



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

100 Cambridge Street Suite 900 Boston, MA 02114 • 617-292-5500

Maura T. Healey
Governor

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Secretary

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November 7, 2025

Jeffrey Murdock
Butternut Basin Ski Area
380 State Road
Great Barrington, MA 01230

RE: Great Barrington—BWR/WMA
Water Management Act Permit
WMA Permit: #9P2-1-02-113.02

Dear Mr. Murdock,

Please find the attached documents:

- **DRAFT** Findings of Fact in Support of the Water Management Act Renewed and Amended Permit #9P2-1-02-113.02; and
- **DRAFT** Water Management Act Renewed and Amended Permit #9P2-1-02-113.02 (Housatonic River Basin) for Butternut Basin Ski Area.

Consistent with 310 CMR 36.27(6)(8) of the revised Water Management Act Regulations, the Department will now publish notice in the Environmental Monitor that a DRAFT Permit is available for review and comment for 30 days following November 7, 2025 publication in the Environmental Monitor. Notice of the public comment period will also be sent to all registrants, permittees, and those having non-consumptive use statements within the Housatonic River Basin. The Department expects to issue the final permit within 30 days of the close of the public comment period.

The signature on this cover letter indicates formal issuance of the attached document. If you have any questions regarding this information, please contact me at (617) 780-1962 or via e-mail at duane.levangie@mass.gov.

Sincerely,

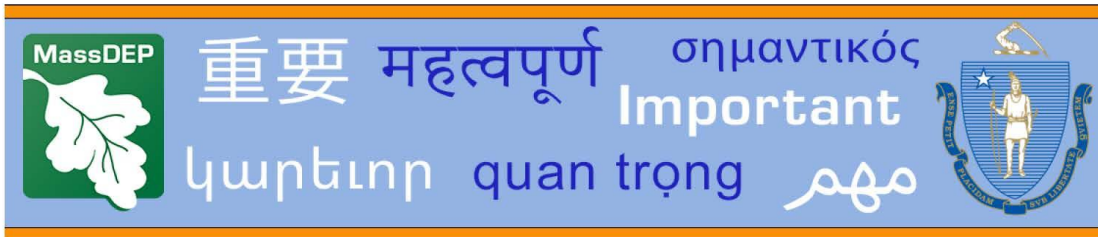
Duane LeVangie
Chief, Water Management Program
Bureau of Water Resources

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Ecc: Duane LeVangie, MassDEP, WMA Program
Lydia Olson, Massachusetts Rivers Alliance
Soloe Dennis, MassDEP, Deputy Regional Director, Springfield

[https://massgov.sharepoint.com/DEP-BWR/Permit Renewals/Great Barrington-1113006-Butternut Basin Ski Area-DRAFT WMA Permit_9P2-1-02-113.02_11-07-2025](https://massgov.sharepoint.com/DEP-BWR/Permit%20Renewals/Great%20Barrington-1113006-Butternut%20Basin%20Ski%20Area-DRAFT%20WMA%20Permit_9P2-1-02-113.02_11-07-2025)



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繁體中文 Chinese Traditional

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简体中文 Chinese Simplified

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Ayisyen Kreyòl Haitian Creole

Dokiman sa-a se yon bagay enpòtan epi yo ta dwe tradwi l imedyatman. Si ou bezwen dokimar sa a tradwi, tanpri kontakte Direktè Divèsite MassDEP la nan nimewo telefòn endike anba.

Việt Vietnamese

Tài liệu này rất quan trọng và cần được dịch ngay lập tức. Nếu quý vị cần dịch tài liệu này, xin liên lạc với Giám đốc Đa dạng của MassDEP theo các số điện thoại ghi dưới đây.

ប្រទេសកម្ពុជា Khmer/Cambodian

ឯកសារនេះគឺសំខាន់ហើយត្រូវបានបកប្រែភ្លាមៗ។ ប្រសិនបើអ្នកត្រូវការឱ្យគេបកប្រែឯកសារនេះ សូមទាក់ទងមកនាយកដ្ឋានពិពិធកម្មរបស់ MassDEP តាមលេខទូរស័ព្ទខាងក្រោម។

Kriolu Kabuverdianu Cape Verdean

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Contact Deneen Simpson 857-406-0738

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Русский Russian

Это важный документ, и он должен быть безотлагательно переведен. Если вам нужен перевод данного документа, пожалуйста, свяжитесь с директором по вопросам многообразия (Diversity Director) компании MassDEP по указанному ниже телефону.

العربية Arabic

هذه الوثيقة مهمة ويجب ترجمتها على الفور. إذا كنت بحاجة إلى هذه الوثيقة مترجمة، يرجى الاتصال بمدير التنوع PMassDE على أرقام الهواتف المدرجة أدناه.

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이 문서는 중요하고 즉시 번역해야 합니다. 이 문서의 번역이 필요하시다면, 아래의 전화 번호로 MassDEP의 다양성 담당 이사에 문의하시기 바랍니다.

հայերէն Armenian

Այս փաստաթուղթը կարևոր է և պետք է անմիջապես թարգմանվի:
Եթե Ձեզ անհրաժեշտ է այս փաստաթուղթը թարգմանել, դիմեք MassDEP-ի թարգմանության տնօրենին ստորև նշված հեռախոսահամարով:

فارسی Farsi Persian

این سند مهم است و باید فوراً ترجمه شود.
اگر به ترجمه این سند نیاز دارید، لطفاً با مدیر بخش تنوع نژادی MassDEP به شماره تلفن ذکر شده در زیر تماس بگیرید.

Français French

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Το παρόν έγγραφο είναι σημαντικό και θα πρέπει να μεταφραστεί αμέσως. Αν χρειάζεστε μετάφραση του παρόντος εγγράφου, παρακαλούμε επικοινωνήστε με τον Διευθυντή Διαφορετικότητας του MassDEP στους αριθμούς τηλεφώνου που αναγράφονται παρακάτω.

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हिन्दी Hindi

यह दस्तावेज़ महत्वपूर्ण है और इसका तुरंत अनुवाद किया जाना चाहिए. यदि आपको इस दस्तावेज़ का अनुवाद करने की आवश्यकता है, तो कृपया नीचे सूचीबद्ध टेलीफोन नंबरों पर मासडेप्स डाइवर्सिटी के निदेशक से संपर्क करें.

Contact Deneen Simpson 857-406-0738

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Findings of Fact in Support of **DRAFT Water Management Permit # 9P2-1-02-113.02** **Butternut Basin Ski Area**

The Department of Environmental Protection (the Department or MassDEP) makes the following Findings of Fact in support of the attached **DRAFT** Water Management Act (WMA) Permit #9P2-1-02-113.02 and includes herewith its reasons for issuing the Permit and for conditions of approval imposed, as required by M.G.L. c. 21G, § 11. The issuance of the WMA permit is in response to the June 15, 2015 permit renewal application and the July 10, 2024 permit amendment application submitted by Butternut Basin Ski Area (Butternut) in the Housatonic River Basin.

Butternut Basin Ski Area's Withdrawal History

Registration:

Butternut holds a WMA Registration Statement (#1-02-113.04) for an average annual daily withdrawal volume of 0.50 million gallons per day (MGD) or 60 million gallons per year (MGY) from two wells, Well #1 (01G), Well #2 (02G), and two ponds, Pond #1 (02S), and Pond #2 (03S).

Original Permit:

On February 14, 2004, Butternut Basin Ski Area was issued a WMA Permit (#9P2-1-02-113.02) to withdraw an average annual daily rate of 0.265 million gallons per day (MGD) over a 120-day operating season, for a total withdrawal of up to 0.765 MGD (91.8 MGY) including the registration volume.

Modified Permit:

Butternut's permit was modified on October 27, 2009, superseding the previously issued WMA Permit. The modified permit clarified the reporting requirements associated with their seasonal snow making withdrawals. This was done because Butternut's seasonal snowmaking withdrawals span two calendar years.

Permit Extension Act:

All Housatonic River Basin water withdrawal permits were originally intended to expire on May 31, 2012. The expiration date in the Housatonic River Basin for all Water Management Permits

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was extended for two years by Chapter 240 of the Acts of 2010 and further extended another two years by Chapter 238 of the Acts of 2012, collectively known as the Permit Extension Act. The expiration dates for all permits going forward in the Housatonic River Basin will be May 31, 2032, in accordance with the staggered permitting schedule set forth in the regulations.

Permit Renewal Application:

On June 15, 2015, MassDEP received a WMA 20-year permit renewal application from Butternut for their withdrawal in the Housatonic River Basin. The submitted application requested to maintain the permitted withdrawal volume of 0.265 MGD or 31.8 MGY. Pursuant to M.G.L. c. 30A, § 13, and 310 CMR 36.18(7), Butternut's existing permit continues in force and effect until the Department issues a final decision on the permit renewal application.

Following the permit renewal application, MassDEP issued an Order to Complete (OTC) on March 4, 2024, outlining specific information that was required to complete MassDEP's review of the application. An OTC response was received from Butternut on April 11, 2024.

WM03 Water Management Withdrawal Permit Application:

On July 10, 2024, MassDEP received a WM02 permit amendment application from Butternut. The Amendment requested the flexibility to allow Butternut to increase their withdrawals from their two snowmaking ponds (Ponds 1 and 2) which were limited to the registration volume of 0.50 MGD. Additional withdrawals beyond 0.50 MGD up to their total allocated volume of 91.8 MGY were to come from Well #1 (01G).

The Water Management Act (M.G.L. c. 21G)

The Water Management Act (Act) requires MassDEP to issue permits that balance a variety of factors including without limitation:

- Impact of the withdrawal on other water sources;
- Water available within the safe yield of the water source;
- Reasonable protection of existing water uses, land values, investments and enterprises;
- Proposed use of the water and other existing or projected uses of water from the water source;
- Municipal and Massachusetts Water Resources Commission (WRC) water resource management plans;
- Reasonable conservation consistent with efficient water use;
- Reasonable protection of public drinking water supplies, water quality, wastewater treatment capacity, waste assimilation capacity, groundwater recharge areas, navigation, hydropower resources, water-based recreation, wetland habitat, fish and wildlife, agriculture, flood plains; and
- Reasonable economic development and job creation.

Water Management Regulation Revisions

In 2010 the Executive Office of Energy and Environmental Affairs (EEA) convened the Sustainable Water Management Initiative (SWMI) for the purpose of incorporating the best available science into the management of the Commonwealth's water resources. SWMI was a multi-year process that included a wide range of stakeholders and support from the Departments of Environmental Protection, Fish and Game, and Conservation and Recreation.

In November 2012 the *Massachusetts Sustainable Water Management Initiative Framework Summary* (<https://www.mass.gov/info-details/sustainable-water-management-initiative>) was released.

On November 7, 2014, MassDEP adopted revised Water Management Regulations at 310 CMR 36.00 that incorporate elements of the SWMI framework and the Water Conservation Standards adopted by the Massachusetts WRC. The regulations reflect a carefully developed balance to protect the health of Massachusetts' water bodies while meeting the needs of businesses and communities for water.

Without limitation, MassDEP has incorporated the following into Water Management permitting:

- Safe yield determinations for the major river basins based on a new methodology developed through SWMI (see the Safe Yield in the Housatonic River Basin section of this document or for more information on the Safe Yield methodology, go to the November 28, 2012 SWMI Framework Summary and Appendices); and
- Environmental protections developed through SWMI, including without limitation:
 - protection for coldwater fish resources;
 - minimization of withdrawal impacts in areas stressed by groundwater use; and
 - mitigation of the impacts of increasing withdrawals.

Safe Yield in the Housatonic River Basin

This permit is being issued under the safe yield methodology adopted by MassDEP on November 7, 2014, and described in the regulations at 310 CMR 36.13. As of the date of issuance of this permit, the Safe Yield calculation for the Housatonic River Basin is 96.4 MGD, and total registered and permitted withdrawals are 29.17 MGD. The withdrawals authorized by this permit and all other permits within the Housatonic River Basin, will be within the safe yield of the Housatonic River Basin and may be further conditioned as outlined in the regulations.

Findings of Fact for Permit Conditions in Butternut's Water Management Act Permit

The Findings of Fact for the special conditions included in the permit generally describe the rationale and background for each special condition in the permit. This summary of permit special conditions is not intended to, and should not be construed as, modifying any of the permit special conditions. In the event of any ambiguity between this summary and the actual permit conditions, the permit language shall control.

Special Condition 1, Maximum Authorized Annual Average Withdrawal Volume

This condition reflects the total authorized (registered plus permitted) annual average withdrawal volume for each period during the life of Butternut's WMA Permit. Butternut is permitted to withdraw 0.265 million gallons per day (MGD) (31.8 million gallons per year (MGY)) and registered to withdraw 0.50 MGD for a total of 0.765 MGD (91.8 MGY) of water over 120 days annually from its wells and ponds for snowmaking and 365 days per year for their potable water needs.

Because the permittee is a snowmaking operation, the withdrawal season spans two calendar years. This causes Butternut difficulty in tracking its water use and managing its withdrawal from year to year. Therefore, Butternut's compliance period is between July 1 and June 30 of each year.

Butternut utilizes four metered water sources (Well 1, Well 2, Pond 1, and Pond 2) for its operations. For snowmaking, water is primarily drawn from Pond 1, which is supplemented by pumping from Well 1 and Pond 2. To avoid double counting these contributions, the volume of water used for snowmaking is calculated by subtracting the inputs from Well 1 and Pond 2 from the total withdrawals recorded at Pond 1.

Special Condition 2, Maximum Authorized Daily Withdrawals from each Withdrawal Point

This condition specifies the daily withdrawal rates by source with withdrawals not to exceed the approved maximum daily volumes listed below without specific written approval from the Department.

The 2009 WMA permit limits volumes beyond the registration volume to Well #1 (Gravel Well-01G). The remaining sources (Pond 1, Pond 2, and the Rock Well 2) must not exceed the registered withdrawal volume of 0.50 MGD or 60 MGY. This amended permit will add all of Butternut's sources to the permit and allow them to increase their withdrawal volumes from Ponds 1 and 2 up to the full allocation volume of 91.8 MGY.

The permit maintains the original maximum daily withdrawal rate of 1.3 MGD for Well #1(01G) based on the estimated capacity of the well. The facility records usage on a monthly basis and therefore does not report maximum day usage. According to pumping information provided in the original WMA Application, (August 25, 2003) the capacity of the snowmaking pump is approximately 930 gallons per minute (GPM). Therefore, the facility is unlikely to have the capacity to substantially exceed the 1.3 MGD maximum authorized daily withdrawal. MassDEP herein requires Butternut to record usage on a weekly basis and requires that the average day for any week shall not exceed 1.3 MGD.

The maximum daily rate for Well 2 (Rock Well-02G) was identified in Butternut's 2008 Sanitary Survey Report. Potable water is withdrawn from Well 2 at approximately 18 gallons per minute (gpm) by a 1.5 HP submersible pump currently set at 147 feet below ground surface. Well 2 was installed in 1971, MassDEP was unable to identify any pumping tests conducted on the well.

The maximum daily withdrawal rate for Pond 2 was established based on the capacity of the intake structure, which is 4.61 MGD within the pond's total capacity of 13.8 MG. For Pond 1, the capacity of the intake structure is 24.48 MGD, with a storage capacity of 11 MG. Due to the possibility of Butternut being able to pump the pond dry, MassDEP did not set the maximum daily withdrawal volume at 24.48 MGD. Instead, the maximum daily withdrawal rate for Pond 1 is set at 6.91 MGD. This is based on discussions with Butternut held on August 21, 2024, where MassDEP was informed that Pond 1 has seven pumps and even on a peak water use day, the most Butternut typically needs for snowmaking operations is 6.91 MGD. Furthermore, the elevations for the pumps in the ponds will not be altered from the existing infrastructure. Changes to the current pump elevations shall be discussed with MassDEP's Wetlands Program and the local Conservation Commission.

Special Condition 3, Water Conservation Requirements

This special condition requires the Permittee to develop and implement water conservation measures. In accordance with the response of the Permittee to the Department's renewal permit Order to Complete, Butternut shall continue to implement the snowmaking and monitoring strategies outlined in the 2009 WMA Permit.

MassDEP accepted the Water Conservation Plan submitted by Butternut as a permit condition. The facility has installed single hand, auto-shut-off faucets in the rest rooms, has low flush toilets in the lower lodge and plans, over time, to replace lavatory facilities with water savings fixtures. Butternut has provided education to staff regarding water conservation including instructing staff to inspect and report observed leaks in the snowmaking system. All sources are metered and master meters are calibrated in accordance with manufacturer's recommendations.

Snowmaking conservation measures include the use of snow additives, snow grooming, efficient snowmaking, and leak detection. All of these measures are used with one exception, the use of a snow additive. Improved efficiency of snowmaking has made the use of the additives no longer cost effective or a significant water savings measure.

Special Condition 4, Mitigation

The renewed permit includes a condition that requires mitigation of withdrawals over a baseline volume, if feasible, if future withdrawals exceed the assigned baseline volume. Baseline withdrawal means the volume of water withdrawn during calendar year 2005 plus 5%, or the average annual volume withdrawn from 2003 through 2005 plus 5%, whichever is greater provided that:

- (a) baseline cannot be less than a permittee's registered volume;
- (b) baseline cannot be greater than the permittee's authorized volume for 2005; and
- (c) if, during the period from 2003 to 2005, the permittee's withdrawals from the water source were interrupted due to contamination of the source or construction of a treatment plant, the Department will use best available data to establish a baseline volume from the water source.

The calculated baseline withdrawal volume for Butternut is 0.718 MGD, the amount of water withdrawn during calendar year 2005 plus 5%. Therefore, Butternut must submit and implement a mitigation plan to mitigate the volumes requested above 0.718 MGD. The mitigation calculation is as follows:

<i>Butternut Basin Ski Resort's Mitigation Volume Calculation</i>	
Permitted amount above Baseline = 0.047 MGD	
<ul style="list-style-type: none">Permitted amount above Baseline: $0.765 - 0.718 = 0.047$ MGD	
Adjustment for Wastewater and Snowmelt losses and returns to snowmaking ponds= 0.0405 MGD	
<ul style="list-style-type: none">98% of increased withdrawals are used for snowmaking: $0.047 \text{ MGD} \times 0.98 (98\%) = 0.04606 \text{ MGD}$88% of snowmaking water returns to snowmaking ponds: $0.04606 \text{ MGD} \times 0.88 (88\%) = 0.0405 \text{ MGD}$	
Amount to be Mitigated after Adjustment for Wastewater and Sublimation losses = 0.0065 MGD	
<ul style="list-style-type: none">Permitted amount above baseline (0.047 MGD) – adjustment for water returned to snowmaking ponds (0.0405 MGD) = 0.0065 MGD or 6,500 gallons per day	

Butternut's adjusted mitigation value is 0.0065 MGD or 6,500 gallons per day (GPD). As outlined in the 2014 WMA Permit Guidance, one indirect mitigation credit correlates to 0.01 MGD of required mitigation. The 0.0065 MGD required to be mitigated by Butternut can be met with one indirect mitigation credit.

Mitigation plans were discussed between MassDEP and Butternut following the submission of Butternut's OTC response. Butternut was unable to identify any direct mitigation opportunities and has instead identified a habitat restoration project for indirect mitigation credit. The project involves relocating a chairlift, which crosses an intermittent stream, and allows Butternut to undertake a multi-year stream and habitat restoration project led by Native Habitat Restoration, a Department of Conservation and Recreation (DCR)-preferred vendor with extensive experience collaborating with both DEP and DCR.

The restoration project will enhance approximately 32,150 square feet of bordering vegetated wetland and buffer zone. This includes streambank stabilization, native tree plantings, and coarse woody material placement to improve both aquatic and riparian habitat. Part of this project is required by Butternut's Invasive Species Management Plan (ISMP), but Butternut is going further than what they are required for their ISMP. Specifically, the total boarding vegetated wetland impact associated with the project is 214 square feet (required by the ISMP), but the replacement area is approximately 400 square feet. After consulting with the Department of Conservation and Recreation (DCR), the indirect mitigation credit is based on

the habitat restoration and long-term preservation efforts Butternut will undertake following the permanent removal of the existing lift infrastructure from a sensitive stream corridor.

Butternut reports that they expect to have the project proposal done by Native Habitat Restoration in November of 2025 with work beginning in the Spring of 2026. The Department will confirm Butternut's efforts to complete the project and maintain the restoration efforts during the term of the permit.

Other Water Management Act Considerations

Minimization

Permittees with groundwater sources in subbasins having August net groundwater depletion (August NGD) of 25% or greater are required to develop a plan to minimize the impacts of their withdrawals. Butternut's permitted groundwater sources are located in subbasins 27089, which have August net groundwater depletions of 7.2%. Therefore, Butternut does not need to prepare a Minimization Plan.

Coldwater Fish Resource (CFR) Protection

Permittees with withdrawals that impact streamflow of a CFR must evaluate reducing impacts to CFRs through feasible optimization. Butternut's subbasin in the Housatonic Basin contains a CFR identified by the Department of Fish and Game (DFG). After consulting with DFG, MassDEP concluded that no Coldwater Fishery optimization will be required from Butternut Basin at this time due to the fact that all of the sources are in the same subbasin (27089). Additionally, the amended permit will shift withdrawals away from the wells and to the ponds.



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DRAFT WATER WITHDRAWAL PERMIT
#9P2-1-02-113.02
BUTTERNUT BASIN SKI AREA

This permit is issued pursuant to the Massachusetts Water Management Act (WMA) for the sole purpose of authorizing the withdrawal of a volume of water as stated below and subject to the following special and general conditions. This permit conveys no right in or to any property beyond the right to withdraw the volume of water for which it is issued.

PERMIT NUMBER: 9P2-1-02-113.02

RIVER BASIN: Housatonic River

PERMITTEE: Butternut Basin Ski Area
380 State Road
Great Barrington, MA 01230

EFFECTIVE DATE: XXXXXX, 2025

EXPIRATION DATE: May 31, 2032

NUMBER OF WITHDRAWAL POINTS: 4

Groundwater: 2

Surface Water: 2

USE: Commercial Snowmaking and Public Water Supply

DAYS OF OPERATION: Snowmaking water: 120 (Ponds 1 and 2)

Potable water: 365 (Wells 1 and 2)

LOCATIONS:

Table 1: Withdrawal Point Identification

Source	WMA ID#	Latitude	Longitude	Location
(Gravel) Well 1	1113006-01G			State Road, Great Barrington
(Rock) Well 2	1113006-02G			State Road, Great Barrington
Pond #1	WM3713-02S	42.185245°N	-73.320357°W	State Road, Great Barrington
Pond #2	WM3713-03S	42.185934°N	-73.325744°W	State Road, Great Barrington

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SPECIAL PERMIT CONDITIONS

1. Maximum Authorized Annual Average Withdrawal Volume

This permit authorizes Butternut Basin Ski Area (Butternut) to withdraw water from the Housatonic River Basin at the rate described below in Table 2. The volume reflected by this rate is in addition to the 0.50 million gallons per day (MGD) previously registered to the permittee through the Water Management Act (WMA) Program in registration #1-02-113.04. The permitted volume is expressed both as an annual average daily withdrawal rate (MGD) and as a total annual withdrawal volume (million gallons per year or MGY) for each period of the permit term.

Table 2: Maximum Authorized Annual Withdrawal Rates

Permit Periods	Total Raw Water Withdrawal Volumes			
	Permit		Permit + Registration	
	Daily Average (MGD)	Total Annual (MGY)	Daily Average (MGD)	Total Annual (MGY)
X/X/2025 to 5/31/2027	0.265	31.8	0.765	91.8
6/1/2027 to 5/31/2032	0.265	31.8	0.765	91.8

2. Maximum Authorized Daily Withdrawals from Each Withdrawal Point

Withdrawals from permitted withdrawal points are not to exceed the approved maximum daily volumes listed below without specific advance written approval from MassDEP (Table 3). The authorized maximum daily volume is the approved rate for each source. In no event shall the combined withdrawals from the individual withdrawal points exceed the withdrawal volumes authorized above in Special Condition 1. Maximum daily withdrawals for individual sources must be provided in annual reporting forms.

Table 3: Maximum Daily Withdrawal Volumes

Source	Maximum Daily Rate (MGD)
(Gravel) Well 1	1.30
(Rock) Well 2	0.03
Pond #1	6.91
Pond #2	4.61

3. Water Conservation Requirements

The Permittee shall continue to implement the snowmaking and monitoring strategies outlined in the Conservation Plan submitted in its 2009 WMA application. The plan includes upgrading lavatory facilities to low flow, leak detection, staff training in water conservation and reporting leaks, and efficiency related to snowmaking, grooming, and leak detection.

4. Mitigation

Butternut Basin Ski Area is required to mitigate for 0.0065 MGD (6,500 gallons per day) or one (1) indirect mitigation credit. Butternut will meet the mitigation requirements by relocating a chairlift, which crosses an intermittent stream. Following the chairlift relocation, Butternut will undertake a multi-year stream and habitat restoration project led by Native Habitat Restoration, a Department of Conservation and Recreation (DCR)-preferred vendor with extensive experience collaborating with both DEP and DCR. Butternut reports that they expect to have the project proposal done by Native Habitat Restoration in November of 2025 with work beginning in the Spring of 2026. The Department will confirm Butternut's efforts to complete the project and maintain the restoration efforts during the term of the permit. Upon MassDEP's request, Butternut shall provide updates on the implementation of the mitigation efforts within the timeline outlined above.

GENERAL CONDITIONS (applicable to all permittees)

1. Duty to Comply: The permittee shall comply at all times with the terms and conditions of this permit, the Act and all applicable State and Federal statutes and regulations.

2. Operation and Maintenance: The permittee shall at all times properly operate and maintain all facilities and equipment installed or used to withdraw up to the authorized volume so as not to impair the purposes and interests of the Act.

3. Entry and Inspections: The permittee or the permittee's agent shall allow personnel or authorized agents or employees of MassDEP at reasonable times to enter and examine any property or inspect and copy any records for the purpose of determining compliance with this permit, the Act or the regulations published pursuant thereto, upon presentation of proper identification and an oral statement of purpose.

4. Water Emergency: Withdrawal volumes authorized by this permit are subject to restriction in any water emergency declared by MassDEP pursuant to M.G.L. c. 21G, s. 15-17, M.G.L. c. 111, s. 160, or any other enabling authority.

5. Transfer of Permits: This permit shall not be transferred in whole or in part unless and until MassDEP approves such transfer in writing, pursuant to a transfer application on forms provided by MassDEP requesting such approval and received by MassDEP at least thirty (30) days before the effective date of the proposed transfer. No transfer application shall be deemed filed unless it is accompanied by the applicable transfer fee established by 310 CMR 36.33.

6. Duty to Report: The permittee shall submit annually, on the electronic Annual Statistical Report (eASR) accessed through MassDEP's eDEP website, a statement of the withdrawal. Such report must be submitted annually by the date identified on eDEP each year, unless the permittee has explicit permission from the MassDEP Drinking Water program for an extension of time.

7. Duty to Maintain Records: The permittee shall be responsible for maintaining withdrawal records in sufficient detail to assess compliance with the conditions of this permit.

8. Metering: All withdrawal points included within the permit shall be metered. Meters are to be calibrated annually.

9. Amendment, Suspension or Termination: MassDEP may amend, suspend or terminate the permit in accordance with M.G.L. c. 21G and 310 CMR 36.29.

APPEAL RIGHTS AND TIME LIMITS

This permit is a decision of MassDEP. Any person aggrieved by this decision may request an adjudicatory hearing. Any such request must be made in writing, by certified mail and received by MassDEP within twenty-one (21) days of the date of receipt of this permit. No request for an appeal of this permit shall be validly filed unless a copy of the request is sent by certified mail, or delivered by hand to the local water resources management official in the community in which the withdrawal point is located; and for any person appealing this decision, who is not the applicant, unless such person notifies the permit applicant of the appeal in writing by certified mail or by hand within five (5) days of mailing the appeal to MassDEP.

CONTENTS OF HEARING REQUEST

310 CMR 1.01(6)(b) requires the request to include a clear and concise statement of the facts which are the grounds for the request and the relief sought. In addition, the request must include a statement of the reasons why the decision of MassDEP is not consistent with applicable rules and regulations, and for any person appealing this decision who is not the applicant, a clear and concise statement of how that person is aggrieved by the issuance of his permit.

FILING FEE AND ADDRESS

The hearing request, together with a valid check, payable to the Commonwealth of Massachusetts in the amount of \$100 must be mailed to:

Commonwealth of Massachusetts
Department of Environmental Protection
P.O. Box 4062
Boston, MA 02211

The request shall be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver as described below.

EXEMPTIONS

The filing fee is not required if the appellant is a municipality (or municipal agency), county, district of the Commonwealth of Massachusetts, or a municipal housing authority.

WAIVER

MassDEP may waive the adjudicatory hearing filing fee for any person who demonstrates to the satisfaction of MassDEP that the fee will create an undue financial hardship. A person seeking a waiver must file, together with the hearing request, an affidavit setting forth the facts which support the claim of undue hardship.

Duane LeVangie
Water Management Program Chief
Bureau of Water Resources

Date