



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

Meeting Minutes for September 8, 2016

100 Cambridge Street, Boston, MA, 1:00 p.m.

Minutes approved October 13, 2016

Members in Attendance:

Vandana Rao	Assistant Director of Water Policy, Executive Office of Energy and Environmental Affairs (EEA)
Jonathan Yeo	Designee, Department of Conservation and Recreation (DCR)
Douglas Fine	Designee, Department of Environmental Protection (MassDEP)
Hotze Wijnja	Designee, Department of Agricultural Resources (DAR)
Todd Richards	Designee, Department of Fish and Game (DFG)
Todd Callaghan	Designee, Massachusetts Office of Coastal Zone Management (CZM)
Raymond Jack	Public Member
Paul Matthews	Public Member
Kenneth Weismantel	Public Member
Bob Zimmerman	Public Member

Members Absent

Linda Balzotti	Designee, Department of Housing and Community Development (DHCD)
Thomas Cambareri	Public Member

Others in Attendance:

Jennifer Pederson	Massachusetts Water Works Association
Roy Socolow	U.S. Geological Survey
Anne Carroll	DCR
Richard Verdi	U.S. Geological Survey
Catherine deRonde	DAR
Gabby Queenan	Massachusetts Rivers Alliance
Michelle Craddock	DFG/Div. of Ecological restoration
Sara Cohen	DCR
Becky Weidman	DEP
Pam Heidell	Massachusetts Water Resources Authority
Julia Blatt	Massachusetts Rivers Alliance
Lexi Dewey	Water Supply Citizens Advisory Committee
Matt Ely	U.S. Geological Survey
Gardner Bent	U.S. Geological Survey
Marilyn McCrory	DCR
Jennifer Sulla	EEA
Vanessa Curran	DCR
Erin Graham	DCR
Greg Lane	Next Generation Strategies

Rao called the meeting to order at 1:06 p.m.

Agenda Item #1: Executive Director's Report

Rao reported that all areas of the state are still experiencing drought conditions. The Drought Management Task Force met before the commission meeting on September 8 and reviewed

conditions for August. The task force also discussed recommendations for drought levels in each of the state's six drought regions. The Secretary of Energy and Environmental Affairs will consider the recommendation and make a declaration.

Agenda Item #2: Hydrologic Conditions Update

Carroll provided an update on the hydrologic conditions for August 2016. Conditions in most regions did not improve. All of the state's drought regions, except for the Western region, are at the Watch level or higher. Streamflow has not recovered. Groundwater levels remain well below normal in all regions except Cape Cod, where fifty percent of the wells are below normal. Several reservoir systems are moving into the Warning level. Fire danger levels are at the Watch or Warning level. The Drought Monitor mirrors the task force's assessment of drought indicators.

Weismantel asked if more widespread implementation of best management practices that allow infiltration of stormwater might change the way historical data are reviewed. Zimmerman responded that such practices primarily apply to new development and help to keep hydrologic conditions from deteriorating further. Richards and Bent concurred.

Zimmerman commented that the recent modest amounts of rainfall have had negative impacts on water quality in the Charles River.

Agenda Item #3: Vote on the Minutes of August 2016

Rao invited a motion to approve the meeting minutes for August 11, 2016.

V O T E	A motion was made by Zimmerman with a second by Weismantel to approve the meeting minutes for August 11, 2016. The vote to approve was unanimous of those present (Matthews absent for the vote).
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Agenda Item #4: Presentation: Update of Interbasin Transfer Act Regulations (313 CMR 4.00)

Rao provided background on the Interbasin Transfer Act (ITA), noting that the commission has authority over water or wastewater that crosses a major river basin boundary. She noted that WRC staff and stakeholders have been engaged in a review of the ITA regulations for several years, and a variety of proposed updates have been presented to and discussed by the commission since that time. She added the ITA regulations are being brought to the Commission under Executive Order 562, which is being applied to all state regulations. She noted that the proposal to split certain major basins is being tabled for the time being. She outlined the next steps, which include today's presentation, followed, at the next commission meeting, by a vote to release the draft regulations for the public comment and hearing process. She introduced Anne Carroll and Sara Cohen of the Department of Conservation and Recreation.

Cohen reviewed the history and purpose of the Interbasin Transfer Act, noting that the statute was enacted in 1984 with the purpose of ensuring protection of the water resources in donor basins when any transfers of water or wastewater are proposed. The Act also requires that communities in the receiving basin have exhausted all alternatives for in-basin water sources and have minimized water demand through water conservation. Since promulgation in 1986, the regulations have not been updated, and the Water Resources Commission has adopted various policies to aid in interpreting the act. Cohen outlined the goals of the revision process, including incorporating policies adopted by the commission to address gaps in the regulations, incorporating the latest water resources science, streamlining procedures, and changes to clarify

terms and improve organization. She reviewed the effort, to date, to update the regulations, including twenty-one meetings of an interagency work group, targeted outreach to stakeholder groups, and five presentations to the commission (*Ed. Note:* see minutes for meetings of the Water Resources Commission in March, April, May, November and December 2014).

Carroll highlighted the major revisions, calling attention to the handouts, which provide more detail. Proposed revisions:

- Specify insignificance criteria for transfers mainly affecting streamflow and transfers mainly affecting a lake or reservoir
- Add a streamlined option for transfers less than or equal to ten thousand gallons per day
- Add a regional water supply approval process
- Specify the review process and requirements for wastewater transfers
- Revise the requirement for a local water resources management plan

Yeo noted that a major impetus of the Act was to prevent diversion of the Connecticut River, adding that requirements for transfers involving wastewater and impoundments need to be incorporated in the regulations.

Carroll reviewed specifics related to each of the revisions. She outlined next steps, which include a vote by the commission to approve release of the draft regulations for public comment, the public comment period and response, further deliberation and a vote by the commission, administrative review, and promulgation.

Weismantel offered a number of comments on language in the regulations.

- Difficulty of evaluating whether “all reasonable efforts” have been made to identify “all viable sources”: Rao clarified the reason for this requirement and the evaluation process. She added that WRC staff work very closely with communities seeking an Interbasin transfer and help to guide them through the process.
- What is an “effective” water conservation program? Carroll responded that the ITA performance standards provide guidelines.
- On requirements for a request for determination of applicability: Cohen clarified that applicability does not depend on the amount to be transferred, as all amounts are jurisdictional.
- Is there duplication between section 4.09(e) and section 4.11, regarding public hearings?
- Is it the intent that commission members themselves attend the public hearings in the donor and receiving basins on proposed transfers? Rao clarified that hearings are open to all, but generally staff attend on behalf of the commission and report back to the commission. Yeo and Jack concurred that staff may represent the commission at these hearings. Rao offered to have legal counsel review the language.
- Does the requirement for a comprehensive forestry management program (sec. 4.09(2)(f)) satisfy the information needed for criterion 4 (sec. 4.09(3)(d))? Carroll confirmed that this is correct.
- What constitutes a “sufficient” period for the daily hydrograph (sec. 4.09(2)(g)1.i)? Carroll responded that the answer would be specific to the site, and technical staff would provide guidance on what the applicant needs to provide in the analysis.

Discussion also ensued on the following points:

- Richards requested an opportunity to refine or improve the criteria for insignificance for transfers impacting a lake or reservoir. He expressed concern that any withdrawal from an impoundment will result in less water leaving the impoundment and therefore less streamflow. Yeo responded with concern about revisiting an issue that had been addressed through discussions among agency staff in the course of many previous meetings. Rao concurred that much good technical input had been received from agency staff and the public, and the draft regulations result from a long and thoughtful process that reflects these comments. She proposed continuing the discussion while keeping the updating process moving forward.
- Pederson emphasized the importance of updating these regulations, as public health and safety issues are at stake, and requested that any internal discussions be brought back to the commission.
- Blatt suggested that the commission shorten the proposed ten-year time period for review of approvals for regional water suppliers, noting that, during a multiyear drought, impacts can be seen much sooner. Rao responded that the regulations require annual reporting and explained the purpose of the ten-year check-in. Heidell added that the Massachusetts Water Resources Authority, a regional water supplier, has its own process for reviewing requests to join the system and conducts a very conservative analysis. She noted that MWRA continues to voluntarily release water from its reservoirs.

Agenda Item #5: Update: USGS Groundwater Network

Rao introduced Richard Verdi and Roy Socolow of the U.S. Geological Survey (USGS) to provide an update on the status of the USGS groundwater network. Socolow provided an overview of observation wells in the climate response network, noting that the climate response network currently has seventy-five wells. He reviewed plans and funding sources to replace aging wells in this network and upgrade wells to allow automatic measurements of daily data. He also showed the distribution of active wells in the water-level network and noted that data from these can be used to fill in gaps in the climate response network. He reviewed activities over the past two years – including maintenance, upgrades, and replacements – the addition of eight bedrock wells, and the removal of nine wells from the climate response network. He added that replacement and upgrade activities will continue, with potential funding.

In response to questions, Socolow described the advantages of automated data collection, noting that daily measurements are useful in septic system site evaluations and in highlighting rapid fluctuations in shallow wells, and automation allows more efficient use of staff time. In response to a request for recommendations, Socolow noted the importance of geographic distribution, recommending additional real-time wells in western Massachusetts. He also recommended installing on-site automated recording equipment at wells in different topographic settings – hilltop, hillsides, and valley – and in different geologic settings – till, sand and gravel, and bedrock.

Matthews arrives.

Other questions addressed the concentration of wells on Cape Cod. Socolow explained that many wells were installed to complete project-specific investigations, and others were installed in response to the 1960s drought.

Yeo presented a citation from Governor Baker on behalf of the Commonwealth, commending Socolow's contributions over his thirty-eight-year career. Rao acknowledged the breadth and depth of Socolow's knowledge and offered appreciation on behalf of the Secretary of Energy and Environmental Affairs.

Jack leaves.

Agenda Item #6: VOTE: Proposed Amendments to MassDEP Regulations: 314 CMR 18.00 – Industrial Wastewater Holding Tank and Container Construction, Operation, and Record-Keeping Requirements

Fine noted that the public comment and review process for the three regulations being presented today is now complete, and the final step before promulgation is a vote by the commission. All three were promulgated under the Massachusetts Clean Waters Act, and the draft regulations were presented to the commission for review in April and May 2016.

Fine introduced Dave Ferris of MassDEP. Ferris provided a brief overview of changes to the industrial holding tank regulations. He noted that no comments on the proposed amendments had been received, and, therefore, there are no changes to the draft regulations previously presented to the commission.

V O T E	A motion was made by Yeo with a second by Richards to approve proposed amendments to MassDEP regulations at 314 CMR 18.00 (Industrial Wastewater Holding Tank and Container Construction, Operation, and Record-Keeping Requirements). The vote to approve was unanimous of those present.
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Agenda Item #7: VOTE: Proposed Amendments to MassDEP Regulations: 310 CMR 32.00 – Land Application of Sludge and Septage

Ferris reviewed the proposed changes to the regulations on land application of sludge and septage. He noted that most public comments were in favor of the changes, while some comments were outside the realm of the proposed changes. Therefore, there are no changes to the draft regulations previously presented to the commission. Yeo commented that the change to the limit for concentration of molybdenum is a positive change and commended DEP for coordinating with EPA on the science.

V O T E	A motion was made by Yeo with a second by Weismantel to approve proposed amendments to MassDEP regulations at 310 CMR 32.00 (Land Application of Sludge and Septage). The vote to approve was unanimous of those present.
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Agenda Item #8: VOTE: Proposed Amendments to MassDEP Regulations: 310 CMR 27.00 – Underground Injection Control (UIC)

Fine introduced Joe Cerutti of MassDEP. Cerutti outlined the changes dictated by changes to the federal regulations, including updated regulatory definitions and minor changes to well closure, record-keeping, and reporting requirements. He outlined other changes, including electronic reporting requirements, an allowance of presumptive approval in certain situations, and exemptions from UIC registration requirements. He noted that no comments were received during the public comment period.

V O T E	A motion was made by Richards with a second by Weismantel to approve proposed amendments to MassDEP regulations at 310 CMR 27.00 (Underground Injection Control). The vote to approve was unanimous of those present.
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Meeting adjourned, 2:35 p.m.

Documents or Exhibits Used at Meeting:

1. Hydrologic Conditions in Massachusetts, August 2016 Summary (available at <http://www.mass.gov/eea/agencies/dcr/water-res-protection/water-data-tracking/precipitation-composite-current-conditions.html>)
2. WRC Meeting Minutes for August 11, 2016
3. Revised Interbasin Transfer Act Regulations (313 CMR 4.00):
 - Memorandum dated September 8, 2016, from Water Resources Commission staff regarding Interbasin Transfer Act Regulations (313 CMR 4.00) Revisions
 - Review Guide to the 2016 Proposed Changes to the Interbasin Transfer Act Regulations: 313 CMR 4.00
 - Redline version
 - Clean copy
 - Presentation by WRC staff: Interbasin Transfer Act: Proposed Regulation Revisions, 313 CMR 4.00
4. Presentation by Richard Verdi and Roy Socolow: Update on the USGS Groundwater Network
5. Summary of Proposed FINAL Regulations: 314 CMR 18.00: Industrial Wastewater Holding Tank and Container Construction, Operation, and Record Keeping Requirements
6. Summary of Proposed FINAL Regulations: 310 CMR 32.00: Land Application of Sludge and Septage
7. 310 CMR 27.00: Underground Injection Control (UIC) Regulations
 - Summary of Proposed FINAL Regulations
 - Redline version
 - Clean copy
8. Interbasin Transfer Act project status report, August 24, 2016

Compiled by: mjm

Agendas and minutes are available on the web site of the Water Resources Commission at www.mass.gov/eea/wrc under "MA Water Resources Commission Meetings." All other meeting documents are available by request to WRC staff at 251 Causeway Street, 8th floor, Boston, MA 02114.