



October 8, 2014

Massachusetts Water Resources Commission Members
c/o Kathleen Baskin, Executive Director
100 Cambridge Street, 9th Floor
Boston, MA 02114

RE: Water Resources Commission Vote on SWMI Regulations

Dear Water Resources Commission Members:

In July, NAIOP Massachusetts, The Commercial Real Estate Development Association, and Associated Industries of Massachusetts (AIM) submitted a detailed comment letter on the Water Management Act Draft Regulations (310 CMR 36.00). It is our understanding that numerous other organizations and stakeholders submitted comments on the draft regulations as well. Since the close of the comment period we have not heard anything from MassDEP on the status of the regulations.

Therefore, NAIOP was surprised to learn earlier this week of the October 9 meeting of the Water Resources Commission (WRC). Based on the information available online (Regulation Revision Timeline and the agenda for tomorrow's meeting), it appears that the SWMI regulations will be reviewed by the Commission. The Regulation Revision Timeline states that the WRC will vote on the regulations at the meeting. The website also lists an October 21 meeting. However, it is our understanding that no members of the Commission have had an opportunity to review the most recent version of the regulations.


Given the complexity and significant impact of the earlier draft regulations, combined with the numerous detailed comment letters submitted, we assumed that some changes to the regulations would have been made since the earlier draft. If this is the case (which we sincerely hope), then Commission members should have at least 30 days to review the revised, redlined regulations and Guidance.

As we communicated in the July comment letter, NAIOP and AIM are deeply concerned that the regulations will restrict economic growth by limiting future water supplies and increasing water rates without providing meaningful improvement to either streamflow or aquatic habitat. Among other things, the regulations established a lengthy permitting timeframe and increased the risk of appeals, provided no opportunity to challenge the data, created mitigation provisions that were unworkable, did not provide for an adjustment of the baseline to reflect improved water flows, and did not adequately address the costs associated with the program. Most importantly, there are serious questions as to whether the entire proposed regulatory package will actually achieve its stated goals of improving streamflow or aquatic habitat.

NAIOP Letter to Water Resources Commission Members on SWMI Regs.
October 8, 2014

With this in mind, we urge the Commission to vote no on the proposed regulations if a vote is required at this meeting. Given that the general public and Commission members have not had an opportunity to review or vet the revised regulations, we respectfully request a minimum 30 day review period. Finally, unless dramatic changes have been made to the regulations, NAIOP remains deeply opposed to the regulatory program and urges the Department not to move forward with this effort. Please contact me if any additional information is needed on this matter.

Sincerely,



Tamara C. Small
Senior Vice President, Government Affairs
NAIOP Massachusetts