



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Kathleen A. Theoharides  
Secretary

Martin Suuberg  
Commissioner

April 6, 2022

The Honorable Jon Mitchell  
Mayor, City of New Bedford  
133 William Street  
New Bedford, MA 02740

**RE: New Bedford – BRP/WMA**  
PWS ID #4201000  
Water Management Act Permit  
Permit #9P-4-25-201.01

Dear Mayor Mitchell,

Attached please find:

- Findings of Fact in support of the renewal of Permit #9P-4-25-201.01, and
- WMA Permit #9P-4-25-201.01 for the City of New Bedford.

The signature on this cover letter indicates formal issuance of the attached documents. If you have any questions regarding this information, please contact Jen D'Urso via e-mail at [jen.durso@mass.gov](mailto:jen.durso@mass.gov).

Sincerely,

Duane LeVangie  
Chief, Water Management Act Program  
Bureau of Water Resources

Sharepoint:\DWP Archive\SERO\2022\New Bedford-4201000-WMA Permit 9P425201.01Final 4-6-2022

Ecc: Ymane Galotti, New Bedford Water Department  
Brendan Ennis, CDM Smith  
Patti Kellogg, MassDEP SERO  
Michelle Regon, MassDEP SERO  
Anne Carrol, DCR OWR  
Brad Chase, DMF

Steve Hurley, DMF

Jen Pederson, MWWA

Julia Blatt, MA Rivers Alliance

Sarah Bower, MA Rivers Alliance

Fred Underhill, Chairman, Rochester Water Commissioners

Blair Bailey, Rochester Water Commissioners

## Communication For Non-English Speaking Parties - 310 CMR 1.03(5)(a)

Contact Michelle Waters-Ekanem, Diversity Director/Civil Rights: 617-292-5751 TTY#  
MassRelay Service 1-800-439-2370.

<http://www.mass.gov/eea/agencies/massdep/service/justice/>

(Version 3.30.15)



### 1 English:

This document is important and should be translated immediately. If you need this document translated, please contact MassDEP's Diversity Director at the telephone numbers listed below.



### 2 Español (Spanish):

Este documento es importante y debe ser traducido inmediatamente. Si necesita este documento traducido, por favor póngase en contacto con el Director de Diversidad MassDEP a los números de teléfono que aparecen más abajo.



### 3 Português (Portuguese):

Este documento é importante e deve ser traduzida imediatamente. Se você precisa deste documento traduzido, por favor, entre em contato com Diretor de Diversidade da MassDEP para os números de telefone listados abaixo.



### 4(a) 中國（傳統）(Chinese (Traditional)):

本文件非常重要，應立即翻譯。如果您需要翻譯這份文件，請用下面列出的電話號碼與 MassDEP 的多樣性總監聯繫。



### 4(b) 中国（简体中文）(Chinese (Simplified)):

本文件非常重要，应立即翻译。如果您需要翻译这份文件，请用下面列出的电话号码与 MassDEP 的多样性总监联系。



### 5 Ayisyen (franse kreyòl) (Haitian) (French Creole):

Dokiman sa-a se yon bagay enpòtan epi yo ta dwe tradui imedyatman. Si ou bezwen dokiman sa a tradui, tanpri kontakte Divèsite Direktè MassDEP a nan nimewo telefòn ki nan lis pi ba a.



### 6 Việt (Vietnamese):

Tài liệu này là rất quan trọng và cần được dịch ngay lập tức. Nếu bạn cần dịch tài liệu này, xin vui lòng liên hệ với Giám đốc MassDEP đa dạng tại các số điện thoại được liệt kê dưới đây.



### 7 ប្រទេសកម្ពុជា (Kmer (Cambodian)):

ឯកសារនេះគឺមានសារៈសំខាន់និងគួរត្រូវបានបកប្រែភ្លាមៗ ប្រសិនបើអ្នកត្រូវបានបកប្រែ ឯកសារនេះសូមទំនាក់ទំនងឆ្ពោះទៅរក MassDEP នៅលេខទូរស័ព្ទដែលបានរាយនាងក្រោម។



### 8 Kriolu Kabuverdianu (Cape Verdean):

*Es documento é importante e deve ser traduzido imidiatamente. Se bo precisa des documento traduzido, por favor contacta Director de Diversidade na MassDEP's pa es numero indicode li d'boche.*



### 9 Русский язык (Russian):

Этот документ является важным и должно быть переведено сразу. Если вам нужен этот документ переведенный, пожалуйста, свяжитесь с директором разнообразия MassDEP по адресу телефонных номеров, указанных ниже.

## Communication For Non-English Speaking Parties - 310 CMR 1.03(5)(a)

Contact Michelle Waters-Ekanem, Diversity Director/Civil Rights: 617-292-5751 TTY#

MassRelay Service 1-800-439-2370.

<http://www.mass.gov/eea/agencies/massdep/service/justice/>

(Version 3.30.15)



### 10 العربية (Arabic):

هذه الوثيقة الهامة وينبغي أن تترجم على الفور. إذا كنت بحاجة إلى هذه الوثيقة المترجمة، يرجى الاتصال مدير التنوع في PMassDE على أرقام الهواتف المدرجة أدناه.



### 11 한국어 (Korean):

이 문서는 중요하고 즉시 번역해야 합니다. 당신이 번역이 문서가 필요하면 아래의 전화 번호로 MassDEP의 다양성 감독에 문의하시기 바랍니다.



### 12 հայերեն (Armenian):

Այս փաստաթուղթը շատ կարևոր է եւ պետք է թարգմանել անմիջապես. Եթե Ձեզ անհրաժեշտ է այս փաստաթուղթը թարգմանվել դիմել MassDEP բազմազանությունը տնօրեն է հեռախոսահամարների թվարկված են ստորև.



### 13 فارسی (Farsi (Persian):

این سند مهم است و باید فوراً ترجمه شده است. اگر شما نیاز به این سند ترجمه شده، لطفاً با ما تماس تنوع مدیر PMassDE در شماره تلفن های ذکر شده در زیر.



### 14 Français (French):

Ce document est important et devrait être traduit immédiatement. Si vous avez besoin de ce document traduit, s'il vous plaît communiquer avec le directeur de la diversité MassDEP aux numéros de téléphone indiqués ci-dessous.



### 15 Deutsch (German):

Dieses Dokument ist wichtig und sollte sofort übersetzt werden. Wenn Sie dieses Dokument übersetzt benötigen, wenden Sie sich bitte Diversity Director MassDEP die in den unten aufgeführten Telefonnummern.



### 16 Ελληνική (Greek):

Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως. Αν χρειάζεστε αυτό το έγγραφο μεταφράζεται, παρακαλούμε επικοινωνήστε Diversity Director MassDEP κατά τους αριθμούς τηλεφώνου που αναγράφεται πιο κάτω.



### 17 Italiano (Italian):

Questo documento è importante e dovrebbe essere tradotto immediatamente. Se avete bisogno di questo documento tradotto, si prega di contattare la diversità Direttore di MassDEP ai numeri di telefono elencati di seguito.



### 18 Język Polski (Polish):

Dokument ten jest ważny i powinien być natychmiast przetłumaczony. Jeśli potrzebujesz tego dokumentu tłumaczone, prosimy o kontakt z Dyrektorem MassDEP w różnorodności na numery telefonów wymienionych poniżej.



### 19 हिन्दी (Hindi):

यह दस्तावेज़ महत्वपूर्ण है और तुरंत अनुवाद किया जाना चाहिए. आप अनुवाद इस दस्तावेज़ की जरूरत है, नीचे सूचीबद्ध फोन नंबरों पर MassDEP की विविधता निदेशक से संपर्क करें.





# Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Kathleen A. Theoharides  
Secretary

Martin Suuberg  
Commissioner

## **Findings of Fact in Support of Permit Issuance Water Management Permit #9P-4-25-201.01 City of New Bedford**

The Department of Environmental Protection (the Department) makes the following Findings of Fact in support of the attached Water Management Permit #9P-4-25-201.01 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 this permit is in response to a water withdrawal permit renewal application by the City of New Bedford, (New Bedford) for the purpose of public water supply.

New Bedford operates five (5) permitted sources in the Taunton River Basin. New Bedford was issued its initial Taunton River Water Management Permit on May 31, 1991, which was then amended on September 17, 2003.

On August 25, 2010, New Bedford applied to MassDEP for a permit renewal in the Taunton River Basin. On July 31, 2019, New Bedford was issued a Permit Renewal Order to Complete (OTC) outlining specific information that was required to renew New Bedford's permit. New Bedford requested an extension on October 23, 2019 and was granted one until February 21, 2020. MassDEP and New Bedford met on February 24, 2020, and a new extension was granted until March 24, 2020.

**The Department adopted revised Water Management Regulations at 310 CMR 36.00 on November 7, 2014, (described in greater detail below). Since that time, the Department has been working closely with each Water Management Act (WMA) permittee to fully consider all aspects of their individual situations to ensure thoughtful and implementable draft permits.**

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

The Water Management Act (Act) requires the Department 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* (<http://www.mass.gov/eea/docs/eea/water/swmi-framework-nov-2012.pdf>) was released.

On November 7, 2014, the Department 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, the Department 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 Taunton River Basin section of this document). For more information on the Safe Yield methodology, go to the November 28, 2012 SWMI Framework Summary and Appendices ;
- Water needs forecasts for public water suppliers developed by the Department of Conservation and Recreation, Office of Water Resources (DCR), using a methodology reviewed and approved by the Massachusetts WRC;
- Water supply protection measures for public water supplies including Zone II delineations for groundwater sources, and wellhead and surface water protection measures as required by Massachusetts Drinking Water Regulations (310 CMR 22.00);
- Water conservation and performance standards reviewed and approved by the WRC in July 2018 ([Details on the 2018 Massachusetts Water Conservation Standards | Mass.gov](#)); including without limitation;
  - performance standard of 65 residential gallons per capita day or less;
  - performance standard of 10% or less unaccounted-for-water;
  - seasonal limits on nonessential outdoor water use;
  - a water conservation program that includes leak detection and repair, full metering of the system and proper maintenance of the meters, periodic review of pricing, and education and outreach to residents and industrial and commercial water users; and
- Environmental protections developed through SWMI, including without limitation;
  - protection for coldwater fish resources;
  - minimization of withdrawal impacts in areas stressed by groundwater use;
  - mitigation of the impacts of increasing withdrawals.

### **Safe Yield in the Taunton River Basin**

This permit is being issued under the safe yield methodology adopted by the Department 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 for the Taunton River Basin is 134.4 million gallons per day (MGD), and total registered and permitted withdrawals are 93.86 MGD as of February 14, 2020. The maximum withdrawals that will be authorized in this permit, and all other permits currently under review by the Department within the Taunton River Basin, will be within the safe yield and may be further conditioned as outlined in the regulations.

### **Findings of Fact for Permit Conditions in New Bedford's Water Management Act Permit**

The following 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**

The Department of Conservation and Recreation's Office of Water Resources (DCR) developed draft demand projections for New Bedford in the Taunton River Basin in October 2009. After several exchanges of information, final projections were issued on May 26, 2015. DCR projected a range of values for New Bedford that identified potential demands from 13.31 MGD to 14.97 million gallons per day (MGD). DEP's practice has been to allocate annual withdrawal rates based on the 65/10 DCR projections. However, while New Bedford's demand projections are lower than New Bedford's registered withdrawal volume (18.27 MGD), New Bedford has requested that their permitted volume remain at the current allocation (2.52 MGD) because of the potential impacts of the Boston-South Rail Link Project and other economic development on their future water use. New Bedford has proposed to limit withdrawals to their registered volume at this time with an ability to apply for a permit amendment in the future should withdrawals be expected to exceed their registered volume. MassDEP has agreed to this request because of the uncertainty involved with the potential water impacts associated with the Boston-South Rail Link Project. New Bedford will need to obtain a permit amendment that includes the necessary mitigation for any volumes beyond their registered volume up to the currently registered and permitted volume of 20.79 MGD.

<b>TABLE 1: Summary of New Bedford's WMA Authorizations</b>	
<b>WMA Authorization</b>	<b>Volume Authorized</b>
WMA Permit #9P-4-25-201.01	No increase at this time*
WMA Registration #42520101	18.27 MGD (6668.55 MGY)
<b>Total WMA Authorization</b>	<b>18.27 MGD (6668.55 MGY)</b>

\*New Bedford may increase by up to 2.52 MGD for a total allocation of 20.79 MGD with a permit amendment and the necessary mitigation.

In 2018, New Bedford's average daily withdrawal from the Taunton River Basin was 12.19 MGD. If water needs are expected to exceed the 20.79 MGD potentially available through a permit amendment and New Bedford is meeting all of its permit conditions, New Bedford may apply for additional volume at any time by submitting a new Water Management Permit application BRPWM03. However, any withdrawals requested above New Bedford's baseline of 18.27 MGD will require the mitigation of that volume.



### Special Condition 2, Safe Yield of Surface Water Supplies

Based upon the most recent information available to the Department, Investigations of Surplus Safe Yield Available to New Bedford by Camp Dresser and McKee, June 1988, the safe yield of Long Pond, Asswompsett Pond, Pocksha Pond, Great Quitticas Pond and Little Quitticas Pond has been determined to be 27.5 MGD. The Department notes that this firm yield also supplies a significant portion of the volumes withdrawn by the City of Taunton.

### Special Condition 3, Residential Gallons per Capita Day (RGPCD)

This condition requires New Bedford to meet 65 RGPCD by December 31, 2022. Permittees that cannot meet this performance standard within the timeframe in the permit must meet the Functional Equivalence Requirements outlined in Appendix A.

As shown in Table 2, New Bedford has consistently met this Performance Standard for the years 2016 thru 2020.

**Table 2: Residential Gallons Per Capita Day Water Use**

Year	2020	2019	2018	2017	2016
RGPCD	51	50	50	60	59

**Special Condition 4, Performance Standard for Unaccounted for Water (UAW)** The UAW required for all PWS permittees is 10%. New Bedford will be required to meet the 10% standard for 2 out of every 3 years, by December 31, 2022. If New Bedford is unable to meet 10% UAW, it will be required to develop a UAW Functional Equivalence Program, as outlined in Appendix B. As shown in Table 2, New Bedford has consistently met this Performance Standard for the years 2016 thru 2020.

**Table 3: Unaccounted for Water**

Year	2020	2019	2018	2017	2016
UAW	7%	7%	9%	6%	8%

**Special Condition 5, Seasonal Limits on Nonessential Outdoor Water Use**, reflects the restrictions on nonessential outdoor water use from May 1<sup>st</sup> through September 30<sup>th</sup>. The options outlined in Special Condition 5 are based on whether reported RGPCD for the previous year was in compliance with the RGPCD Performance Standard (see Special Condition 3, Performance Standard for RGPCD).<sup>1</sup>

Each year New Bedford may choose one of two options for implementing nonessential outdoor watering restrictions.

- **Calendar triggered restrictions** are in place from May 1<sup>st</sup> through September 30<sup>th</sup>. Many public water suppliers find this option easier to implement and enforce than the streamflow triggered approach
- **Streamflow triggered restrictions** are implemented at those times when streamflow falls below designated flow triggers measured at an assigned, web-based, real-time U.S. Geologic Survey (USGS) stream gage from May 1<sup>st</sup> through September 30<sup>th</sup>. At a minimum, restrictions commence when streamflow falls below the trigger for three consecutive days. Once

<sup>1</sup> If New Bedford fails to meet the RGPCD Performance Standard in any calendar year, the next year nonessential outdoor water use is restricted to no more than two days per week.

implemented, the restrictions remain in place until streamflow at the assigned USGS local stream gage meets or exceeds the trigger streamflow for seven consecutive days.

If New Bedford selects the streamflow trigger approach, it has been assigned USGS stream gage 01108000 Taunton River near Bridgewater, MA. The May-June streamflow trigger is 265 cubic feet per second (cfs), and the July-September streamflow trigger is 119 cfs. Should the reliability of flow measurement at the Taunton River gage be so impaired as to question its accuracy, New Bedford may request that the Department review and approve the transfer to another gage that will trigger restrictions. The Department reserves the right to require use of a different gage.

- **The 7-Day Low Flow Trigger**, at which restrictions increase, is incorporated into both Calendar and Streamflow Triggered restrictions in order to provide additional protection to streamflows when flows are very low. The 7-day low flow trigger for New Bedford is 47 cfs.

New Bedford may also opt to implement restrictions based on a MassDEP-approved drought management plan that includes environmental considerations. New Bedford may choose to implement limits on nonessential outdoor water use that are stricter than those required by the permit.

**Special Condition 6, General Water Conservation Requirements**, incorporates the Water Conservation Standards for the Commonwealth of Massachusetts reviewed and approved by the WRC in July 2018. ([Details on the 2018 Massachusetts Water Conservation Standards | Mass.gov](#)).

**Special Condition 7, Mitigation of Impacts for Withdrawals that Exceed Baseline<sup>2</sup>**, requires mitigation of the impacts of withdrawals above the permittee's baseline by direct and/or indirect mitigation activities. New Bedford's Baseline in the Taunton River Basin (18.27 MGD) is based on the registered volume. New Bedford's total authorized permitted withdrawal in this permit is not above their baseline; therefore, no mitigation is required. However, prior to making average annual withdrawals greater than the 18.27 MGD baseline, New Bedford is required to develop a mitigation plan for review and approval by MassDEP, incorporate the approved mitigation plan into this permit through a permit amendment (BRPWM02), and implement required mitigation activities.

### **Special Condition 8, Operation and Management of the Assawompsett Pond Complex**

The Water Management Act Regulations, 310 CMR 36.02, recognize that water resources are public resources that require sustainable management for the well-being and safety of the public, the protection of natural resources and economic growth. The Water Management Act Regulations, 310 CMR 36.02, authorize the Department to establish enforceable requirements for the comprehensive management of withdrawals that ensure an appropriate balance among competing water withdrawals and uses and the preservation of the water resource.

The Assawompsett Pond Complex is used for many purposes. It is a source of drinking water for New Bedford and Taunton, a habitat for many species of waterfowl, birds, and fish, the site of one of the

---

<sup>2</sup> Baseline is the volume of water withdrawn in 2005 plus 5%, or the average volume withdrawn from 2003 to 2005 plus 5%, which is greater. Baseline cannot be less than the registered volume, and cannot be more than the authorized volume during the 2003-2005 period. For suppliers with authorizations in multiple major basins, baseline is computed for each basin and for the entire system.

largest herring runs in the state, and the location of many popular spots for fishing, bird watching, hiking, walking, running and other recreational activities. The City reports that it implements the following measures to protect the anadromous fish population:

1. Coordinates the Assawompsett Pond Dam operations with Lakeville-Middleborough Herring Fisheries Committee.
2. Coordinates annual maintenance with local Conservation Commissions and Lakeville-Middleborough Herring Fisheries Committee.
3. Continues monitoring the Assawompsett Pond Dam and Long Point Road Spillway.

Special Condition 8 also requires New Bedford participate in efforts to manage the Assawompsett Pond Complex in a manner that achieves a proper balance among its many competing uses. The City of New Bedford shall continue to work with the City of Taunton, the Towns of Lakeville, Middleborough, Freetown and Rochester, the Lakeville-Middleborough Herring Fisheries Committee, and the Division of Marine Fisheries (the Assawompsett Workgroup) on the development and implementation of a plan and schedule for the operation and maintenance of the Assawompsett Pond Complex. The Plan shall aim to provide a habitat for a wide variety of aquatic life including anadromous fish and to supply drinking water for the people of New Bedford, in accordance with the actions outlined in Appendix C, Operation and Management of the Assawompsett Pond Complex.

To inform this plan, pond level data shall be collected and provided to MassDEP each year with New Bedford's Annual Statistical Report (ASR). Historic data dating back to 2010 shall be provided in a separate filing to MassDEP and the Division of Marine Fisheries within six months of the issuance of this permit. New Bedford shall provide an update to the Operation and Management of the Assawompsett Pond Complex Plan based on this data which shall be completed and submitted to MassDEP by December 31, 2022, with the ultimate goal of determining actions to be taken at specific pond levels to manage the Assawompsett Pond Complex. If no changes have been made to the plan by December 31, 2022, New Bedford shall notify MassDEP with a revised schedule for submittal.

**Special Condition 9, Reporting Requirements**, ensures that the information necessary to evaluate compliance with the conditions included herein is accurately reported.

**Special Condition 10, General Permit Requirements**, contains conditions that pertain to all permittees.

**Coldwater Fishery Resource (CFR) Protection** requires permittees with withdrawals that may impact the streamflow of a CFR (identified on subbasin maps) to evaluate reducing impacts to CFRs through feasible optimization. New Bedford's permitted sources are not in subbasins with Coldwater Fishery Resources. Therefore, this requirement is not part of New Bedford's permit at this time.

**Minimization** requires permittees with groundwater sources in subbasins having August net groundwater depletion (August NGD) of 25% or greater to develop a plan to minimize the impacts of their withdrawals. Since New Bedford has surface water sources only, they are not required to develop a minimization plan.

## Response to Comments

Comments on the Draft permit were received from the Town of Rochester Water Commission in a letter dated September 19, 2021, the Massachusetts Rivers Alliance in a letter dated September 23, 2021, and the City of New Bedford in a letter dated September 23, 2021. Below is a summary of MassDEP's response to comments, as well as changes made to the Draft Permit.

**Comment:** Currently, New Bedford is permitted to withdrawal 20.79 MGD from Little Quitticas Pond and Taunton is permitted to withdraw 7.29 MGD. This amounts to a total withdrawal of 28.08 MGD...the safe yield of the complex is 27.5 MGD. Under the current permitted volumes, the two cities are permitted by MassDEP to remove an amount in excess of the safe yield of the complex.

**Response:** The total withdrawal volume of 28.08 MGD was allocated to the two cities before the safe yield of the pond complex was determined in 1998. The current draft permits limit the total withdrawal volume from the two cities to 24.71 MGD, below the safe yield of the pond complex, until such time as there is a permit amendment application filed with the MassDEP. 310 CMR 36.00 requires MassDEP to limit future withdrawals below the safe yield of the complex.

**Comment:** There is simply no reason under the applicable regulations to include any reference to additional withdrawal by New Bedford.

**Response:** As with any other permittee, New Bedford would have to demonstrate a need for a withdrawal volume greater than 18.27 MGD, supported by water need forecast from the Department of Conservation and Recreation (DCR). New Bedford would then have to file a permit amendment, that provides mitigation for any volume allocated above their baseline of 18.27 MGD. MassDEP is simply outlining this process for requesting additional water withdrawals.

**Comment:** Multiple experts have commented to MassDEP that surface water withdrawals need to be minimized. This is particularly the case where the surface water is upstream from flow deleted subbasins or streams. New Bedford's withdrawals clearly impact Snipatuit Pond, the headwaters of the Mattapoissett River. The draft permit fails to address this issue.

**Response:** Special Conditions 3, 4, 5, and 6 of New Bedford's draft permit imposes conservation measures on both the City of New Bedford, and by association to its water users. These conditions include performance standards for Residential Gallons per Capital Day (RGPCD) and Unaccounted for Water (UAW), as well as Outdoor Water Use Restrictions and General Conservation requirements. This will be the first time that Outdoor Water Use restrictions are required in New Bedford's permit. MassDEP believes that these new conservation measures may contribute to further reductions in demand.

**Comment:** DEP regulations and principles state that there should be "mitigation commensurate with impact". New Bedford has not demonstrated sufficient mitigation to allow for the removal of the existing withdrawal.

**Response:** “Mitigation commensurate with impact” applies to withdrawals over a public water supplier’s baseline. Please see the Water Management Act regulations at 310 CMR 36.00. In New Bedford’s case, their baseline is its registered volume of 18.27 MGD. As the draft permit does not allocate any withdrawal volume over New Bedford’s baseline at this time, mitigation is not currently required.

**Comment:** In addition, case law is clear that MassDEP may impose conservation measures on all water users. MassDEP should take action to ensure that mitigation is required of all end-users of New Bedford water.

**Response:** Special Conditions 3, 4, 5, and 6 of New Bedford’s draft permit imposes conservation measures on both the City of New Bedford, as well as its water users. These conditions include performance standards for Residential Gallons per Capital Day (RGPCD) and Unaccounted for Water (UAW), as well as Outdoor Water Use Restrictions and General Conservation requirements. Mitigation plans are required of the permittee when their withdrawals are above their baseline, not the end users. Please see the Water Management Act regulations at 310 CMR 36.22.

**Comment:** There is no legitimate scientific basis for even the currently permitted withdrawals from the complex, let alone the increase required by the cities.

**Response:** This draft permits limit the total withdrawal volume from the two cities to 24.71 MGD, below the safe yield of the pond complex. New Bedford’s draft permit limits withdrawals to their registered volume withdrawn in the 1980s, and Taunton has agreed to limit withdrawals to its baseline withdrawal of 6.44 MGD, which is below its DCR Water Needs Forecast. Baseline is a historic withdrawal volume that Taunton has used but has been below since 2010. The proposed permits do not allocate an increase but instead hold their allocations below what currently could be withdrawn.

**Comment:** It is Rochester’s position that not only are the current permitted withdrawals excessive and must be reduced, a portion of the safe yield of the pond complex should be reserved for the potential use of the surrounding communities.

**Response:** As noted, allocated water withdrawals have been reduced from what previously was allocated to be withdrawn. If Rochester applied for approval for a surface water withdrawal from the Assawompsett Pond Complex from the MassDEP, the Water Management Act Program would evaluate the needs of all users on the Pond complex and potentially issue new permits to all permit holders to ensure that the total withdrawals are below the firm yield of the pond complex. However, reserving a portion of the Pond complex’s firm yield for other users at this point when there is no permitted source would be premature.

**Comment:** MassDEP should require New Bedford implement feasible and practical water conservation measures that go beyond the minimum standards of the WMA regulations since mitigation will not be

required of New Bedford in the Final Renewed Permit. We recommend such measures include, but not be limited to the following:

- Funding a rebate program for retrofitting toilets, showers, faucets, and washing machines in buildings city-wide with outreach efforts to promote the rebate program.
- Incentivize water conservation to the maximum extent through an increasing block rate structure. New Bedford's current flat rate structure (per the Water Conservation Questionnaire) does not encourage the heaviest users to cut back. Increasing block rate structures have been found to reduce water use by up to 18%, which will leave more water available for the environment during droughts.
- Identify opportunities to recharge stormwater to Little Quittacas Pond and Great Quittacas Pond. New Bedford owns more than 3,000 acres of land in this area, including all shoreline property to both ponds which can be further utilized to encourage improved stormwater management.
- Include the volume of water used in gallons on all water bills. While New Bedford includes information in water bills that allows users to compare current use to use during the previous period, the City should also provide information that allows users to compare usage *during the same period the year prior*.
- Increase communication efforts on water conservation by sending educational bill stuffers at least four times per year (each season) instead of annually.

**Response:** 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. New Bedford has a surface water source and therefore is not required to develop a minimization plan. As noted, New Bedford's total allocated volume in the Draft WMA permit is not above its baseline, therefore mitigation will not be required of New Bedford in the Final Renewed Permit. While MassDEP would encourage New Bedford to review this list and incorporate as many of these items as possible, we also recognize that New Bedford's 2020 use was down 33% from the registration period and 28% since 2005, and realize that there are fiscal implications that may make these measures difficult to implement.

**Comment:** New Bedford should be required to develop a Seasonal Demand Management Plan to set lower water use targets in the summertime when the City's usage increases.

**Response:** As noted in responses above Special Conditions 3, 4, 5, and 6 of New Bedford's draft permit imposes conservation measures on both the City of New Bedford, and by extension its water users. These conditions include performance standards for Residential Gallons per Capital Day (RGPCD) and Unaccounted for Water (UAW), as well as Outdoor Water Use Restrictions and General Conservation requirements. The Department believes that these new conservation measures will reduce water use in New Bedford in all months, including the summer months. New Bedford's average summer to winter ratio since 2009 is 1.26, which the Department does not consider to be excessive especially when considering that ratio includes water sales to Acushnet, Dartmouth, Freetown, and Fairhaven.

**Comment:** We recommend that New Bedford follow streamflow triggered restrictions of 2 days per week outside the hours of 9 AM to 5 PM and enforce such restrictions through the City's Water Use

Restriction Bylaw, as New Bedford's surface water withdrawals directly alter water levels in Little Quittacas Pond and adjacent waters.

**Response:** New Bedford has been provided with Outdoor Water Use Restrictions that are consistent with surface water public water suppliers, and are outlined in MassDEP's WMA Guidance document: <https://www.mass.gov/lists/water-management-act-wma-permitting#permitting-guidance>. The Department believes that providing equity and consistency amongst those being regulated is important. The existing language shall remain unchanged.

**Comment:** New Bedford must determine the minimum water level in Little Quittacas Pond where it would be detrimental to the fisheries and pond ecosystem for New Bedford to continue large water withdrawals. We request that New Bedford be required to determine this water level threshold and update/implement the subsequent management plan that addresses how to reduce ecological impacts of withdrawals by June 30, 2023.

**Response:** The Department believes this requirement is already in Special Condition 8 with the following language: "To inform this plan, pond level data shall be collected and provided to MassDEP each year with New Bedford's Annual Statistical Report (ASR). Historic data dating back to 2010 shall be provided to MassDEP and the Division of Marine Fisheries in a separate filing within six months of the issuance of this permit. New Bedford shall provide an update to the Operation and Management of the Assawompsett Pond Complex Plan based on this data, which shall be completed and submitted to MassDEP by December 31, 2022, with the ultimate goal of determining actions to be taken at specific pond levels to manage the Assawompsett Pond Complex. If no changes have been made to the plan by December 31, 2022, New Bedford shall notify MassDEP with a revised schedule for submittal." MassDEP coordinated with fishery biologists at the Massachusetts Department of Fish and Game in developing Special Condition 8 and relied on their expertise in developing a Plan and Schedule. The existing language shall remain unchanged.

**Comment:** The Firm and Safe Yield values are inconsistent throughout the permit. These values should be corrected and made consistent.

**Response:** The final permit was revised to address this comment.

**Comment:** "Special Condition 8 also requires New Bedford to participate in efforts to manage the Assawompsett Pond Complex...The City of New Bedford shall continue...The Plan shall aim to provide a habitat..." The City is requesting the text to read "Special Condition 8 recommends New Bedford continue to participate in efforts to manage the Assawompset Pond Complex...The City of New Bedford is recommended to continue...The Plan is recommended to aim at providing reliable water quality and supply and a habitat..." Note this comment also applies to this language on pages 8 and 16 of the Draft WMA Permit.

**Response:** As the largest user of the Pond Complex, New Bedford's participation in this effort is crucial. The existing language shall remain unchanged.

**Comment:** “Historic data shall be provided in a separate filing to MassDEP and the Division of Marine Fisheries by July 1, 2021.” The referenced date has already passed, this text should read “Historic data shall be provided in a separate filing to MassDEP and the Division of Marine Fisheries by July 1, 2022.”

**Response:** The date has been changed to “within six months of the issuance of this permit”.

**Comment:** The City requests deleting the following: “New Bedford shall provide an update to the Operation and Management of the Assawompsett Pond Complex Plan based on this data shall be completed and submitted to MassDEP by December 31, 2022, with the ultimate goal of determining actions to be taken at specific pond levels to manage the Assawompsett Pond Complex. If no changes have been made to the plan by December 31, 2022, New Bedford shall notify MassDEP with a revised schedule for submittal.” Note these comments also apply to the language on pages 8 and 16 of the Draft WMA Permit.

**Response:** This is an important component of the management of the Pond Complex. The intent of the language has not been changed, but the existing language has been modified to ensure clarity.

**Comment:** P.3, Item 5, paragraph 2. The City requests the following language is added after the last sentence: “New Bedford may also opt to implement restrictions based on a MassDEP-approved drought management plan that includes environmental considerations.”

**Response:** The final permit was revised to address this comment.

**Comment:** P.4, Table 3, “Streamflow triggered restrictions”  
“Streamflow triggered restrictions” Item (a) are triggered when gauge falls below 265 cfs May 1 - June 30 for three (3) consecutive days. The mean discharge of the referenced gage 01108000 is 183 cfs and the 75th percentile is 195 cfs. Based on the draft permit triggers and historical data, as exhibited in the attached graph, water restrictions would have been required every year. The City requests the trigger be revised to the gage falling below a value less than the mean discharge for three (3) consecutive days. As the graph shows, Item (b) of the “Streamflow triggered restrictions” reasonably requires restrictions during drought years. However, Item (a) will require restrictions during years of above average rainfall and elevated pond levels.

**Response:** No graph was attached. Commenter may have failed to notice that there is a May-June trigger value, and a July-September trigger value which is lower. These values are the same for all public water suppliers assigned to this gage to provide equity and consistency amongst public water suppliers. The existing language shall remain unchanged.





Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

# Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Kathleen A. Theoharides  
Secretary

Martin Suuberg  
Commissioner

## WATER WITHDRAWAL PERMIT RENEWAL

Permit #9P-4-25-201.01

City of New Bedford

This renewal of Permit #9P-4-25-201.01 is approved 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.

**PERMIT NUMBER:** #9P-4-25-201.01

**RIVER BASIN:** Taunton

**PERMITTEE:** City of New Bedford  
Water Board  
133 William Street  
New Bedford, MA 02740

**EFFECTIVE DATE:** April 6, 2022

**EXPIRATION DATE:** February 28, 2030

**TYPE AND NUMBER OF WITHDRAWAL POINTS:** Groundwater: 0 Surface Water: 5

**USE:** Public Water Supply

**DAYS OF OPERATION:** 365

### AUTHORIZED WITHDRAWAL POINTS:

Table 1: Withdrawal Point Identification	
Source Code	Source
4201000-01S	Great Quitticas
4201000-02S	Little Quitticas*
4201000-03S	Assawompsett Pond
4201000-04S	Pocksha Pond
4201000-05S	Long Pond

\*All water withdrawn through the treatment plant at Little Quitticas.

### 1. Maximum Authorized Annual Average Withdrawal

This permit authorizes the City of New Bedford to withdraw water from the Taunton River Basin at the rate described in Table 2 below. The permitted volumes are expressed both as an average daily

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: [www.mass.gov/dep](http://www.mass.gov/dep)

Printed on Recycled Paper

withdrawal rate (million gallons per day or MGD), and as a total annual withdrawal volume (million gallons per year or MGY) for each permit period outlined. The Department of Environmental Protection (MassDEP) will use the raw water withdrawal volume from all authorized withdrawal points to assess compliance with the registered and permitted withdrawal rates.

**Prior to making average annual withdrawals greater than the 18.27 MGD baseline, New Bedford is required to develop a mitigation plan for review and approval by MassDEP, incorporate the approved mitigation plan into this permit through a permit amendment (BRPWM02), and implement required mitigation activities (see Special Condition 7).**

<b>Table 2: Taunton River Authorized Withdrawal Rates</b>						
<b>Permit Periods</b>	<b>Total Raw Water Withdrawal Volumes</b>		<b>Total Raw Water Withdrawal Volumes</b>		<b>Total Raw Water Withdrawal Volumes</b>	
	<b>Permit</b>		<b>Registration</b>		<b>Permit + Registration</b>	
	<b>Daily Average (MGD)</b>	<b>Total Annual (MGY)</b>	<b>Daily Average (MGD)</b>	<b>Total Annual (MGY)</b>	<b>Daily Average (MGD)</b>	<b>Total Annual (MGY)</b>
April 6, 2022 to 2/28/2030	0*	0*	18.27	6,668.55	18.27*	6,668.55*
*Prior to making permitted withdrawals of up to 2.52 MGD above New Bedford's baseline of 18.27 MGD, a mitigation plan must be incorporated into this permit through a permit amendment (BRPWM02), and required mitigation activities must be implemented.						

## 2. Safe Yield of Surface Water Supplies

Based on the most recent information available to the Department, Investigations of Surplus Safe Yield Available to New Bedford by Camp Dresser and McKee, June 1988, the safe yield of Long Pond, Asswompsett Pond, Pocksha Pond, Great Quitticas Pond and Little Quitticas Pond has been determined to be 27.5 million gallons per day (MGD).

## 3. Performance Standard for Residential Gallons Per Capita Day Water Use

New Bedford's performance standard for residential gallons per capita day (RGPCD) is 65 gallons or less. New Bedford shall be in compliance with this performance standard by December 31, 2022. If New Bedford does not meet the standard each year, New Bedford shall be in compliance with the functional equivalence requirements (Appendix A). New Bedford shall report its RGPCD water use annually in its Annual Statistical Report (ASR).

## 4. Performance Standard for Unaccounted for Water

New Bedford's Performance Standard for Unaccounted for Water (UAW) is 10% or less of overall water withdrawal for 2 of the most recent years 3 throughout the permit period. If New Bedford does not meet the standard by December 31, 2022, New Bedford shall be in compliance with the functional equivalence requirements (Appendix B). New Bedford shall report its UAW annually in its Annual Statistical Report (ASR).

Nothing in the permit shall prevent a permittee who meets the 10% performance standard from demonstrating compliance with the UAW performance standard by developing and implementing a water loss control program following the *AWWA M36 Water Audits and Loss Control Programs*.

Permittees meeting the Performance Standard for Unaccounted for Water through implementation of a water loss control program based on AWWA M36 annual water audits and guidance shall continue to report UAW annually as required in the Annual Statistical Report for public water suppliers.

## **5. Seasonal Limits on Nonessential Outdoor Water Use**

New Bedford shall limit nonessential outdoor water use through mandatory restrictions from May 1<sup>st</sup> through September 30<sup>th</sup> as outlined in Table 3 below. New Bedford shall start implementing the seasonal limits on nonessential outdoor water use on May 1, 2022.

New Bedford shall be responsible for tracking steamflow gages and recording and reporting when restrictions are implemented. See Table 4: *Instructions for Accessing U.S. Geologic Survey Groundwater Level and Massachusetts Drought Advisory Website Information*. New Bedford shall also document compliance with the seasonal limits on nonessential outdoor water use annually in its Annual Statistical Report (ASR), and indicate whether it anticipates implementing calendar triggered restrictions or USGS monitoring well triggered restrictions during the next year.

### **Restricted Nonessential Outdoor Water Uses**

**Nonessential outdoor water uses that are subject to mandatory restrictions include:**

- irrigation of lawns via sprinklers or automatic irrigation systems;
- filling swimming pools;
- washing of vehicles, except in a commercial car wash or as necessary for operator safety; and
- washing exterior building surfaces, parking lots, driveways or sidewalks, except as necessary to apply surface treatments such as paint, preservatives, stucco, pavement or cement.

**The following uses may be allowed, before 9 am and after 5 pm, when mandatory restrictions are in place:**

- irrigation to establish a new lawn and new plantings during the months of May and September;
- irrigation of public parks and recreational fields by means of automatic sprinklers outside the hours of 9 am to 5 pm;
- irrigation of gardens, flowers and ornamental plants by means of a hand-held hose or drip irrigation systems; and
- irrigation of lawns by means of a hand-held hose.

**Water uses NOT subject to mandatory restrictions are those required:**

- for health or safety reasons;
- by regulation;
- for the production of food and fiber;
- for the maintenance of livestock; or
- to meet the core functions of a business (for example, irrigation by golf courses as necessary to maintain tees, greens, and limited fairway watering, or irrigation by plant nurseries as necessary to maintain stock).

**Public Notice of Seasonal Nonessential Outdoor Water Use Restrictions**

New Bedford shall notify its customers of the restrictions, including a detailed description of the restrictions and penalties for violating the restrictions. Notice that restrictions have been put in place shall be filed each year with the Department within 14 days of the restriction's effective date. Filing shall be in writing on the form "Notification of Water Use Restrictions" available on MassDEP website.

<b>Table 3: Seasonal Limits on Nonessential Outdoor Water Use May 1 to September 30</b>	
<b>For Permittees meeting the 65 RGPCD Standard for the preceding year</b> RGPCD $\leq$ 65 as reported in the ASR and accepted by MassDEP	
<b>Calendar Triggered Restrictions</b>	<p>Nonessential outdoor water use is allowed:</p> <ul style="list-style-type: none"> <li>a) <b>Seven (7) days per week</b> before 9 am and after 5 pm; <b>and</b></li> <li>b) <b>one (1) day per week</b> before 9 am and after 5 pm when USGS stream gage 01108000 – Taunton River at Bridgewater, MA falls below <b>49.21 cfs</b> for three (3) consecutive days.</li> </ul> <p>Once streamflow triggered restrictions are implemented, they shall remain in place until streamflow at the gage meets or exceeds 49.21 cfs for seven (7) consecutive days.</p>
<b>Streamflow Triggered Restrictions</b>	<p>Nonessential outdoor water use is allowed:</p> <ul style="list-style-type: none"> <li>a) <b>Two (2) days per week</b> before 9 am and after 5 pm when USGS stream gage 01108000 – Taunton River at Bridgewater, MA falls below: <ul style="list-style-type: none"> <li>• May 1 – June 30: <b>265 cfs</b> for three (3) consecutive days</li> <li>• July 1 – September 30: <b>119 cfs</b> for three (3) consecutive days</li> </ul> </li> <li>b) <b>one (1) day per week</b> before 9 am and after 5 pm when USGS stream gage 01108000 – Taunton River at Bridgewater, MA falls below <b>49.21 cfs</b> for three (3) consecutive days.</li> </ul> <p>Once implemented, the restrictions shall remain in place until streamflow at the gage meets or exceeds the trigger streamflow for seven (7) consecutive days.</p>
<b>For Permittees NOT meeting the 65 RGPCD standard for the preceding year</b> RGPCD $>$ 65 as reported in the ASR and accepted by MassDEP	
<b>Calendar Triggered Restrictions</b>	<p>Nonessential outdoor water use is allowed <b>one (1) day per week</b> before 9 am and after 5pm;</p>
<b>Streamflow Triggered Restrictions</b>	<p>Nonessential outdoor water use is allowed <b>one (1) day per week</b> before 9 am and after 5 pm when USGS stream gage 01108000 – Taunton River at Bridgewater, MA falls below:</p> <ul style="list-style-type: none"> <li>• May 1 – June 30: <b>265 cfs</b> for three (3) consecutive days</li> <li>• July 1 – September 30: <b>119 cfs</b> for three (3) consecutive days</li> </ul> <p>Once implemented, the restrictions shall remain in place until streamflow at the gage meets or exceeds the trigger streamflow for seven (7) consecutive days.</p>

**Table 4: Instructions for Accessing Streamflow Website Information**

**Streamflow information is available at the USGS National Water Information System (NWIS): Web Interface. The USGS NWIS default shows Massachusetts streamflows in real time, i.e., the most recent, usually quarterly hourly, reading made at each USGS stream gage.**

**Seasonal Limits on Nonessential Outdoor Water Use are implemented when the mean daily streamflow falls below the designated trigger. The mean daily flow is not calculated until after midnight each day when the USGS computes the hourly data into a mean daily streamflow. As a result, New Bedford must use the mean daily streamflow from the preceding day when tracking streamflows.**

**Mean daily streamflow gage readings are available at the USGS NWIS Web Interface at <http://waterdata.usgs.gov/ma/nwis/current/?type=flow>.**

- **Scroll down to #1108000 –Taunton River near Bridgewater, MA.**
- **Click on the gage number.**
- **Scroll down to “Provisional Date Subject to Revision – Available data for this site” and click on the drop down menu.**
- **Click on “Time-series: Daily data” and hit GO.**
- **Scroll down to the “Available Parameters” box. Within the box, be sure “Discharge (mean)” is checked, then, under “Output Format” click “Table” and hit GO.**
- **Scroll down to “Daily Mean Discharge, cubic feet per second” table and find the current date on the table.**
- **Compare the cubic feet per second (cfs) measurement shown on the table to the cfs shown under Streamflow Triggered Restrictions above.**

•

New Bedford may also opt to implement restrictions based on a MassDEP-approved drought management plan that includes environmental considerations.

**Nothing in the permit shall prevent Permittee from implementing water use restrictions that are more stringent than those set forth in this permit.**

## **6. General Water Conservation Requirements**

At a minimum, New Bedford shall implement the following conservation measures in Table 5. Compliance with the water conservation requirements shall be reported to the Department upon request, unless otherwise noted below.

<b>Table 5: Minimum Water Conservation Requirements</b>
<b>Leak Detection</b>
1. At a minimum, conduct a full leak detection survey every three years.
2. Conduct leak detection of the entire distribution system within one year whenever the percentage of UAW increases by 5% or more (for example an increase from 3% to 8%) over the percentage reported on the ASR for the prior calendar year. Within 60 days of completing the leak detection survey, submit to the Department a report detailing the survey, any leaks

<b>Table 5: Minimum Water Conservation Requirements</b>	
uncovered as a result of the survey or otherwise, dates of repair and the estimated water savings as a result of the repairs.	
3.	Conduct field surveys for leaks and repair programs in accordance with the <u>AWWA Manual 36</u> .
4.	<p>New Bedford shall have repair reports available for inspection by the Department. New Bedford shall establish a schedule for repairing leaks that is at least as stringent as the following:</p> <ul style="list-style-type: none"> <li>○ Leaks of 3 gallons per minute or more shall be repaired within 3 months of detection.</li> <li>○ Leaks of less than 3 gallons per minute at hydrants and appurtenances shall be repaired as soon as possible.</li> <li>○ Leaks of less than 3 gallons per minute shall be repaired in a timely manner, but in no event more than 6 months from detection, except that leaks in freeway, arterial or collector roadways shall be repaired when other roadwork is being performed on the roadway.</li> </ul> <p>Leaks shall be repaired in accordance with New Bedford’s priority schedule including leaks up to the property line, curb stop or service meter, as applicable. New Bedford shall have water use regulations in place that require property owners to expeditiously repair leaks on their property.</p>
<b>Metering</b>	
1.	Calibrate all source and finished water meters at least annually and report date of calibration on the ASR.
2.	New Bedford shall ensure that the system is 100% metered within 3 year of permit issuance. All water distribution system users shall have properly sized service lines and meters that meet AWWA calibration and accuracy performance standards as set forth in <u>AWWA Manual M6 – Water Meters</u> .
3.	New Bedford shall have an ongoing program to inspect individual service meters to ensure that all service meters accurately measure the volume of water used by its customers. The metering program shall include regular meter maintenance, including testing, calibration, repair, replacement and checks for tampering to identify and correct illegal connections. The plan shall continue to include placement of sufficient funds in the annual budget to calibrate, repair, or replace meters as necessary.
<b>Pricing</b>	
1.	New Bedford shall maintain a water pricing structure that includes the full cost of operating the water supply system. New Bedford shall evaluate rates at a minimum every three to five years and adjust costs as needed. Full cost pricing factors all costs - operations, maintenance, capital, and indirect costs (environmental impacts, watershed protection) - into prices.
2.	New Bedford shall not use decreasing block rates. Decreasing block rates which charge lower prices as water use increases during the billing period, are not allowed by M.G.L. Chapter 40 Section 39L.
<b>Residential and Public Sector Conservation</b>	

<b>Table 5: Minimum Water Conservation Requirements</b>	
1.	New Bedford shall meet the standards set forth in the Federal Energy Policy Act, 1992 and the Massachusetts Plumbing Code.
2.	Meter or estimate water used by contractors using fire hydrants for pipe flushing and construction.
3.	New Bedford has reported that most municipally owned public buildings have been retrofitted with water saving devices (faucet aerators, low flow shower heads and low flow toilets). New Bedford shall continue to ensure that water savings devices are installed in all municipal buildings as they are renovated, and shall ensure water conserving fixtures and landscaping practices are incorporating into the design of new municipal capital projects.
<b>Industrial and Commercial Water Conservation</b>	
1.	New Bedford shall ensure implementation of water conservation practices, including the installation of WaterSense compliant low flow plumbing fixtures where applicable, and low water landscaping in all development proposals.
<b>Public Education and Outreach</b>	
1.	<p>New Bedford shall continue to implement its water conservation and education efforts designed to educate the Town's water customers on ways to conserve water. Without limitation, New Bedford's plan may include the following actions:</p> <ul style="list-style-type: none"> <li>○ Include in bill stuffers and/or bills, a work sheet to enable customers to track water use and conservation efforts and estimate the dollar savings;</li> <li>○ Public space advertising/media stories on successes (and failures);</li> <li>○ Conservation information centers perhaps run jointly with electric or gas company;</li> <li>○ Speakers for community organizations;</li> <li>○ Public service announcements; radio/T.V./audio-visual presentations;</li> <li>○ Joint advertising with hardware stores to promote conservation devices;</li> <li>○ Use of civic and professional organization resources;</li> <li>○ Special events such as Conservation Fairs;</li> <li>○ Develop materials that are targeted to schools with media that appeals to children, including materials on water resource projects and field trips; and</li> <li>○ Provide multilingual materials as needed.</li> </ul>
2.	Upon request of the Department, New Bedford shall report on its public education and outreach effort, including a summary of activities developed for specific target audiences, any events or activities sponsored to promote water conservation and copies of written materials.

## 7. Mitigation of Impacts for Withdrawals that Exceed Baseline<sup>3</sup>

New Bedford's Baseline in the Taunton River Basin (18.27 MGD) is based on the registered volume. New Bedford's total authorized permitted withdrawal in this permit is not above their baseline; therefore, no mitigation is required. However, prior to making average annual withdrawals greater

<sup>3</sup> Baseline is the volume of water withdrawn in 2005 plus 5%, or the average volume withdrawn from 2003 to 2005 plus 5%, which is greater. Baseline cannot be less than the registered volume, and cannot be more than the authorized volume during the 2003-2005 period. For suppliers with authorizations in multiple major basins, baseline is computed for each basin and for the entire system.

than the 18.27 MGD baseline, New Bedford is required to develop a mitigation plan for review and approval by MassDEP, incorporate the approved mitigation plan into this permit through a permit amendment (BRPWM02), and implement required mitigation activities.

## **8. Operation and Management of the Assawompsett Pond Complex**

New Bedford shall continue to operate its withdrawals from its reservoir system so as to be protective of anadromous fisheries. New Bedford shall continue to implement the following measures to protect the anadromous fish population, in accordance with Appendix C: Operation and Management of the Assawompsett Pond Complex:

1. Coordinates Assawompsett Pond Dam operations with Lakeville-Middleborough Herring Fisheries Committee.
2. Coordinates annual maintenance with local Conservation Commissions and Lakeville-Middleborough Herring Fisheries Committee.
3. Continues monitoring Assawompsett Pond Dam and Long Point Road Spillway.

Special Condition 8 also requires New Bedford to participate in efforts to manage the Assawompsett Pond Complex in a manner that achieves a proper balance among its many competing uses. The City of New Bedford shall continue to work with the City of Taunton, the Towns of Lakeville, Middleborough, Freetown and Rochester, the Lakeville-Middleborough Herring Fisheries Committee, and the Division of Marine Fisheries (the Assawompsett Workgroup) on the development and implementation of a plan and schedule for the operation and maintenance of the Assawompsett Pond Complex. The Plan shall aim to provide a habitat for a wide variety of aquatic life including anadromous fish and to supply drinking water for the people of New Bedford, in accordance with the actions outlined in Appendix C, Operation and Management of the Assawompsett Pond Complex.

To inform this plan, pond level data shall be collected and provided to MassDEP each year with New Bedford's Annual Statistical Report (ASR). Historic data dating back to 2010 shall be provided to MassDEP and the Division of Marine Fisheries in a separate filing within six months of the issuance of this permit. Based on this data, New Bedford shall submit to MassDEP an update to the Operation and Management of the Assawompsett Pond Complex plan, compiled by the Assawompsett Workgroup, by December 31, 2022. The ultimate goal of this data is to determine specific pond levels at which actions need to occur to manage the Assawompsett Pond Complex in a manner that achieves balance among its competing uses. If no changes have been made to the plan by December 31, 2022, New Bedford shall notify MassDEP with a revised schedule for submittal.

## **9. Reporting Requirements**

New Bedford shall report annually as required by completing the electronic Annual Statistical Report (eASR) for public water suppliers, and shall provide other reporting as specified in the Special Conditions above.

## **10. General Permit 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 to enter and examine any property, inspect and monitor the withdrawal, and inspect and copy any relevant 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, §§ 15-17, M.G.L. c. 111, § 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 36.37.
- 6. Duty to Report** The Permittee shall submit annually, on a form provided by MassDEP, a certified statement of the withdrawal. Such report is to be received by MassDEP by the date specified by MassDEP. Such report must be mailed or hand delivered to the address specified on the report form.
- 7. Duty to Maintain Records** The Permittee shall be responsible for maintaining withdrawal records as specified by this permit.
- 8. Metering** Withdrawal points shall be metered. Meters shall be calibrated annually. Meter shall be maintained and replaced as necessary to ensure the accuracy of the withdrawal records.
- 9. Amendment, Suspension or Termination** The Department may amend, suspend or terminate this permit in accordance with M.G.L. c. 21G or 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.



4/6/2022

---

Duane LeVangie  
Chief, Water Management Act Program  
Bureau of Water Resources

---

Date

## **Appendix A – Functional Equivalence with the 65 Residential Gallons Per Capita Day Performance Standard**

MassDEP will consider PWS permittees who cannot meet the 65 RGPCD performance standard to be functionally equivalent, and in compliance with their permit, if they have an on-going program in place that ensures “best practices” for controlling residential water use as described below.

If the permittee fails to document compliance with the RGPCD performance standard in its 2022 Annual Statistical Report (ASR), or in any ASR thereafter, then the permittee must file with that ASR a Residential Gallons Per Capita Day Compliance Plan (RGPCD Plan) which shall include, at a minimum:

1. A description of the actions taken during the prior calendar year to meet the performance standard;
2. An analysis of the cause of the failure to meet the performance standard;
3. A description of the actions that will be taken to meet the performance standard which must include, at a minimum, at least one of the following:
  - a) a program that provides water saving devices such as faucet aerators and low flow shower heads at cost;
  - b) a program that provides rebates or other incentives for the purchase of low water use appliances (washing machines, dishwashers, and toilets), or
  - c) the adoption and enforcement of an ordinance, by-law or regulation to require the installation of moisture sensors or similar climate related control technology on all automatic irrigation systems;  
and may include, without limitation, the following:
  - d) the use of an increasing block water rate or a seasonal water rate structure as a tool to encourage water conservation;
  - e) a program that provides rebates or other incentives for the installation of moisture sensors or similar climate related control technology on automatic irrigation systems;
  - f) the adoption and enforcement of an ordinance, by-law or regulation to require that all new construction include water saving devices and low water use appliances;
  - g) the adoption and enforcement of an ordinance, by-law or regulation to require that all new construction minimize lawn area and/or irrigated lawn area, maximize the use of drought resistant landscaping, and maximize the use of top soil with a high water retention rate;
  - h) the implementation of a program to encourage the use of cisterns or rain barrels for outside watering;
  - i) the implementation of monthly or quarterly billing.
4. A schedule for implementation; and
5. An analysis of how the planned actions will address the specific circumstances that resulted in the failure to meet the performance standard.

If the permittee is already implementing one or more of these programs, it must include in its RGPCD plan the continued implementation of such program(s), as well as implementation of at least one additional program. All programs must include a public information component designed to inform customers of the program and to encourage participation in the program.

RGPCD plans may be amended to revise the actions that will be taken to meet the performance standard. Amended RGPCD plans must include the information set forth above.

If a RGPCD plan is required, the permittee must:

1. submit information and supporting documentation sufficient to demonstrate compliance with its RGPCD plan annually at the time it files its ASR, and
2. continue to implement the RGPCD plan until it complies with the performance standard and such compliance is documented in the permittee's ASR for the calendar year in which the standard is met.

## **Appendix B – Functional Equivalence with the 10% Unaccounted for Water (UAW) Performance Standard**

**Water Loss Control Program:** MassDEP will consider PWS permittees who cannot meet the 10% UAW performance standard to be functionally equivalent, and in compliance with their permit, if they have an on-going Water Loss Control Program in place that ensures best practices for controlling water loss.

**Developing a Municipal Water Loss Control Program:** A permittee who fails to document compliance with the 10% UAW performance standard for 2 out of the 3 years during the permit period, shall develop a Municipal Water Loss Control Program in accordance with the *AWWA M36 Water Audits and Loss Control Program*. Within 5 full calendar years of failing to meet the standard, the permittee shall:

1. Conduct an annual “top down” water audit, calculate the data validity level/score using AWWA Water Loss Control Committee’s Free Water Audit Software, and submit the AWWA WLCC Free Water Audit Software Reporting Worksheet and data validity score annually as an attachment to the Annual Statistical Report (ASR).
  - If a PWS’s data validity level/score is less than Level III (51-70), steps recommended through the audit(s) shall be taken to improve the reliability of the data prior to developing a component analysis and long-term program to reduce real and apparent water losses.
    - i. Data with a validity score of 50 or less are considered too weak to be used to develop a component analysis or for infrastructure planning and maintenance.
    - ii. Developing data with an acceptably strong validity score can be a multi-year process.
2. When the data validity score meets the Level III (51-70) requirement, conduct a component analysis to identify causes of real and apparent water loss and develop a program to control losses based on the results of the component analysis.
3. Submit the Municipal Water Loss Control Program that includes an M36 component analysis and implementation schedule, and identifies implementation funding to the Department.
4. Upon request of the Department, the permittee shall report on its implementation of the water loss control program.
5. Continued implementation of the Program will be required in order for the permittee to be considered functionally equivalent with the 10% UAW performance standard and in compliance with their permit.

A PWS permittee may choose to discontinue the Municipal Water Loss Control Program implementation if UAW, as reported on the ASR and approved by the Department, is below 10% for four consecutive years, and the water audit data validity scores are at least Level III (51-70) for the same four years.

**NOTE FOR SMALL SYSTEMS:** For small systems with less than 3,000 service connections or a service connection density of less than 16 connections per mile of pipeline, the Unavoidable Annual Real Loss (UARL) calculation and the Infrastructure Leak Index (ILI) developed as the final steps of the top down water audit may not result in valid performance indicators, and may not be comparable to the UARL and ILI calculations for larger systems.

However, these small systems can benefit from developing reliable data and conducting an annual top down water audit. Small systems can rely on the real losses (gallons per mile of main per day) performance indicator developed in the water audit as a measure of real water loss when developing a water loss control program. The M36 Manual discusses the audit process for small systems, and includes a chapter to guide small systems in understanding the results of their audits and in developing a water loss control program (*Manual of Water Supply Practices – M36, Fourth Edition, Chapter 9: Considerations for Small Systems*, pp. 293-305).

**MassDEP Water Loss Control Program:** If the permittee is required to develop a Water Loss Control Program in order to be functionally equivalent with the 10% Unaccounted for Water Performance Standard, and the permittee has not developed a Municipal Water Loss Control Program that includes a component analysis and identifies implementation funding after 5 full calendar years of failing to meet the standard, the permittee will be required to implement the MassDEP UAW Water Loss Control Program measures outlined below:

- Complete an annual water audit and leak detection survey, as described in the AWWA M36 Manual, for the entire system.
  - Within one year, repair 75% (by water volume) of all leaks detected in the survey that are under the control of the public water system;
  - Thereafter, repair leaks as necessary to reduce permittee's UAW to 10% or the minimum level possible.
- Meter inspection and, as appropriate, repair, replace and calibrate water meters:
  - Large Meters (2" or greater) – within one year
  - Medium Meters (1" or greater and less than 2") – within 2 years
  - Small Meters (less than 1") - within three years
  - Thereafter, calibrate and or replace all meters according to type and specification.
- Bill at least quarterly within three years.
- Review the permittee's water pricing structure and ensure revenues are sufficient to pay the full cost of operating the system.

**Hardship:** A permittee may present an analysis of the cost-effectiveness of implementing certain conservation measures included in the MassDEP Water Loss Control Program and offer alternative measures. Any analysis must explicitly consider environmental impacts and must produce equal or greater environmental benefits.

A permittee's hardship analysis shall:

- Document economic hardship and present an analysis demonstrating that implementation of specific measures will cause or exacerbate significant economic hardship;
- Present reasons why specific measures are not cost-effective because the cost would exceed the costs of alternative methods of achieving the appropriate standard; and
- Propose specific conservation measures that would result in equal or greater system-wide water savings or equal or greater environmental benefits than the conservation measures included in the MassDEP UAW Water Loss Control Program.

MassDEP will review a permittee's detailed, written analysis to determine whether unique circumstances make specific water loss control measures less cost-effective than alternatives, or infeasible for the permittee.

### **Appendix C – Operation and Management of the Assawompsett Pond Complex**

As pertaining to the Division of Marine Fisheries' (DMF) Fisheries Management Plan for Herring, the following activities take place annually or as needed by the Assawompsett Workgroup to facilitate the natural migration of fish. The workgroup consists of the follow cities, towns, and entities: New Bedford, Taunton, Lakeville, Middleborough, Freetown, Rochester, the Lakeville-Middleborough Herring Fisheries Committee, and the Division of Marine Fisheries. The overarching goal of the plan is to determine a schedule of activities to be taken at specific water levels to ensure that the reservoir system is operated to be protective of anadromous fisheries.

1. Screens are placed and maintained in the gatehouse between Great Quitticas and Little Quitticas ponds during herring migration season, usually March through December. The screens are not removed until approval has been given by the Director of DMF. These screens keep herring out of Little Quitticas Pond where they would be in danger of being sucked up into the intake pipes.
2. The Middleborough Herring Commission shall perform a manual herring count annually.
3. Upon the request of DMF, the gates between Great and Little Quitticas are closed to allow Great Quitticas to increase in level and cause water to flow into Pocksha Pond. This provides young herring a better opportunity of getting out of Great Quitticas Pond.
4. When pond levels are low enough, heavy equipment can be brought in to remove sand from the Great Quitticas /Pocksha spillway and from the Assawompsett Pond Dam. All work is to be done in conjunction with the Middleborough Conservation Commission.
5. Wooden baffles are placed in the fish ladder at the Assawampsett Pond Dam to aid in the passage of adult herring from the river to the ponds. Monitoring of the fish ladder at the Assawampsett Pond Dam shall be conducted to allow for the safe passage of fish and observe the quantities of fish utilizing the structure. Maintain adequate levels in Assawompsett Pond during the Spring and Fall seasons to allow for the passage of fish to and from the Nemasket River.
6. Pond level data at New Bedford's intake point shall be collected and provided to MassDEP each year with New Bedford's Annual Statistical Report (ASR). Historic data dating back to 2010 shall be provided to MassDEP and the Division of Marine Fisheries in a separate filing within six months of the issuance of this permit. Based on this data, New Bedford shall submit to MassDEP an update to the Operation and Management of the Assawompsett Pond Complex plan, compiled by the Assawompsett Workgroup, by December 31, 2022. The ultimate goal of this data is to determine specific pond levels at which actions need to occur to manage the Assawompsett Pond Complex in a manner that achieves balance among its competing uses. If no changes have been made to the plan by December 31, 2022, New Bedford shall notify MassDEP with a revised schedule for submittal.