



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

Meeting Minutes for July 8, 2021

Meeting conducted remotely via Zoom meeting platform, 1:00 p.m.

Minutes approved October 14, 2021

Members in Attendance:

Vandana Rao	Designee, Executive Office of Energy and Environmental Affairs (EEA)
Linda Balzotti	Designee, Department of Housing and Community Development (DHCD)
Kathleen Baskin	Designee, Department of Environmental Protection (MassDEP)
Anne Carroll	Designee, Department of Conservation and Recreation (DCR)
Todd Richards	Designee, Department of Fish and Game (DFG)
Hotze Wijnja	Designee, Department of Agricultural Resources (DAR)
Thomas Cambareri	Public Member
Vincent Ragucci	Public Member
Kenneth Weismantel	Public Member

Members Absent

Todd Callaghan	Designee, Massachusetts Office of Coastal Zone Management (CZM)
Marcela Molina	Public Member
Samantha Woods	Public Member

Others in Attendance:

Andreae Downs	Wastewater Advisory Committee to the MWRA
Duane LeVangie	MassDEP
Lexi Dewey	WSCAC
Gerald Clarke	Dover Board of Health
Elise Tarnauskas	Springfield Water & Sewer Commission
John Scannell	DCR
Courtney Starling	Land Use Director, Dover, MA
Kara Sliwoski	DCR
Warren Lent	Green Industry Alliance
Jennifer Pederson	Massachusetts Water Works Association
Robert Rio	AIM
Sarah Bower	Massachusetts Rivers Alliance
Vanessa Curran	DCR
Katie Ronan	Massachusetts Water Resources Authority
Kate Bentsen	DER
David Melly	Office of Rep. Carolyn Dykema (ENRA Chair)
Joshua Schimmel	Springfield Water and Sewer Commission
Josh DeSantis	Colonial Water Company
Marilyn McCrory	DCR
Nicholas LaChance	Colonial Water Company
Erin Graham	DCR
Jaimye Bartak	Springfield Water & Sewer Commission
Stephen Estes-Smargiassi	Massachusetts Water Resources Authority
Don Hearn	Golf Course Superintendents Association of New England

Katharine Lange	Massachusetts Rivers Alliance
Shannon Emmett	Research Director, Joint Committee on Environment, Natural Resources and Agriculture (Chair, Rep. Carolyn Dykema)
Bob Worthley	Foxborough Water Department
Maureen Callahan	Rep. Denise Garlick staff

Rao called the meeting to order at 1:05 p.m.

Agenda Item #1: Welcome and Introductions

Rao welcomed everyone to the meeting. She announced that the meeting was being recorded and all votes would be taken by roll call. She invited those who wish to speak during the meeting to indicate this in the chat window. A roll call was taken and members and attendees introduced themselves by writing their name and affiliation in the chat window.

Rao announced that the Drought Management Task Force had met July 7. Most of the drought indices, including groundwater, have recovered, and conditions in most locations, except on Cape Cod, have improved. The task force will have a better sense of conditions after Tropical Storm Elsa passes.

Rao welcomed Kara Sliwoski, who will serve as staff to the Water Resources Commission and DCR's Office of Water Resources. Rao described Sliwoski's background and Sliwoski introduced herself.

Agenda Item #2: Update: Hydrologic Conditions and Drought Status Update

Graham summarized hydrologic conditions for June 2021. Overall, June was a warm month, with Boston recording the hottest June on record and Worcester recording the second hottest June. Precipitation was low to the low side of normal, with more consistently dry conditions in the Connecticut River Valley and Central drought regions. Streamflow was below normal in the Southeast and Cape Cod regions. Groundwater was above normal in all regions except Cape Cod. Most lakes and impoundments were above the 30th percentile for this time of year, except on Cape Cod. The Keetch-Byram Drought Index was at Level 1 or 2 in most regions, but showed improvement in the past week, except on Cape Cod. At the end of June, the U.S. Drought Monitor showed abnormally dry conditions in the Connecticut River Valley and Western regions and Level D2 (Severe Drought) on Cape Cod.

Agenda Item #3: Presentation and Discussion: Proposed Revisions to the Water Management Act Regulations (310 CMR 36.00)

Rao noted that Water Management Act regulations come under the authority of the Water Resources Commission to approve. She noted that MassDEP will present draft changes to the regulations for public comment and will return to the commission for approval of the final regulations. She introduced Kathleen Baskin of MassDEP.

Baskin summarized the regulation revision, explaining that, for entities with Water Management Act registrations, MassDEP is proposing to align nonessential water use with the *Massachusetts Drought Management Plan*, which the Water Resources Commission adopted in 2019. She clarified that some outdoor water uses are still allowed under the definition of "nonessential" uses, and that the focus here is on turning off lawn sprinklers during a drought.

Baskin announced that the Attorney General's Office recently provided guidance that extends registrations for 462 days, or until approximately April 7, 2023 – the length of the COVID-19 pandemic emergency. She introduced Duane LeVangie, section chief of the Water Management Act (WMA) program.

LeVangie explained that the expiration of WMA registrations provides a good opportunity to make changes to the regulations. He noted that the public comment period is open until July 26, and that two other public hearings on the proposed revisions are being held, one that took place July 7, and the other scheduled for July 16. He outlined the schedule for registration renewals, noting that Public Water Suppliers must file requests to renew registrations by November 2022. Renewed registrations will be valid for 10 years, expiring on April 7, 2033.

LeVangie reviewed the history of WMA registrations, noting that the registered volume reflected water sources and water use by the registrant from 1981 to 1985, and the initial registrations included minimal conditions. At the last renewal of registrations in 2007, MassDEP included conditions related to conservation performance standards and summer demand management. However, those conditions were appealed to the Massachusetts Supreme Judicial Court. The SJC decision affirmed MassDEP's authority to condition registrations but required MassDEP to promulgate regulations before including new conditions in registration renewals. He also noted that the Permit Extension Act (*Ed. note*: 2010, and subsequent amendment, 2012) extended registrations for four years beyond their original expiration date in 2017.

LeVangie explained that during a drought, water resources must be protected, and the proposed revision will help provide consistency in messaging and in the implementation of water-use restrictions statewide, noting that consistency in messaging about conserving water helps with public understanding and compliance. He showed a map of communities statewide that had implemented nonessential outdoor water-use restrictions during a period of drought in 2020, noting the wide variety of approaches across the state. He also provided details on summer water-use increases, compared to winter water use, in communities across the state and noted that, in the summer, water use increases in every community, even in cities. The average summer-to-winter ratio from 2009 to 2020 was 1.41 across the state and 1.34 for registered systems. He reiterated that the emphasis with this regulatory revision is on reducing that summertime water use during droughts.

LeVangie outlined the draft regulation change. During a drought, registered public water supply systems and golf courses will implement nonessential water-use restrictions that align with drought levels and the guidance in the *Massachusetts Drought Management Plan*. He outlined the frequency of occurrence of various drought levels and added that restrictions would not necessarily apply statewide but would be based on drought declarations by drought region.

LeVangie reviewed the proposed regulatory changes. These include two new definitions – of “multi-year drought storage” and “nonessential outdoor water use” – noting that the latter does not include irrigation of public parks and public recreation fields or water used to meet the core functions of a business (such as agriculture, nurseries, and golf courses, with certain limitations).

He then described changes to two sections of the regulations: one clarifying authority and the other addressing conditions on registrations. He reiterated that the goal of these regulatory changes is to protect water systems and water resources. He explained that if a system has significant, usable storage and has a drought management plan approved by MassDEP, it could be exempt from the conditions. Such systems would have to present a drought management plan, and this plan would have to be reviewed and approved by MassDEP. LeVangie described the key elements the drought management plan would have to include.

For golf courses with WMA registrations, LeVangie outlined requirements for making graduated reductions in nonessential irrigation, based on severity of the drought, when a drought is declared. LeVangie presented a chart outlining these reductions, which is consistent with the reductions recommended in the state Drought Management Plan. Golf courses could reduce irrigation by either reducing the length of irrigation run times by prescribed percentages or irrigating fewer acres. These entities would develop a seasonal demand management plan describing how they would meet the reduction targets.

LeVangie then described the number of systems with WMA registrations and permits. He also described how water is being used in the state and who is using it, noting that public water suppliers represent 72% of allocated water. He explained that many entities with registrations also have WMA permits. He noted that registered volumes represent approximately 86% of the total water allocated.

He explained that registration renewal requests were originally due June 30, 2021, but the deadline has been extended to October 2022, as a result of the COVID-19-related Executive Order that extended certain permits and approvals for 462 days. He added that registration renewals will be prepared and issued in March and April of 2023.

He outlined the schedule for public hearings and the public comment period and explained how to submit comments. Electronic submittals are preferred. The draft regulations are posted on MassDEP's website at <https://www.mass.gov/service-details/massdep-public-hearings-comment-opportunities>. He noted that MassDEP will return to the Water Resources Commission for further discussion at a later date, with a vote to be requested the following month. He added that MassDEP hopes to finalize the regulatory changes in the November to December timeframe.

Rao thanked LeVangie for the overview, adding that the Water Resources Commission has had a long history of thinking about how water should be used and conserved. She invited comments and questions. Discussion focused on the topics highlighted below.

Impetus for regulatory changes: Cambareri requested clarification on who the regulatory changes are directed to. LeVangie explained that WMA permits have had conditions on nonessential outdoor water use added since 2003. Entities with only registered water use are affected by this regulatory change during a drought. Cambareri asked what the impetus was for these regulatory changes. Baskin responded that in 2019, the Water Resources Commission revised the Drought Management Plan. This prompted MassDEP to evaluate its responses to Drought. She also noted an increase in the frequency, duration, and intensity of droughts, noting that, as examples, several significant drought declarations have occurred in the last five years in Massachusetts and the Boston area experienced three heat waves in June of this year. She added

that the regulatory changes also help water suppliers, several of whom expressed concern about potential water shortages during the 2016 drought.

Exemptions for parks and playing fields: Weismantel commented on the exemption for parks and public playing fields, noting that government entities should lead by example. He acknowledged that there may be safety issues with playing fields. Baskin agreed that government should lead by example, but noted that parks provide a service to society, as a respite for those who cannot afford to join a golf club or get away to a green space. Richards said he could see the need for an accommodation for playing fields since a high level of traffic can make them susceptible to damage. He asked if instituting a percentage reduction, similar to the requirements for golf courses, had been considered. Carroll commented, speaking on behalf of DCR as a parks agency, that the pandemic demonstrated the importance of parks as an essential use. She added that DCR is trying to take another look at turf to determine where it is essential and where it could be replaced with another vegetative cover, such as pollinator meadows. She also noted that WRC staff have worked with DCR parks staff to increase awareness of the Water Conservation Standards and efficient watering practices, particularly with turf. LeVangie agreed that government should lead by example, noting that public parks and playing fields should be watered early in the morning, not in the middle of the day, and municipalities should encourage developers to design developments to be less water-needy.

Requirements for golf courses: Richards requested clarification on how the percentage reduction requirements will work for golf courses and how MassDEP plans to ensure watering efficiency. LeVangie explained that golf courses will be able to either reduce the square footage they are watering or reduce the amount of time they are watering, and MassDEP assumes this will reduce the amount of water applied and that such reductions should be reflected in annual reports registrants submit to MassDEP.

Alternative plan for registered-only systems supplied entirely by surface water reservoirs: Weismantel commented on the need to treat all water systems equally, while recognizing that every system is different. He noted the proposed exemption for systems with substantial storage, adding that this appears to apply only to the system managed by the Massachusetts Water Resources Authority, which, he said, seems to get a “pass” on instituting watering restrictions. Baskin responded that every system is going to have to do something during a drought. She added that there may be some systems that are so resilient to drought that they can tailor a drought management plan to their own system. She added that MassDEP has set a high bar for such systems. Rao added that MWRA has in the past notified users to conserve water during drought, even when their reservoir levels were relatively high.

Wijnja departs, 2:12 p.m.

Schimmel commented that the exemption for large reservoir systems is completely arbitrary and applies to one utility only. He said the exemption should apply to any utility that can demonstrate that it has ample water supply under varying conditions and the skill to manage it. Clarke commented that the MWRA represents the elephant in the room when it comes to public relations, because it serves so much of the eastern Massachusetts area. He added that, while he applauds LeVangie’s comment about the need for a consistent message on drought, if watering restrictions do not apply to the MWRA, then MassDEP has lost the issue of a consistent message.

Impact of regulatory changes on water utility revenues: Schimmel commented that nobody is more concerned about the condition of water supply than water suppliers themselves. He said it is important to understand the uniqueness of every water supply system. He expressed concern that there had not been enough discussion about the impacts of this regulatory change on water supplier revenues, adding that the Springfield water system depends on seasonal water use to generate revenues to invest in the system.

Pederson commented that the regulatory changes will affect the resiliency of both small and large water systems and that the changes will result in higher water rates, presenting a fairness, equity, and social justice issue, particularly for small systems. Schimmel noted that the Springfield system projects it will lose three to six million dollars in revenue if it has to implement watering restrictions when a drought is declared. He added that this could require a ten percent rate increase the following year, and rate increases will affect a large population in an Environmental Justice community. He noted that the Springfield water system had ample water supply in 2016, when a Level 1 drought was declared in the western drought regions.

Rao responded that fluctuations in water use already exist, such as in years with above-normal rainfall during the watering season, and these fluctuations also affect utility revenues. She noted that the Water Resources Commission has had many discussions about water rates and appreciates the challenges that public water suppliers face. She added that WRC staff have been investigating rate structures and rate stabilization measures and intend to provide technical assistance on this topic. Carroll acknowledged that rate setting is complicated but noted that rate restructuring does not necessarily result in a rate increase for those who cannot afford it.

Clarke commented (in the meeting chat) that other industries deal with this issue with a simple accounting procedure called a "RESERVE, " with the approval of the Department of Public Utilities.

General comments:

Pederson stated that she is strongly opposed to any conditioning of registrations. She said the data on registered volumes is slightly misleading: if the MWRA's registered volume is subtracted, the regulations would apply to a small volume of water. She added that entities with WMA permits already have requirements to implement watering restrictions. She added that it is disingenuous to say that this regulatory change will help water systems, noting Schimmel's comments on revenue impacts. She said the changes will not level the playing field, will not affect private wells, and will still result in inconsistencies in the implementation of water-use restrictions. She noted that conditions in WMA permits are currently not aligned to the Drought Management Plan.

Lent asked if MassDEP would consider the incorporation of technology, such as smart controllers, and give further consideration to goals versus outcomes, noting that a good outcome is better than missing a goal that is out of reach.

LeVangie reiterated the timeline for public hearings and comments.

Pederson suggested that the commission host a presentation by a water supplier on the complexities of budgeting and rate setting. Rao responded that the commission had hosted similar presentations at past meetings and welcomed the opportunity for additional discussion of this topic.

Baskin thanked all in attendance for their comments, adding that MassDEP takes all comments very seriously.

V O T E	A motion was made by Balzotti with a second by Weismantel to adjourn the meeting. The roll-call vote to approve was unanimous of those present.
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Meeting adjourned, 2:36 p.m.

Documents or Exhibits Used at Meeting:

1. Documents for revisions to the Water Management Act Regulations (310 CMR 36.00):
 - a. Summary of proposed changes
 - b. Redline draft
 - c. Proposed regulations are available for review on the MassDEP website at <https://www.mass.gov/service-details/massdep-public-hearings-comment-opportunities>
 - d. Water Management Act Regulation Change Update: presentation by Duane LeVangie, MassDEP, July 8, 2021. Available at <https://www.mass.gov/doc/presentation-proposed-revisions-to-the-water-management-act-regulations-310-cmr-3600/download>
2. Interbasin Transfer Act project status report, June 29, 2021
3. Hydrologic Conditions in Massachusetts, June 2021 (available at <https://www.mass.gov/info-details/water-data-tracking>)

Compiled by: mjm

Agendas, minutes, and other documents are available on the web site of the Water Resources Commission at <https://www.mass.gov/water-resources-commission-meetings>. All other meeting documents are available by request to WRC staff at 251 Causeway Street, 8th floor, Boston, MA 02114.