



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

Meeting Minutes for January 8, 2009

Minutes approved February 12, 2009

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
Glenn Haas	Designee, Department of Environmental Protection
Gerard Kennedy	Designee, Department of Agricultural Resources
Mark Tisa	Designee, Department of Fish and Game
John Lebeaux	Public Member
Bob Zimmerman	Public Member

Others in Attendance:

Michele Drury	DCR	Robert Lowell	DCR
Linda Hutchins	DCR	Thomas Valton	DCR
Bruce Hansen	DCR	Joel Zimmerman	DCR
Sara Cohen	DCR	Joanna Carey	DFG/Riverways
Erin Graham	DCR	Peter Weiskel	USGS
Marilyn McCrory	DCR	Larry Boutiette	USDA/NRCS
Anne Monnelly	DCR	Paul Lauenstein	WSCAC/Neponset River Watershed Assn
Frank Hartig	DCR	Jennifer Pederson	Massachusetts Water Works Assn.
Madelyn Morris	DEP	Joseph Duggan	Wellesley DPW
Thomas Maguire	DEP	David Stoff	Mystic River Watershed Assn.
		Virginia Roach	CDM

Agenda Item #1: Executive Director's Report

Hansen provided an update on the hydrologic conditions for December 2008 and for calendar year 2008. He reported that precipitation in December was considerably above normal, with a statewide average 149% of the long-term average for the month. He noted a significant ice storm that occurred on December 11 and 12, which resulted in widespread tree damage and power outages. Summarizing calendar year 2008, he reported that total yearly statewide precipitation resulted in the second wettest year in 113 years, based on NOAA records. There were several questions about a graph in the hydrologic conditions report showing yearly statewide precipitation for the past 113 years (1895 to 2008); the discussion focused on whether the graph indicated a trend of increasing precipitation. Hansen also called attention to the report on hydrologic conditions for November 2008.

Baskin announced that Section 9 of the Global Warming Solutions Act requires the Secretary of Energy and Environmental Affairs to convene an advisory committee to look at strategies for adapting to climate change. Baskin invited suggestions for a list of candidates for this advisory committee and staff liaisons.

McCrary asked anyone on the commission mailing list to indicate a preference for receiving mailings electronically or in hard copy.

Agenda Item #2: Vote on the Minutes of November 2008

Baskin invited motions to approve the meeting minutes for November 2008.

V	A motion was made by Haas with a second by Lebeaux to approve the meeting minutes for
O	November 2008.
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E	The vote to approve was unanimous of those present.

Agenda Item #3: Presentation: WRC 2009 Workplan

Baskin presented the draft workplan for the Water Resources Commission for calendar year 2009. She invited input from the commission and requested commission approval of the workplan at the February meeting. Baskin reviewed the highlights and accomplishments of the commission in calendar year 2008, including updating the policy and methodology for water needs forecasting and then rolling out forecasts on a basin-wide scale. She noted minor modifications to the methodology that the commission approved in November 2008. Drury added that the commission should expect staff to present additional minor modifications of the methodology in early 2009. Other highlights included the first application of the offset policy; approvals of MassDEP regulations; an update of the stressed basins report; development of index streamflows; progress on updating the drought management plan; continuing work on implementation of the water conservation standards; and completion of a pilot study by USGS on the impacts of flow alterations on fish. Baskin added that a statewide study building on this pilot study has been approved and funded and that this work will help to inform determination of stress levels.

Baskin reviewed the draft workplan for 2009, highlighting projects by priority. High-priority tasks include water needs forecasts for the Ipswich River, North Coastal, Boston Harbor, and Taunton River basins; continuing work on the Stressed Basins report and updating of stress designations; and development of a streamflow policy. Intermediate-priority items include updating the Water Supply Policy Statement, originally published in 1978 and updated in 1984 and 1996.

Baskin invited comments and suggestions. Haas commented that the workplan is ambitious, and that he would suggest including fewer tasks on the list so that more can be completed. Baskin responded that the level of effort is hard to predict on some tasks, but prioritization of tasks in the workplan should help to focus staff efforts. She said staff would review the list to see if any proposed tasks can be removed.

Lauenstein asked how work on the Safe Yield Estimator methodology fits into the WRC workplan. Bob Zimmerman replied that MassDEP is under a court order to develop a methodology for estimating safe yield. Baskin responded that commission staff will be working on a reclassification of basin stress using an updated methodology. She added that the commission is willing to assist MassDEP in meeting its mandate, and that the commission, in accordance with the Water Management Act, will develop policies and guidance that are pulled into regulations.

Lauenstein asked how the Water Supply Policy Statement relates to the 2004 Water Policy. Baskin replied that the Water Policy addresses broader questions of balancing water needs, while the Water Supply Policy Statement focuses on water supply. Pederson asked if the commission planned to convene a stakeholder group to work on the streamflow policy. Baskin described work done to date on the streamflow policy, with the current focus on informing senior policy makers about what other states are doing in this area. She said the Secretary of EEA will have to determine the direction for this work.

Agenda Item #4: Presentation: WRC Handbook

Baskin thanked Drury for developing a handbook for the Water Resources Commission, noting its usefulness for both existing and incoming commission members. Drury described the purpose of the handbook, which is to summarize the legal and policy framework for the commission and the acts and regulations under the commission's purview. She described other features of the handbook, including the history and composition of the commission, a description of the commission's duties and responsibilities, the format of meetings, and a list of programs and accomplishments. She summarized the appendixes, which describe the WRC programs and laws that govern these programs. She noted that web site links in the handbook will have to be updated. Drury invited comments by January 21 on the handbook, and requested a commission vote to approve the handbook at the February WRC meeting.

Agenda Item #5: Presentation: DEP's Draft Stormwater Management Regulations (314 CMR 21.00) and Draft Regulated Impervious Area General Permit

Baskin introduced the new stormwater regulations, noting that MassDEP Commissioner Burt saw an opportunity to work in tandem with others, including the U.S. Environmental Protection Agency, to address the problems created by runoff from impervious surfaces. Haas provided background on the regulations, noting that stormwater is partially covered under permitting programs through the National Pollutant Discharge Elimination System (NPDES) permits and the state's surface water discharge permit program. He briefly described who is covered under the Phase I and II Municipal Separate Storm Sewer Systems (MS4) permits. He said the new regulations address stormwater controls for private property, which is the only area not covered by current permitting programs. The purpose of the regulations is to broaden the basis for stormwater management so that the burden is not borne by municipalities alone but is shared by all those who contribute to the problem. Morris added that comments on the regulations are due by 5:00 p.m. on February 9 (*ed. note: since the January commission meeting, MassDEP extended the public comment period to March 11, 2009*).

Morris made a presentation on the draft Stormwater Management (314 CMR 21.00) and draft Regulated Impervious Area General Permit regulations. She reviewed the water quality and

water quantity problems that led to development of these regulations. She also reviewed the current framework for stormwater management, noting that the burden for this is currently entirely on municipalities. She outlined a new more comprehensive approach to managing stormwater, which targets large impervious surfaces statewide, shares the responsibility for stormwater management, and takes more aggressive action in areas where Total Maximum Daily Loads (TMDLs) have been determined. She reviewed in detail who is covered by the regulations. She outlined the baseline performance standards that apply statewide and additional performance standards for nonresidential uses.

Questions focused on the self-certification aspect of compliance and how property owners will determine whether they are located in an area subject to the TMDL rules. Morris noted that the new regulations cover a larger universe, such as parking lots and discharges to groundwater as well as surface water, than may be covered under existing programs, such as EPA's Multi-Sector General Permit for industrial facilities.

Morris reviewed the additional performance standards for redevelopments, explaining that the proposed regulations focus on impervious surfaces and therefore define "redevelopment" differently from the definition of redevelopment in the existing stormwater standards of the Wetlands program. She noted the emphasis on infiltration in the proposed regulations. Lowell asked how permeable pavements will be treated. Morris responded that the draft regulations treat porous pavement as an impervious surface, because of concerns about proper design and maintenance. She noted that the Stormwater Handbook provides detailed specifications for permeable pavements.

Morris outlined the statewide rules for new developments and the rules that apply in TMDL areas. She also clarified the requirements for best management practices installed to meet stormwater standards under the Wetlands program, noting that if a property exceeds the threshold for the new regulations, the owner must apply for and obtain coverage under the general permit program and certify that it meets the baseline performance standards. She added that this is an improvement over the Wetland stormwater regulations, in that it provides annual certification that property owners are honoring their obligations.

Morris summarized some of the key issues that were addressed in developing the regulations, including rules for aggregation of properties for purposes on determines if a site meets the acreage thresholds; redevelopment triggers; off-site mitigation and when it is allowed; and guidelines for achieving the pollutant reductions needed to fix the impairment in TMDL areas. She reviewed filing requirements, transition rules, and criteria for variances. She outlined the special protections to sensitive areas, including wetlands, water supply areas, and stressed basins. She reviewed the timing for filing for coverage and submitting annual certification. She concluded by describing the sources of technical assistance and the schedules for public information sessions and public hearings.

Morris again invited input on the regulations. Haas noted that MassDEP will be seeking commission approval of the regulations.

Kennedy asked if any public hearings had been scheduled west of Worcester. Morris responded that a public information session had been held in that area, and she encouraged anyone with comments to submit them in writing. Other questions addressed the rules for aggregation of properties; application of the regulations to large subdivisions; whether the two-acre threshold in TMDL areas would indeed result in the expected reduction in phosphorus; the timeline for approval of the regulations; whether impervious areas can be fragmented; and the interface between wetlands regulations and the stormwater regulations. Joel Zimmerman requested clarification on enforcement for this self-certification program. Morris responded that MassDEP will target certain categories for auditing. If a property owner is found to be not complying, MassDEP will take enforcement actions. She added that electronic submissions will be available on the MassDEP web site, allowing any interested party to see who has complied and to report those who are suspected to be out of compliance.

Morris and Haas again invited comments on the regulations and requested particular attention to the definitions, redevelopment triggers, and transition rules.

Meeting adjourned

Attachments distributed:

- Current Water Conditions in Massachusetts, January 8, 2009
- Current Water Conditions in Massachusetts, December 11, 2008
- Presentation on proposed stormwater regulations: available at <http://www.mass.gov/dep/service/regulations/proposed/swgppi.pdf>