



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

Meeting Minutes for August 23, 2007

Minutes approved February 14, 2008

Members in Attendance:

Kathleen Baskin	Designee, Executive Office of Energy and Environmental Affairs
Marilyn Contreas	Designee, Department of Housing and Community Development
Jonathan Yeo	Designee, Department of Conservation and Recreation
Steve McCurdy	Designee, Department of Environmental Protection
Gerard Kennedy	Designee, Department of Agricultural Resources
Mark Tisa	Designee, Department of Fish and Game
Joseph E. Pelczarski	Designee, Massachusetts Office of Coastal Zone Management
Thomas Cambareri	Public Member
David Rich	Public Member
Bob Zimmerman	Public Member (present after Agenda item #2)

Others in Attendance:

Mike Gildesgame	DCR	Kerry Mackin	Ipswich River Watershed Assn.
Michele Drury	DCR	Matt Romero	MWRA Advisory Board
Linda Hutchins	DCR	Marcus Waldron	USGS
Bruce Hansen	DCR	Eileen Simonson	WSCAC
Anne Monnelly	DCR	Margaret Kearns	DFG/Riverways
Erin Graham	DCR	Gabrielle Stebbins	DFG/Riverways
Erin Smyth	DCR	Alex Hackman	DFG/Riverways
Marilyn McCrory	DCR	Joanna Carey	DFG/Riverways
Frank Hartig	DCR	Daniel Keleher	Attorney
Duane LeVangie	DEP	Robin Johnson	CDM
Madelyn Morris	DEP		

Agenda Item #1: Executive Director's Report

Hansen provided an update on the hydrologic conditions for July 2007. He noted that NOAA predicts an above-normal year for tropical storms in the Caribbean basin. He distributed a paper outlining the potential effects of climate change on freshwater ecosystems of the New England region, including recommendations for monitoring sites to quantify changes.

Baskin added that EPA has published, for public comment, three papers on impacts of climate change on water resources and offered to provide a link to those papers for anyone who is interested.

Gildesgame announced that he is leaving DCR in mid-September. He thanked the commission for many years of interesting and important discussions and decisions. Baskin remarked that all would miss Mr. Gildesgame's tremendous service to the commonwealth over the past 20 years. Baskin commended Mr. Gildesgame for his reliable institutional memory and his skills in handling controversial situations. Those in attendance acknowledged Mr. Gildesgame with a round of applause.

Agenda Item #2: Vote: Amended Wilmington Interbasin Transfer Decision

Baskin proposed to table discussion of the proposed amendment until the October commission meeting, noting that the proposed condition, which has to do with increasing the amount of in-basin use in Wilmington, had generated much confusion and that the town of Wilmington and others needed more time to consider the language. Simonson asked if staff could answer some general questions. Baskin replied that it would be better to discuss the language after it has been reviewed.

Agenda Item #3: Discussion: Interbasin Transfer Offset Policy

Baskin said that the draft policy presents some preliminary ideas for an offset policy. She invited the commission to provide feedback on such questions as when offsets are appropriate and whether the draft is heading in the right direction.

Drury introduced the proposed offset policy, noting that such a policy has been under consideration for four years. She emphasized that the policy focuses on projects involving very small amounts of transfer. Because there is no threshold for the Interbasin Transfer Act, such small projects can nonetheless involve a great deal of staff and commission time.

Drury outlined two types of cases where the policy might apply. In the first type, the policy would apply to projects that can totally eliminate the increase in transfer through offsets. The proponent would then apply for a Determination of Applicability. As an example, she pointed to the Hingham Fire Station interbasin transfer (September 2006), which involved a transfer of 840 gallons per day. The transfer was eliminated through an offset obtained by disconnecting spigots in a campground from the sewer system so that spigot drainage would instead be recharged locally. Inflow for mitigation would have to be identified within the same basin as the new sewer connection to be eligible as mitigation, and so negate the increase in out-of-basin transfer.

The second type of case would apply to projects that involve transfers of less than 1 mgd and that could be considered for a Determination of Insignificance. She noted that the criteria for insignificance are very strict. Though there were no known examples of the second case, she described a potential scenario where a project could meet the criteria for insignificance by decreasing flow through offsets: a transfer of less than one million gallons per day that could not meet the instream flow criteria (a reduction of less than 5 percent of daily streamflow) for a few days during the drought of record. Offsets could be proposed to reduce that net transfer.

Graham acknowledged the technical assistance provided by MassDEP. She summarized the questions staff would consider in evaluating proposed offset projects, such as the ability of the proponent to quantify offsets, the project's effectiveness in reducing or eliminating net interbasin

transfer, the lifespan or permanency of the project, and the benefits to the water resource. Staff would also request that the proponent provide documentation that the project was completed.

McCurdy asked if there was a threshold, in gallons, for a project to be considered “small.” Drury replied that decisions would be made on a case-by-case basis and that the economics of implementing the offsets would likely be the driving factor. Zimmerman commended staff on the policy and suggested a ranking system for methods of offset to encourage proponents to seek offsets what would do the greatest good in replacing water lost within a watershed. Zimmerman suggested contacting Mark Voorhees of U.S. EPA; Voorhees is comparing best management practices for pollutant removal and recharge potential. Drury responded that providing the greatest environmental benefit is indeed the intent of the policy and that it is not intended as a way for proponents to circumvent the Interbasin Transfer Act. Drury invited comments on the draft policy.

Cambareri asked if projects involving offsets would come before the commission for a vote. Drury responded that determinations of insignificance are made by the commission. However, she said it is the opinion of legal counsel that determinations of applicability based on offsets would need some precedents, and therefore, the first few of these requests will need to come before the commission. After a body of work has been established, she said, the commission can decide if it is comfortable in allowing staff to make such determinations. Baskin added that it is hoped that the policy will result in a direct benefit, in the form of a quantifiable fix, rather than an Environmental Impact Report, which only documents the impacts that might occur.

Cambareri asked what documentation would be required. Drury responded that usually, the commission does not assert jurisdiction if a project is determined to be not applicable to the Interbasin Transfer Act. However, in the case where an offset is proposed to meet the criteria for inapplicability, documentation would be required as a condition of approval. Simonson asked if the case of Turners Falls, which gave up capacity, would be considered an offset. Drury responded that it could be looked at as an offset. Simonson suggested adding to the words “or wastewater” to the description of Situation #1 of the draft policy: “Application: For transfers involving a small amount of water *or wastewater*.”

Baskin invited questions, comments, and suggestions for improvement, preferably in writing.

Agenda Item #4: Vote: 314 CMR 9.00 Water Quality Certification Regulations

Morris summarized the changes made to the Water Quality Certification regulations since the draft of the revisions was distributed (see WRC minutes of April 12, 2007). She reminded the commission that the regulations will incorporate the stormwater management standards. She said the changes reflected in the final version of the regulations were made in response to public comment and were not substantive but were intended to make the regulations simpler and clearer. Morris highlighted changes to the section on applicability and to the individual stormwater standards. In reference to Standard #6, she noted that all groundwater in Massachusetts is protected for potential or actual use as a drinking water source. In reference to Standard #7 (redevelopment), she noted that the Stormwater Handbook will include a checklist to ensure that developments both meet the standards to the maximum extent practicable and improve existing conditions. She noted that Standard #10 is a new standard requiring removal of

illicit stormwater discharges. The definition of illicit discharges is the same as that used by EPA in the NPDES Stormwater Phase II program.

Simonson asked for clarification on the definition of Outstanding Resources Waters. Morris responded that Outstanding Resources Waters are as designated under 314 CMR 4.00 (Surface Water Quality Standards). Monnelly asked who will determine if a project has met the stormwater standards to the maximum extent practicable. Morris responded that MassDEP would make that determination and that the same standards are being incorporated into the wetlands regulations. Zimmerman noted that on some sites with sandy soils, infiltration to the “maximum extent practicable” could translate into 100% of the runoff. Morris responded that requiring a proponent to meet a standard “to the maximum extent practicable” is not intended to require the proponent to exceed that standard.

Simonson suggested that the language related to “no net increase in impervious area” on redevelopment sites could be clearer. To explain the distinctions, Morris provided a hypothetical example. If a redevelopment site is 50% impervious, the redevelopment standard would apply to that portion of the site. The portion of the site that is undeveloped must meet all the stormwater standards – i.e., all runoff from the undeveloped portion of the site must be recharged and/or treated in accordance with the standards for new development. She added that the language in the regulations does not change the existing language, but that the Stormwater Handbook will clarify the distinction between developed, undeveloped, and redeveloped areas.

Morris said the new regulations will be effective January 2008.

V	A motion was made by Yeo with a second by Cambareri to approve the water quality
O	certification regulations (314 CMR 9.00) as proposed by DEP
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E	The vote to approve was unanimous of those present.

Agenda Item #5: Update: Water Needs Forecasting Policy and Methodology

Gildesgame provided a status report on revisions to the water needs forecasting policy and methodology. He acknowledged and thanked those who had provided comments. He said there were still a few outstanding issues that remain to be resolved, but hoped the revised methodology would be available for consideration and a vote in the near term so that the forecasting effort could begin for communities whose Water Management Act permits will expire beginning in 2008.

McCrorry explained a proposed change to the methodology that breaks out treatment plant losses as a separate category of use. This change is related to the proposed change in the method of forecasting nonresidential water use, which will be based, in the revised methodology, on employment population rather than residential population. In the existing methodology, any treatment plant losses were lumped into either the nonresidential or unaccounted-for water categories. Staff felt that treatment plant losses should be separated out from the nonresidential category so that the calculation of a nonresidential per capita amount would not be skewed if treatment plant losses were present. Drury added that forecasts are based on raw water withdrawals rather than the amount of finished water distributed, and that it was therefore

important to account for any losses that may occur in the treatment process. Simonson noted that a large discrepancy between raw and finished water was a factor in the town of Reading interbasin transfer decision, and that it would be good to clarify the distinction. LeVangie added that the newest Annual Statistical Reports will make it clear that water suppliers should report raw water pumped.

Meeting adjourned

Attachments distributed:

- Current Water Conditions in Massachusetts, August 23, 2007
- Marianne V. Moore, et al. 1997. Potential effects of climate change on Freshwater Ecosystems of the New England/Mid-Atlantic Region. *Hydrological Processes*, Vol. 11, 925-947.
- Letter dated August 23, 2007, from Kerry Mackin, Ipswich River Watershed Association, to Kathleen Baskin regarding proposed amendment to Town of Wilmington Interbasin Transfer Approval.
- Draft WRC Offsets Policy Regarding Proposed Interbasin Transfers, August 23, 2007.