



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

Meeting Minutes for August 13, 2009

Minutes approved October 8, 2009

Members in Attendance:

Kathleen Baskin	Designee, Executive Office of Energy and Environmental Affairs
Marilyn Contreas	Designee, Department of Housing and Community Development
Anne Carroll	Designee, Department of Conservation and Recreation
Glenn Haas	Designee, Department of Environmental Protection
Gerard Kennedy	Designee, Department of Agricultural Resources
Joseph E. Pelczarski	Designee, Massachusetts Office of Coastal Zone Management
Bob Zimmerman	Public Member

Others in Attendance:

Michele Drury	DCR	Jennifer Pederson	Massachusetts Water Works Assn.
Linda Hutchins	DCR	George Preble	Beals and Thomas
Bruce Hansen	DCR	Dan McIntyre	Town of Hopkinton
Sara Cohen	DCR	Eileen McIntyre	Town of Hopkinton
Daniel Crocker	DCR	Ruth Silman	Nixon Peabody, for Lonza Biologics
Marilyn McCrory	DCR	J.T. Gaucher	Hopkinton Dept. of Public Works
Margaret Callanan	EEA	Brian J. Herr	Town of Hopkinton, Chair, Board of Selectmen
Vandana Rao	EEA		

Agenda Item #1: Executive Director's Report

Baskin announced that water needs forecasts for the Taunton River and Boston Harbor basins are in the process of being developed by Office of Water Resources staff. Drury added that a public informational meeting has been scheduled for September 29 at Borderland State Park in North Easton. Water suppliers, town planners, and interested members of the public have been invited to learn about the process of developing forecasts. The schedule for these forecasts has been published in the *Environmental Monitor*. Baskin reminded the commission that individual forecasts are not taken up at the commission level except by request of a commissioner, WRC staff, or other stakeholder.

Baskin announced that the climate change adaptation advisory committee continues to meet and has completed considerable work. The five subcommittees are in the process of writing chapters for a report due to the legislature at the end of the year. The committee will meet again on September 9 and October 20. Meetings are open to public.

Baskin also announced that the Massachusetts Environmental Trust will sponsor an all-day water conference on November 10 and is seeking ideas for sessions and moderators.

Baskin called attention to several letters included in the commission meeting mailing. Attachments 4b and 4c were letters from an attorney who filed a request for determination of applicability under the Interbasin Transfer Act. The request asked the commission to examine the evaporative

losses associated with the Pioneer Valley Energy Center. Baskin responded in writing that the commission had already examined the transfer of water from the Connecticut River Basin to the Westfield River Basin; the losses in question are not jurisdictional under the ITA because they represent a secondary transfer from the Westfield River Basin to the atmosphere. Baskin flagged this issue as a future topic for policy discussion by the commission: that is, does the ITA apply to the movement of water from a basin to a place that is not distinguishable as a receiving basin? As examples, she cited withdrawals of water for bottled water and evaporative losses to the atmosphere.

Baskin also called attention to attachments 7a and 7b, letters commenting on the draft environmental impact report for Framingham's Birch Road wellfield redevelopment. She explained that Framingham is proposing to reactivate wells that have been offline for 50 years in order to supplement water from the MWRA system with about 4 million gallons per day of water from the local wellfield. She said there had been lively discussions among agency attorneys and staff and the proponent's representatives of the applicability of the Interbasin Transfer Act and the proponent's claim of grandfathered rights to transfer water in the legislation that created the MWRA water supply system. She summarized the WRC letter to the MEPA office. The letter expressed agreement that part of the transfer (3.17 mgd) would be exempt from the ITA, based on the regulations. Staff, however, determined that the additional amount would trigger the ITA. In response to a question from Zimmerman, Baskin said the town had not abandoned the well, and the issue was very complex. Framingham is anxious to move ahead with the project to be eligible for federal stimulus funding.

Zimmerman asked if the Secretary would require the town to justify the million dollar savings it claims will result, adding that ratepayers should know whether they will see these savings. He also expressed concern about the town's proposal to use federal stimulus funding to build a system that will pump local groundwater that will be transferred out of basin through sewer systems to Massachusetts Bay. He urged state regulators to reject every application that continues past practices that are depleting aquifers and streams. He commended a letter from Hutchins written on behalf of DCR on the same subject. Baskin noted that the DCR letter was separate from the letter sent on behalf of the commission.

Drury noted that Framingham will submit a Final Environmental Impact Report, providing an additional opportunity for additional public comment on the project. Zimmerman asked Haas to explain why MassDEP awarded a high number of points to Framingham's State Revolving Fund application. Haas responded that more than half the points were awarded based on requirements of the Commonwealth Capital program.

Hansen provided an update on the hydrologic conditions for July. The average precipitation over the state was 240% of the long-term average, resulting in the second wettest July in 116 years of records. Water suppliers reported abnormally low demand for water in July. For the hurricane season, the National Weather Service has downgraded its predictions for the number of storms for this season because of El Nino effects in the Pacific Ocean. The drought outlook indicates no drought conditions developing in Massachusetts through October 2009. Hutchins added that both the Quabbin and Wachusett Reservoirs are overflowing, which is unusual for August. She also announced that another five years of daily rainfall records have been scanned, and full records are available on a searchable DVD.

Agenda Item #2: Vote on the Minutes of July 2009

Baskin invited a motion to approve the meeting minutes for July 9, 2009.

V	A motion was made by Zimmerman with a second by Contreas to approve the meeting
O	minutes for July 9, 2009.
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E	The vote to approve was unanimous of those present.

Agenda Item #3: Vote on Request for Determination of Insignificance under the Interbasin Transfer Act: Hopkinton's South Street Sewer Connection

Drury reviewed the background on the project (see also minutes of July 2009). She noted that the Act requires an examination of cumulative impacts, and that these were considered. She summarized a response to concerns expressed at the July meeting by the Department of Fish and Game about whether the analysis should be conducted at the water withdrawal point.

Hutchins summarized the current conditions and the proposed change involving a transfer of wastewater from the Concord River Basin to the Charles River Basin. She noted that no comments on the draft staff recommendation presented in July had been received. She reviewed the criteria for a Request for Determination of Insignificance (RDI) and explained how the proposed project meets these criteria. She reviewed the components of the requested transfer of 204,410 gallons per day. She summarized the staff recommendation, which is that the Hopkinton application meets the criteria for an RDI and that the Assabet River is highly surcharged by wastewater at the Westborough wastewater treatment plant.

Drury added that Hopkinton had completed a Comprehensive Wastewater Management Plan, in which it proposes to develop an in-town groundwater discharge plant near the Fruit Street wells site. However, this plant is currently in litigation. The proposed transfer of wastewater to Milford will ease some of the pressure on the Westborough plant, where Hopkinton has reached its contractual limit. Hutchins added that, because of increased demand, Hopkinton currently generates more wastewater than the Westborough plant can accept.

Zimmerman commented that the best outcome would be for Hopkinton to treat its wastewater and discharge it to the ground in the town, and he offered the resources of his organization to conduct an analysis to determine whether the area in the vicinity of the proposed groundwater discharge plant could handle all of the town's wastewater needs. Zimmerman requested a delay of the vote until Hopkinton can demonstrate that it cannot handle 100 percent of its wastewater at the groundwater discharge plant.

Drury acknowledged Zimmerman's suggestions, but noted that the regulations require the commission to vote within 90 days, or by August 24, 2009. Baskin expressed interest in the model mentioned by Zimmerman to understand how it may be applied to future projects or incorporated into future recommendations to proponents. Zimmerman said funding is needed to automate the model. He said the state has a real interest in identifying and protecting land that will preserve the option for groundwater discharge; without protection, these lands will be built upon within the next five to ten years. He offered a presentation by his organization's technical staff on this topic for the commission. Baskin responded that this would be useful and may help inform state policy on wastewater disposal and land acquisition. She added that land acquisition line items in the current Environmental Bond Bill were not planned to be used to protect wastewater disposal sites, but that information should be gathered now in preparation for the next bond bill. Zimmerman stated that the current bond bill includes language that would allow spending funds on this kind of

analysis. Baskin suggested Zimmerman meet with the state's land acquisition staff about opportunities in the bond bill.

McIntyre commented that the town of Hopkinton has done comprehensive planning for its wastewater needs and committed \$6 million to purchase land for a groundwater discharge site. He commended MassDEP staff for their testimony at the appeals hearing defending the town's permit for groundwater discharge, and expressed hope that the town will prevail in the appeal. He stated that the town is trying to balance the environmental benefits of groundwater recharge with the desire to accommodate businesses that want to expand in the town.

Zimmerman clarified that he was not attacking the town of Hopkinton, but rather the laws and regulations that favor outdated infrastructure for handling water and wastewater. He noted that phosphorus levels in the Assabet River are problematic, but there are also problems with the Milford wastewater plant. He reiterated that the best outcome would be for the town to return all of its wastewater to the ground at the groundwater discharge plant. He added that it is not sustainable to continue to throw away water by discharging wastewater so far away from where water is withdrawn. He expressed opposition to regulations that steer towns to these approaches. He concluded that our current environmental laws and regulations do not solve our environmental problems. He added that members of the commission agree on what the solutions are, but the state's current regulations do not foster sustainable outcomes.

Baskin requested a motion on the RDI. A motion was made by Contreas with a second by Haas to accept the staff recommendation. Baskin noted that Mark Tisa of the Department of Fish and Game indicated to Baskin verbally that, had he been in attendance, he would have voted against the motion. A roll-call vote was taken.

V O T E	A motion was made by Contreas with a second by Haas to accept the staff recommendation to find that the transfer of wastewater from Hopkinton to Milford is insignificant under the Interbasin Transfer Act The vote to approve was five in favor and one opposed (Zimmerman).
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McIntyre requested that Zimmerman offer the presentation previously mentioned to the town.

Baskin communicated other messages from Mark Tisa for future projects. Tisa suggested that, going forward, approaches being considered in staff recommendations be communicated to the commission earlier in the process rather than at the point of the initial formal presentation, so that there is adequate opportunity for input. He also requested that the commission examine how the analyses are conducted on future wastewater transfers, especially in basins where there are complex interactions among subbasins. Baskin suggested adding this topic to the Work Plan for 2010. Hutchins pointed out that interbasin transfers are likely occurring unnoticed in the larger "lumped" basins such as the Boston Harbor and North Coastal basins. Baskin added that this suggests consideration of larger policy questions, including whether basins should be further disaggregated, and these policy issues should be incorporated into the commission's Work Plan for 2010.

Zimmerman requested that any further comments on Framingham's Birch Road wells take into consideration the loss of 200,000 gallons associated with the Hopkinton project. Drury responded that MEPA comments raised similar concerns about cumulative impacts, upstream withdrawals, and the need for a groundwater model. Baskin acknowledged that these considerations will have to be incorporated.

Agenda Item #4: Update: State Response to Identification of Zebra Mussels (*Dreissena polymorpha*) in Massachusetts

Carroll provided an update on the discovery of zebra mussels for the first time in Massachusetts on July 1, 2009, by a volunteer monitor who was trained by DCR's Lakes and Ponds program. DCR staff then confirmed through a scuba survey that the population was established in Laurel Lake in the Berkshires. Carroll explained how to identify zebra mussels and showed a map illustrating the distribution and spread of zebra mussels in the United States. Zebra mussels are a cause for concern because they affect fish populations by changing the food web, otherwise disrupt the ecology of lakes and rivers, and cause economic impacts. She displayed a map showing areas in Massachusetts that are susceptible to colonization by zebra mussels based on such key limiting factors as levels of calcium in the water, pH, and type of substrate. This mapping effort, originally done by MassDEP in the 1990s, identified the Housatonic and Hoosic river basins as the only regions in the state that were highly susceptible to colonization by zebra mussels. Based on this, DCR is focusing its enforcement and outreach efforts on this region.

Carroll reviewed state planning efforts dating back to 2002 to control aquatic invasive species, including a 2005 rapid response plan for zebra mussels. As a result of the recent discovery, the state has moved into the next phase, an interim action plan, which is now being finalized in partnership with the Department of Fish and Game. This plan focuses on short-term actions to stop the spread of zebra mussels in the Berkshires area. The most contentious parts of the plan have to do with mandatory closures of boat ramps and procedures for decontaminating boats. Also in response to the recent discovery, DCR has added boat ramp monitors and expanded inspection procedures.

Carroll reviewed the emergency management measures implemented following the discovery, including temporary boat ramp closings and authorizing local managers to control public access to 20 boat ramps in the areas of concern. Other measures include signage at the lakes, surveys of the lakes surrounding Laurel Lake, educational efforts on decontamination procedures, outreach through boat registrations and to retailers, and consideration of additional regulatory measures.

In response to a question from Pederson, Carroll confirmed that DCR is developing guidance for public water suppliers who have public access points. Cohen asked about other measures of eradication. Carroll responded that some measures work in a laboratory but are difficult to implement in the environment. Haas suggested looking at the state of Maine's program, which includes a fee for obtaining an inspection stamp for boats, with the funds used to hire additional monitors. Carroll acknowledged that Maine has a model program. Pelczarski suggested doing outreach to dam owners or other people who have infrastructure on lakes.

Meeting adjourned

Attachments distributed or presented at meeting:

- Current Water Conditions in Massachusetts, August 13, 2009
- Presentation by Linda Hutchins on Hopkinton/Milford RDI, South Street Sewer Connection. Interbasin Transfer Vote
- Presentation by Anne Carroll on the State Response to Identification of Zebra Mussels (*Dreissena polymorpha*) in Massachusetts