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April 5, 2012

Kathleen Baskin
Director of Water Policy
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, 9th floor
Boston, MA 02114

Dear Kathy:

The Town of Hamilton submits the following comments on the Sustainable Water Management Initiative (SWMI) Framework:

Redundant Wells

The Town is pleased to see that the Department plans to implement a procedure to allow a registration statement to be amended so as to authorize the use of a redundant or replacement well that withdraws from the same water source as the well identified in the registration statement. The Town believes that such a procedure should have been available at the time that it was developing its Plateau Well, for which it was required to obtain a WMA Permit, even though it was not seeking any increase in water withdrawal volumes.

The Town believes that, when the new procedure is implemented, there should be a mechanism for wells that would have qualified for authorization as redundant wells at the time they were permitted, to take advantage of the new procedure retroactively.

Maintaining Current Permitted Withdrawal Volumes

For the past 20 years, water suppliers did not have to provide justification to the Water Resources Commission in order to maintain their permitted water withdrawal volumes. Rather, the Department typically used permittees' 20-year projections for water demand, submitted pursuant to 310 CMR 36.20, only when reviewing requests to increase withdrawals.

Under the proposed SWMI framework and Tier Table, the Department has calculated a "baseline" withdrawal volume for each permittee that, in many circumstances, is less than what is currently authorized. Any permit renewal

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application seeking authorization for a withdrawal volume above this new “baseline” will be treated as a request for an increase in withdrawals, even if the same or less than what is currently authorized. Pursuant to the SWMI Framework’s proposed four “tiers” of review, water suppliers who wish to maintain their currently authorized volumes will have to justify their need by submitting a demand projection for review by the Commission.

The Town requests that the SWMI Framework and subsequent regulations incorporate a mechanism for water suppliers to maintain their currently authorized withdrawal volumes, regardless of demand projections. Without such a mechanism, most permits will be issued with withdrawal authorizations much closer to current demand projections. This will result in a spike in the number of requests for an increase in withdrawals each year, especially in a growing community. Unfortunately, the existing system for reviewing demand projections and authorizing increases in withdrawal volumes is slow and tortuous. Without a commitment to a more responsive system for approving increases in withdrawal volumes, the effect of holding permittees to baseline withdrawal volumes will be to stymie community growth and economic development.

Minimization Plans

According to the SWMI Framework Tier Table, if a water supplier applies for a permit with no additional volume above its baseline, the Department will review its request under Tier 1. While Tier 1 review would ordinarily impose only minimal conditions, Hamilton (because it withdraws from a Flow Level 5 subbasin) will have to propose and implement a plan to “minimize” its impacts to the subbasin. This is unfortunate choice of terms: How can one say that impacts to the subbasin have been “minimized” when there presumably are always additional steps that can be taken to reduce withdrawals further? Currently, no minimization plan target other than zero has been expressed or implied, and there is nothing in the SWMI Framework that will protect permittees from a the imposition of a never-ending list of conditions to “minimize” impacts in Flow Level 4 and 5 subbasins.

The Town of Hamilton therefore requests that EEA and the Department specify goals, targets and parameters for minimization plans, so that the Town can understand in advance what will be required.

Site Specific Studies

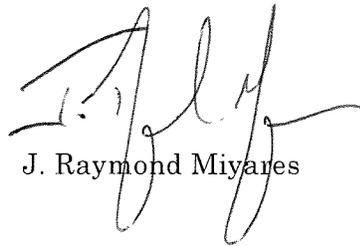
In the SWMI Framework, the SWMI Committee acknowledges that the variables used in its models to calculate Biological Category and Flow Level may be less than accurate in some subbasins. To address this issue, DEP apparently intends to issue regulations that will allow permittees to engage in site-specific studies to re-characterize the particular subbasin from which withdrawals are being

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made or are proposed. To date, the Department has not provided any guidance on acceptable scope and methodologies for site-specific studies, other than to suggest that the outputs of existing models will enjoy a "rebuttable presumption" that the studies will need to overcome.

The Town of Hamilton requests that such guidance be provided in a timely manner so that, should the Town choose to engage in a site-specific study, it can be assured that the results of the study will be acceptable to the Department. Such guidance should make clear that the purpose of site-specific studies is to provide a workable understanding of the hydrogeological characteristics and functioning of the subbasin, rather than to rebut a presumption of the validity of the statewide model's output for the subbasin.

Sincerely,



J. Raymond Miyares

Cc: Hamilton Board of Selectmen
D. Brewer