be submitted no later than the next Board meeting scheduled for January 26th, seconded by Anne Carroll and unanimously voted 3-0.

H: **Adjournment:** *The Board will officially adjourn the meeting.*

H.1: **Background:** Chairman Corte-Real entertained a motion to adjourn.

H.2: **Questions and Discussions:** None

H.3: **Action Taken:** Gary Gonyea made motion to adjourn the meeting at 12:37 PM seconded by Anne Carroll and unanimously voted 3-0.

Respectfully submitted,



Mark S. Buffone  
Executive Director