



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

Meeting Minutes for November 12, 2009

Minutes approved January 14, 2010

Members in Attendance:

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| 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 |
| Joseph E. Pelczarski | Designee, Massachusetts Office of Coastal Zone Management |
| Thomas Cambareri | Public Member |
| Bob Zimmerman | Public Member |

Others in Attendance:

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| Anne Carroll | DCR | Priscilla Chapman | Mass. Audubon |
| Michele Drury | DCR | Paul Lauenstein | WSCAC/Neponset River Watershed Assn |
| Linda Hutchins | DCR | Lexi Dewey | WSCAC |
| Bruce Hansen | DCR | Rich Bradley | Irrigation Assn. of New England |
| Sara Cohen | DCR | Jennifer Pederson | Massachusetts Water Works Assn. |
| Marilyn McCrory | DCR | Peter Weiskel | USGS |
| Margaret Callanan | EEA | Brent Courchene | AECOM |

Agenda Item #1: Executive Director's Report

Baskin announced that the conference sponsored by the Massachusetts Environmental Trust on the water resources of Massachusetts (November 10, 2009) was a great success, with more than 200 attendees and excellent speakers.

Baskin provided an update on EEA's sustainable water resources initiative. She invited Haas to update the commission on DEP's work on the methodology for determining safe yield. Haas announced that MassDEP has issued a statement clarifying that "safe yield" is defined as including environmental as well as hydrologic factors. The clarification outlined a process and a timetable for next steps. The first step is to develop an interim safe yield methodology within 30 days and an interim methodology for moving forward with Water Management Act permitting. The second step is to develop a long-term safe yield for the Ipswich River Watershed by August 2010. The third step is to use best efforts to complete safe yield determinations for the rest of the state by October 2010. Two work groups are being established, with work to start in the next week.

Baskin added that the EEA Secretary's initiative will convene an overarching committee of stakeholders with a membership that extends beyond the current membership in the Water Management Act Advisory Committee. This committee's mission would be to advise EEA on the sustainable water allocation methodology and to incorporate streamflow criteria, safe yield,

impacts on users, and other factors. She noted an ongoing study being done by USGS in cooperation with the Water Resources Commission to study fish response to changes in habitat. She asked Weiskel to comment on an effort to accelerate completion of this study, currently scheduled for completion in June 2011, so that its results can help to inform the Secretary's initiative.

Weiskel responded that USGS has developed a scope of work for an accelerated schedule, with a published report to be available by July 2010, and that the Division of Fisheries and Wildlife will participate. The final report will address major variables with respect to fish community composition.

Baskin invited nominations of candidates to the committees, and invited any member of the commission to participate. She said the timetable for the overarching committee's work is 18 months or longer. The committee will focus initially on water allocation and will consider other issues. Cambareri asked about the role of WRC staff in supporting these efforts. Baskin responded that staff has been involved in scoping projects, monitoring progress, and using the data and will continue to be very involved. Haas confirmed that staff from various agencies will be involved in the safe yield methodology committee.

Hansen provided an update on the hydrologic conditions for October 2009. Rainfall for October was 162% of normal statewide. Groundwater levels varied, but all were at least average. Surface water flows and reservoir levels were above average. There are no indicators of drought through January 2010.

Kennedy requested background on the meeting attachments related to the Framingham Birch Road well project. Baskin explained that the town had sought, in its FEIR, to present an alternative to developing a model to assess impacts, but most of those who submitted comments on the project expressed concern that not enough information about impacts was provided in the Draft Environmental Impact Report. She also noted that the National Park Service stated it did not have enough information to make a determination about whether it could be assured there would be no direct and adverse impact and therefore, whether public funds should be used for the project. In his certificate on the FEIR, the secretary required the proponent to submit a supplemental report.

Baskin noted two changes to the meeting agenda: The vote on the minutes of the October meeting and the presentation on restoration accomplishments from natural resource damage recoveries have been postponed until the December meeting.

Agenda Item #2: Vote: Modification of Operational Monitoring Plan for the Fisheries Exclusion System at the Aquaria Desalination Plant, Dighton

Baskin acknowledged receipt of comment letters on the project (see list of attachments). Drury provided background on the project. She reviewed key approvals by the Water Resources Commission, including the interbasin transfer in 2003, purchases by Brockton in 2004, and baseline monitoring in 2006, using first the Gunderboom fisheries exclusion system and, later, the Filtrex system. Ultimately, the Gunderboom system was redeployed. In July 2009, Aquaria submitted an operational monitoring plan and requested seven changes related mostly to the frequency and type of sampling. She summarized the changes and noted that the reviewing agencies recommend approval of these changes, with some modifications. She added that the commission's approval of these changes applies only to operation of the Gunderboom system, and all other conditions of the 2003 interbasin transfer approval must be met. She noted that the

WRC reserves the right to require additional monitoring, or modifications to the monitoring, based on results of changes in monitoring or changes in operations.

Zimmerman noted that four stakeholders are requesting that monitoring continue so that an entire year of data is provided for the Gunderboom system. Drury responded that Aquaria was not required to have the Gunderboom system in place year-round, and that a technical staff in the reviewing agencies recommends that Aquaria focus on operational issues.

Chapman expressed concern that one year of monitoring is insufficient to capture the natural fluctuations in fish populations and further, that because the Filtrex exclusion system was used for part of the period when an exclusion system is required, the monitoring data collected when the Gunderboom system was in place did not represent the entire period that Gunderboom could be used. She pointed out that water overtopping the Gunderboom resulted in fish being found in the impoundment area. She also recommended that the full monitoring program be implemented when withdrawals are increased to accommodate the needs of Brockton and other customers. This would provide a better understanding of what is causing a decline in both diversity and the quantity of fish in the Taunton River fishery. She acknowledged Aquaria's efforts to address these issues.

Courchene addressed Chapman's concerns. Baskin acknowledged Chapman's concerns. She suggested that the decision document clarify requirements for finfish sampling if plant operations change over the past year's operation or if new withdrawals are approved. She also recommended adding a global statement that reserves the opportunity to return to the original operational monitoring plan in particular circumstances.

Zimmerman suggested asking for monitoring in March, April, and May, since the Gunderboom was not in place during those months, in order to fill in gaps in data over a full operational season. Baskin made a motion that, should the Gunderboom system continue to be deployed, monitoring based on last year's operation plan should take place in March, April, and May. If monitoring data indicate an issue, or if operations change, the WRC reserves the right to review the operational monitoring plan. Zimmerman seconded this motion.

Courchene clarified that the modifications to the sampling plan that began in July, during the second year of operation, apply only to the monitoring that would take place through February 28, because no decision has yet been made on which exclusionary device to use. Baskin confirmed that Aquaria would continue under the old monitoring plan for three more months.

There was some discussion, prompted by questioning by Cambareri, about the reporting protocol for monitoring, if enough interpretation of results is included in reports, whether the proponent can request modifications at any time, and monitoring frequency. Drury explained that Aquaria submits monitoring reports to commission and agency staff, who review the reports and make recommendations or request additional information, if necessary. Report copies are also provided to stakeholders. The Aquaria project has no threshold monitoring, and monitoring will end if results indicate this is acceptable. Monitoring frequency depends on whether or not the Gunderboom system is in place.

Baskin added that reporting should be required to provide an opportunity for commission staff to request changes to monitoring, as needed.

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| V O T E | <p>A motion was made by Baskin with a second by Zimmerman to amend the staff recommendation as follows:</p> <p>If the Gunderboom system is deployed, then monitoring in March, April, and May is required, in accordance with the original operational monitoring plan; Aquaria must submit results by July 15 for Commission review; and approval of modifications is based on the past year's operating conditions.</p> <p>The vote to approve was unanimous of those present.</p> |
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In response to concerns expressed by Haas, Baskin noted that the Commission reserves the right to review the monitoring plan in the future, and may require changes to monitoring based on either monitoring results or operations.

Baskin invited a motion to accept the staff recommendation, as amended.

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| V O T E | <p>A motion was made by Haas with a second by Contreas to approve the staff recommendation, as amended, on modification of the operational monitoring plan for the fisheries exclusion system at the Aquaria Desalination Plant, Dighton.</p> <p>The vote to approve was unanimous of those present.</p> |
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Baskin added that the commission will request clarification from Aquaria on the results from the use of the Filtrex monitoring system, as well as on how Aquaria plans to use Filtrex in the future.

Agenda Item #3: Discussion: WRC Work Plan for 2010

Baskin outlined high-priority initiatives that WRC staff proposes to work on in 2010. These include development of streamflow criteria; continued development of water needs forecasts for river basins as Water Management Act permits in those basins expire; and consideration of policies on a number of issues, such as the applicability of the Interbasin Transfer Act to bottled water or evaporative losses from power plants. She added that the Commission had also discussed reviewing how wastewater interbasin transfers are analyzed and evaluated.

Zimmerman requested information on how the state's budget cuts might affect the various water agencies. Lauenstein suggested that the Commission consider changes to the state plumbing code.

Commissioners were asked to give some thought to other issues that are important to them and to which they would like to have staff time devoted, as well as to issues that address the mission of the Commission, as outlined in the Commission's enabling act. Commissioners were also requested to keep the Commission informed about water-related projects and policies on which their organizations are working.

Meeting adjourned

Attachments distributed or presented at meeting:

- Current Water Conditions in Massachusetts, November 12, 2009
- Correspondence related to the Operational Monitoring Plan for the Aquaria Desalination Plant:
 - From the Office of Coastal Zone Management, dated September 23, 2009
 - From Division of Marine Fisheries, dated October 8, 2009
 - From Massachusetts Dept. of Environmental Protection, dated October 7, 2009
 - From Taunton River Watershed Alliance, Massachusetts Audubon Society, Jones River Watershed Association, and Save the Bay, dated November 12, 2009
- Excerpts from the Water Resources Commission Enabling Act (M.G.L. Chapter 21A §§ 8A to 8F)