

**Ipswich River Basin
Water Management Act Permit Communities**

January 27, 2016

The Honorable Charles D. Baker
Governor of Massachusetts
Office of the Governor
State House, Room 280
Boston, Massachusetts 02133

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Executive Office of Energy
& Environmental Affairs

RE: Regulatory Review Needed for Water Management Act Regulations

Dear Governor Baker:

The undersigned communities are writing to bring to your attention our concerns with the Massachusetts Department of Environmental Protection's Water Management Act (WMA) regulations (310 CMR 36.00) and permitting process.

We appreciate the efforts that you and Lt. Governor Polito have made to reach out to communities and to work cooperatively with them to overcome regulatory hurdles that hamper their ability to do business. We had hoped that your Executive Order 562 would shed some light on the onerous regulatory requirements of WMA permitting. Since the Department of Environmental Protection (Department) is proposing to delay review of the regulations pursuant to your Order, we are asking you to direct Commissioner Suuberg to review 310 CMR 36.00 now, so that the review can be completed prior to issuing any new permits.

We believe that the WMA regulations threaten communities' ability to provide essential water that is needed for public health, safety and economic development. Addressing these new regulations is especially time-sensitive as the Department is currently in the process of renewing 20-year WMA permits and will be applying these new rules to those permit renewals.

The new regulatory requirements, developed through the Sustainable Water Management Initiative (SWMI), include untested and potentially exhaustive studies, as well as complex and expensive pilot projects, such as those that have already been funded under the SWMI grant program administered through the Department.

The Regulations themselves incorporate concepts (such as "water withdrawal minimization," "mitigation," and water demand "baselines") that lend themselves more to theoretical analysis than to addressing real-world municipal needs. Drinking water supply needs are being pitted against Coldwater fisheries in a way that will require municipal water supplies to engage consultants to develop and implement system

optimization plans, which are benchmarked against weakly premised river and stream impacts, not core water supply interests

In brief, our specific concerns include:

- The science underpinning the regulations is not compelling enough to merit the regulatory controls being imposed on water systems. The regulations rely on a statewide model that is being used in a manner that is inconsistent with its stated limitations. The state environmental agencies have failed to produce convincing evidence of statewide streamflow impacts caused by water withdrawals. Nor have they demonstrated worsening streamflow trends. In fact, the agencies have not even shown that statewide water withdrawals are on the rise, much less the need to consider more regulatory controls on public water systems.
- The regulations will require expensive mitigation projects to “offset” increased water use. This is true even for communities that are well within their current permit limits or have achieved water use reductions. The mitigation projects, according to the Department, may include dam removals and building fish ladders. These expensive capital projects will cause rate increases on residents and siphon money away from infrastructure projects that should be strengthening our water systems. Residents simply cannot afford to pay for fish ladders when an estimated \$10.2 billion in water system infrastructure improvements are needed in the next two decades.
- Safe, reliable and affordable water is needed for residential and business development. A costly and unreliable water supply impedes business growth. The Commonwealth has aggressively recruited businesses that rely heavily on water, such as pharmaceutical and life science companies. The regulations in their current form threaten to undermine this effort.

In the Ipswich River Basin, communities are discussing the need to hire their own consultant to do data collection, so permitting discussions can be based on fact rather than relying on a statewide model that seems not to reflect actual basin conditions. Some Ipswich River communities have endured years of costly litigation to defend their statutory rights to withdraw water. They are nevertheless still being asked to do more without any evaluation by the state as to whether the conditions in existing permits are resulting in environmental improvements.

We believe that the Commonwealth should encourage integrated water resource management planning and reward water infrastructure capital improvements. A holistic approach needs to be cost-effective and beneficial, with measurable results. The WMA regulations do not meet this objective.

Thank you for your attention to this matter. We would be happy to meet with you and Lt. Governor Polito to talk in further detail about how, specifically, these permits are impacting our communities.

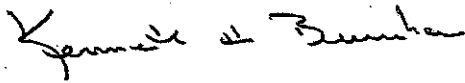
Sincerely,



Stephen Bartha, Town Manager
Town of Danvers



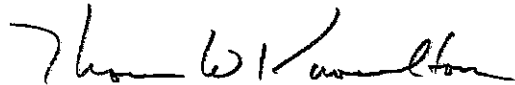
Michael A. Lombardo, Town Manager
Town of Hamilton



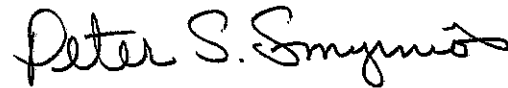
Kenneth H. Burnham, Superintendent
Lynnfield Center Water District



Andrew Sheehan, Town Administrator
Town of Middleton



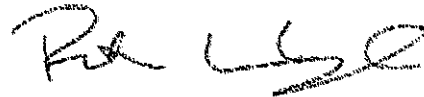
Thomas W. Knowlton, Executive Director
Salem and Beverly Water Supply Board



Peter S. Smyrniotis, Superintendent
Salem and Beverly Water Supply Board



Kellie Hebert, Town Administrator
Town of Topsfield



Peter Lombardi, Town Administrator
Town of Wenham

cc: The Honorable Karyn Polito, Lt. Governor
Matthew A. Beaton, Secretary, EEA ✓
Martin Suuberg, Commissioner, MassDEP