



THE COMMONWEALTH OF MASSACHUSETTS  
WATER RESOURCES COMMISSION  
100 CAMBRIDGE STREET, BOSTON MA 02114

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**Meeting Minutes for February 8, 2007**

*Minutes approved March 8, 2007*

**Members in Attendance:**

Kathleen Baskin	Designee, Executive Office of Environmental Affairs
Marilyn Contreas	Designee, Department of Housing and Community Development
Jonathan Yeo	Designee, Department of Conservation and Recreation
Mary Griffin	Designee, Department of Environmental Protection
Gerard Kennedy	Designee, Department of Agricultural Resources
Mark Tisa	Designee, Department of Fish and Game
Thomas Cambareri	Public Member
John LeBeaux	Public Member
David Rich	Public Member

**Others in Attendance:**

Mike Gildesgame	DCR
Michele Drury	DCR
Erin Graham	DCR
Marilyn McCrory	DCR
Linda Hutchins	DCR
Sara Cohen	DCR
Frank Hartig	DCR
Bruce Hansen	DCR
Vandana Rao	EOEA
Jon Beekman	SEA Consultants
Eileen Simonson	WSCAC
Paul Lauenstein	WSCAC/Neponset River Watershed Assn.
Alan Roscoe	Camp Dresser and McKee
Margaret Callanan	EOEA
Jennifer Pederson	Massachusetts Water Works Association
Joseph Delaney	DEP
Madelyn Morris	DEP
Dan Merrikin	Merrikin Engineering
Hillary Lacirignola	Weston & Sampson Engineers
Phil Macchi	Macchi & Macchi, LLP
Peter Weiskel	USGS
Margaret Kearns	DFG, Riverways
Scott Dale	Avalon Bay

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**Agenda Item #1: Executive Director’s Report**

Hansen provided an update on the hydrologic conditions for January 2007:

- Statewide average precipitation for January was estimated as 3.16 inches or about 87% of normal, with some variation between the western and central regions.
- This winter’s “snow drought” has left large areas of Vermont and New Hampshire with snow depths 8 to 31 inches below normal.
- Ground water levels were generally normal to above normal statewide.
- Streamflows were mostly above normal over most of the state.
- Reservoir levels were reported to be normal to slightly above normal for this time of year.
- The National Drought Mitigation Center indicates normal conditions in Massachusetts and the entire northeast.

Hutchins added that the National Weather Service is reporting warning conditions for ice jams on the rivers, especially in western Massachusetts and southern New Hampshire.

**Open Forum:**

Drury invited commission members to attend the public hearings on the Wilmington interbasin transfer application. Hearings are scheduled for February 27 and 28.

**Agenda Item #2: Vote on the Minutes of June 2006**

Baskin invited motions to approve the meeting minutes for June 2006.

<b>V</b>	A motion was made by Cambareri with a second by Tisa to approve the meeting minutes for
<b>O</b>	June 8, 2006.
<b>T</b>	
<b>E</b>	The vote to approve was unanimous of those present, with one abstention.

**Agenda Item #3: Update: Herb Chambers/Funways – Christina’s**

Drury distributed some additional materials providing background on these projects. She explained that this agenda item involves two separate projects. Both proponents are requesting offset credits, resulting in no net increase in interbasin transfer. The Funway/Christina’s project obtains water from the town of Foxborough, with sources in the Taunton and Neponset river basins. The Herb Chambers project is located in Sharon. Water service would be provided by the town of Walpole, whose sources are in the Neponset River basin. On-site wastewater disposal is not feasible at either site, and both projects propose to connect to the Walpole sewerage system, which discharges to the Massachusetts Coastal Basin through the MWRA sewerage system.

Both proponents were advised that they could apply for a determination of insignificance under the Interbasin Transfer Act or could avoid increasing the rate of present transfer by reducing inflow in the sewerage system. The Funway/Christina’s proponent identified inflow it could remove from one manhole within the Neponset River Basin to offset its amount of wastewater transfer. The Herb Chambers proponent identified inflow it could remove from ten manholes it could rehabilitate within the Neponset River Basin. As required, the amount of mitigation in both cases would exceed the 4:1 inflow removal already required by MWRA as a condition of

admission to its wastewater system. If the mitigation work is done, the present rate of transfer would not be increased.

Tisa asked if precedent existed for such offset requests. Drury pointed to projects in Hingham and Ashland. Tisa observed that if the proponents requested a determination of insignificance, they would not have to provide any mitigation. He asked how much mitigation is required for an applicant to avoid the process of applying for a determination of insignificance. Drury explained that the mitigation must be over and above the 4:1 mitigation required by MWRA; the offset must result in no net increase in interbasin transfer; and the proponent must provide documentation that the work was done.

Baskin noted that one item in the WRC 2007 Work Plan is development of a policy related to this matter. She added that the commission previously considered developing such a policy, but it was felt that there should be some precedent before a policy was adopted.

Tisa asked if this approach is made known to all proponents and if it is available to all equally. Drury replied that staff review proposed projects and provide advice to all proponents as part of a pre-application screening. This alternative is suggested on a case-by-case basis where it seems appropriate. Tisa added that conditions or criteria should be provided along with a policy. Simonson stated that she did not necessarily object to the mitigation approach but felt it was legally problematic. At present, proponents can apply for a determination of either inapplicability or insignificance. Allowing proponents to mitigate in advance as a way of avoiding the law makes these transfers invisible. She agreed that an official policy or regulatory change was needed and noted that, in general, wastewater is still confusing within the interbasin transfer regulations and needs more definition. Baskin responded that the staff is contemplating a regulatory revision that would include clarification of wastewater transfers. Simonson said she would like to see determinations of insignificance used more than determinations of inapplicability and that perhaps a new set of definitions is needed. Yeo commented such a policy would streamline the process, addressing concerns about the amount of staff time devoted to small amounts of flows.

In response to a question from Griffin, Drury explained that proponents must complete the mitigation before they connect to a sewer system. Cambareri requested clarification on what action the commission is being asked to take. Drury explained that, because the staff recommendation is potentially precedent setting, staff are seeking the commission's opinion on or endorsement of this approach.

Lauenstein asked about the durability of any proposed mitigation and questioned whether a one-time fix would truly offset an ongoing interbasin transfer. Drury answered that mitigation focuses on removal of inflow, which is a point source and is easier to quantify. Griffin requested an update from legal counsel at the next commission meeting regarding this process.

Drury asked the commission to provide the proponent with an indication as to whether they should proceed with the proposed mitigation. Baskin explained the proponents' options: to wait until a policy has been approved, proceed with mitigation at their own risk, or apply for a determination of applicability. Merrickin responded that the MWRA will not act on the proponents' applications until the WRC renders a decision.

Yeo asked if the commission should notify previous applicants who followed this approach. There was further discussion about the legal basis for such a policy. Griffin clarified that she does not really have a problem with the proposal but wants clarification on the Commission's authority in these cases.

Cambareri questioned the difference in mitigation proposed by the two projects, with one involving one manhole and the other involving ten manholes for two transfers of about the same amount. Lacirignola explained that the amount of inflow to each manhole varies depending on surface conditions and the size of the catchment area. The analysis was based on a one-year six-hour storm.

After further discussion of the options, Baskin noted that commission members do not appear to object in principal to the offset approach, that previous projects provide some precedent, and that the commission is formulating a related policy. Merrickin requested a letter he could provide to the MWRA summarizing the commission's discussion. Baskin agreed to provide a letter and said that the MWRA could also call commission staff if they had further questions.

**Agenda Item #4: Update: Revisions to the State Revolving Fund regulations**

Morris outlined the following schedule for the revisions to the State Revolving Fund regulations: a public hearing will be held on February 14 at DEP's Boston office. The public comment period will close in ten calendar days following the hearing. DEP will then respond to comments, revise the regulations, and reappear before the Water Resources Commission.

Morris indicated that the main purpose of the changes is to discourage sprawl and encourage Smart Growth practices. She reminded the commission that the mandate of the Clean Water Act and the State Revolving Fund is to abate existing water quality problems. She then outlined the principal changes to the regulations. These include requiring that for collection system projects to be eligible for financial assistance from the SRF program, 85% of the expected wastewater flow into the collection system must be wastewater flow that was in existence as of 1995. The current regulations set this threshold at 75%. DEP is also updating its Nonpoint Source Plan to provide greater flexibility on the types of projects DEP can fund, including brownfields remediation and pollution prevention projects. The latter includes land acquisition to protect watersheds. A third change is creation of a new planning option, the integrated water resources management plan. This new planning option allows a community with problems in multiple areas to develop one plan that looks at drinking water, stormwater, and wastewater in a comprehensive fashion.

Yeo asked if there was a definition of "rural district projects." Morris responded that a definition will be added. She explained that the proposed changes are intended to encourage new development in the town centers of rural areas where conditions may not be appropriate for on-site disposal of wastewater. Kearns asked about the status of guidance on integrated water resources management plans. Morris responded that DEP intends to post a draft on its web site.

Delaney provided an overview of the program, funding ranges, and the funding cycle. In response to a series of questions from Tisa, Delaney indicated that roughly two percent of funded projects are planning projects, and most of these move to implementation. A typical project is

given a 2% interest loan with a 20-year period. MWRA typically takes maximum advantage of the program. Gildesgame asked if a homeowner with a failing septic system could apply for SRF funding. Delaney responded that all loans go to municipalities, who can develop their own loan programs using their own criteria; such a homeowner could apply to the municipality. Delaney and Morris addressed a number of other questions, and Delaney confirmed that most projects must satisfy the federal requirement for MEPA review. Morris concluded by saying that the purpose of the SRF program is not to develop previously undeveloped areas, but to abate existing water pollution problems, and, to be eligible, any project must be connected to this purpose. Baskin noted an e-mail suggestion from Scott Horsley that implementation criteria include the extent to which the project is consistent with Massachusetts Smart Growth and low-impact development principles and strategies. Morris indicated that this would be included in the new guidance.

**Agenda Item #5: Discussion and Vote: WRC Work Plan for 2007**

Baskin noted that she had categorized projects in the Work Plan based on comments at the January WRC meeting. She reviewed each item in the Work Plan and its current status, noted high-priority activities, and facilitated discussion among commissioners. Baskin also noted that the completion of work plan items was dependent on the staff's availability, which was hard to control with interbasin transfer applications requiring attention.

On the **Water Needs Forecasting Methodology** work item, Griffin noted that Water Management Act permits will be due for renewal starting in 2008 and asked if river basin projections of water demand should be an item included in the WRC Work Plan. Baskin suggested that DEP Water Management Act staff and WRC staff meet to discuss what DEP needs for the renewal process and the workload for preparing basin forecasts. Gildesgame noted that, historically, basin forecasts still entailed town-by-town forecasts. Drury added that the forecast methodology focuses on all the community's water needs, including commercial and industrial needs, as well as residential needs. Baskin noted that the Work Plan may be amended in the future.

On the **MWRA Water Supply** work item, Simonson noted that although the MWRA has always honored its obligations under the law to release water downstream or reduce withdrawals under certain circumstances, it should not be assumed that these actions fulfill the intent of the Interbasin Transfer Act, which is to maintain reasonable instream flows in the donor basins. Baskin acknowledged the comments and noted that the work item involves convening a work group to identify a scope of work and budget, schedule, for addressing issues related to flow and fisheries habitats in downstream reaches of donor river basins. She noted that EOE staff must first finish work on dam-removal permit streamlining and desalination policy.

Baskin requested suggestions for priorities to be included in the **Environmental Bond Bill**, and noted that the state is likely to have a one-year bridge bond, while work continues on a five-year bill.

Rich asked about the results of last year's work plan. Baskin responded that a work plan was not prepared for last year. Drury offered to develop a list of interbasin transfer projects, and Baskin said staff could review meeting minutes. Beekman asked if person-hours were assigned to work items. Baskin acknowledged this suggestion.

<b>V O T E</b>	<p>A motion was made by Yeo with a second by Contreas to approve the WRC Work Plan for 2007 as outlined in the January 23, 2007, memo, noting Griffin's request that water needs forecasting by river basin in support of Water Management Act permit renewals be addressed.</p> <p>The vote to approve was unanimous of those present.</p>
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**Agenda Item #6: Discussion and Vote: Avalon Bay interbasin application**

Drury distributed a memo summarizing the staff recommendation on the Avalon Bay interbasin transfer application. She reviewed the background on the project (see minutes of January 11, 2007 for background). The WRC staff has determined that the application contains the information needed to proceed with a full review under the Interbasin Transfer Act, and Drury recommended that the commission find the application to be complete. She outlined the next steps and timeline, which would include public hearings at the end of March, full review of the application by WRC staff, a presentation and recommendation by staff in April, and a vote by the commission in May or June, or no later than 60 days after the last public hearing. Both Baskin and Dale commended and thanked staff for their hard work on this application.

<b>V O T E</b>	<p>A motion was made by Yeo with a second by Rich to find that the application is complete for the Avalon Bay interbasin transfer.</p> <p>The vote to approve was unanimous of those present.</p>
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**Agenda Item #7: Update: Additional information regarding Reading's interbasin transfer application**

Drury provided background on Reading's request to become a full member of the MWRA water system and to replace all its existing sources in the Ipswich River Basin with MWRA sources. She noted that the MEPA office had required Reading to file a Supplemental Final Environmental Impact Report. This SFEIR included an application to increase the present rate of interbasin transfer from 219 million gallons per year to 2.27 million gallons per day, an increase of 1.67 mgd. Drury noted that the Secretary's certificate on the SFEIR deferred to the interbasin transfer review process to collect additional information requested by WRC staff as part of the MEPA review process.

Drury then reviewed the additional information requested by staff. This information is discussed in Attachment 5 to the WRC agenda. Drury noted that the schedule for submitting an application for interbasin transfer is being driven partly by a DEP Administrative Consent Order. Cambareri asked if Reading would abandon its existing sources. Beekman responded that the town will have to maintain these sources so they are available for emergency supply and that a disinfection facility will be built at the site of the existing water treatment plant. Baskin added that, because of concerns about stress in the Ipswich River Basin as well as water quality and contamination concerns, DEP ordered the town off of its local supplies until the WRC renders a decision on the interbasin transfer. Griffin noted that the town has been working cooperatively with DEP.

Cambareri asked for clarification on the concerns to be addressed by the WRC, including the increase in interbasin transfer and cumulative impacts on the donor basin. Yeo pointed out that the MWRA has decreased its demand by more than 100 mgd. Cambareri requested a graphical representation on the history of the project. Baskin invited Cambareri to meet with staff to obtain the information he needs.

Simonson agreed with Cambareri that the Reading case was complicated and commented that the Reading situation is unique in that it represents the first time the resources of the MWRA system were looked at as a way to relieve flow stress in another river basin. She added that this case gave the Interbasin Transfer Act a new environmental task not intended in the act and sets a precedent. Drury noted that any proponent, no matter what their intentions, has to meet eight criteria of the act.

**Agenda Item #8: Discussion: Reviewing changed conditions of previously approved interbasin transfers**

Baskin provided a summary of staff and legal counsel discussions on revisions to the Interbasin Transfer Act regulations and invited commissioners to a meeting on March 1 or suggested that the commission form a subcommittee if it wishes. Baskin said that staff is considering ways of addressing changes that can occur in a project after the WRC has approved it.

**Other Business**

Yeo inquired about a letter that was in the WRC package on the Notice of Project Change for the Aquaria desalination facility. The change involves substituting a new fisheries exclusion system for the water intake. Drury explained that the new system does not have a track record in its proposed application, and there are concerns about the river herring fishery in the entire state. The Secretary's certificate required a Water Management Act permit amendment associated with the change. DEP will consider input from DCR and DMF. Simonson expressed concern about the approved Gunderboom system and urged the WRC to obtain verification on the newly proposed system from other sources. Hutchins noted that the Gunderboom system was endorsed as EPA Best Available Technology, and both CZM and DMF were comfortable with it when the project went through the ITA approval process.

Meeting adjourned

Attachments distributed:

- Current Water Conditions in Massachusetts, February 8, 2007
- Letter dated Jan. 10, 2007, from Hillary Lacirignola, P.E., (Weston & Sampson engineers) to Michele Drury, DCR Office of Water Resources
- Memo dated February 8, 2007, from Staff to Water Resources Commission on Request for Additional Information, Avalon Bay – Sharon Wastewater Interbasin Transfer
- Letter dated January 12, 2007, from WRC Executive Director Kathleen Baskin to Ian Bowles, Secretary of Environmental Affairs on the Notice of Project Change for the Taunton River water Supply Project (Aquaria/Inima desalination facility).