



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

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**Meeting Minutes for January 11, 2018**

100 Cambridge Street, Boston, MA, 1:00 p.m.

*Minutes approved March 19, 2018*

**Members in Attendance:**

Vandana Rao	Director of Water Policy, Executive Office of Energy and Environmental Affairs (EEA)
Linda Balzotti	Designee, Department of Housing and Community Development (DHCD)
Jonathan Yeo	Designee, Department of Conservation and Recreation (DCR)
Duane LeVangie	Designee, Department of Environmental Protection (MassDEP)
Gerard Kennedy	Designee, Department of Agricultural Resources (DAR)
Todd Richards	Designee, Department of Fish and Game (DFG)
Todd Callaghan	Designee, Massachusetts Office of Coastal Zone Management (CZM)
Thomas Cambareri	Public Member
Marcela Molina	Public Member
Vincent Ragucci	Public Member
Kenneth Weismantel	Public Member
Bob Zimmerman	Public Member

**Others in Attendance:**

Marilyn McCrory	DCR
Becky Weidman	DEP
Anne Carroll	DCR
Gabby Queenan	Massachusetts Rivers Alliance
Vanessa Curran	DCR
Viki Zoltay	DCR
Michele Drury	DCR
Cristina Kennedy	CZM
Jennifer Sulla	EEA
Margaret Van Deusen	Charles River Watershed Association
Patricia Bowie	CZM
Sean Duffey	CZM
Erin Graham	DCR
Jen Pederson	Massachusetts Water Works Association
Alan Cathcart	Town of Concord
Beth Card	Massachusetts Water Resources Authority
Kate Bentsen	DFG/Div. of Ecological Restoration
Michelle Craddock	DFG/Div. of Ecological Restoration
Sara Cohen	DCR

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Rao called the meeting to order at 1:04 p.m.

**Agenda Item #1: Executive Director's Report**

Rao announced the departure of Commission member designee Jonathan Yeo. Rao thanked Yeo for his contributions to and engagement in the Commission's work, noting that he had helped

shape the Commission's thinking on water policy over many years. Yeo remarked that it has been an honor to serve on the Water Resources Commission for thirteen years and thanked Commission staff, led by Anne Carroll and Michele Drury, for their expertise and professionalism in supporting the Commission.

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

Zoltay provided an update on the hydrologic conditions for December 2017. She reported that dry conditions continued in December, noting that precipitation was below average in all regions for the second consecutive month. A significant number of streamflow gages were below normal. While the groundwater index is normal in all regions, numerous wells show below-normal levels. Some reservoirs are near or slightly below normal. Zoltay explained why the various drought indices are not being triggered to the advisory level based on our current methodology; she added that these indices will be adjusted in the revised Drought Management Plan. Staff will be closely monitoring conditions to determine if a meeting of the Drought Management Task Force is warranted.

**Agenda Item #3: Vote on the Meeting Minutes of October and November 2017**

Rao invited motions to approve the meeting minutes for October 12 and November 9, 2017.

V	A motion was made by Zimmerman with a second by Weismantel to approve the meeting minutes for October 12, 2017.
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V	A motion was made by Ragucci with a second by Weismantel to approve the meeting minutes for November 9, 2017.
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**Agenda Item #4: Final Revisions Interbasin Transfer Act Regulations and Response to Comments**

Rao highlighted comments on the Interbasin Transfer Act (ITA) regulations made at the Commission's December 2017 meeting and called attention to a comment letter dated January 10, 2018, from the Massachusetts Rivers Alliance (MRA) and the Charles River Watershed Association (CRWA) (see item 2f in the list of meeting documents below).

Rao reviewed several additional amendments to the regulations in response to discussion at the December Commission meeting. She invited discussion of the proposed amendments.

Richards acknowledged past discussions with Commission staff on the criteria for withdrawals from lakes, ponds, reservoirs, and impoundments. He requested that Department of Fish and Game staff be consulted during ITA reviews to provide a clear understanding of what these criteria mean and how they will be applied. Rao agreed that this is an appropriate request and acknowledged that it is standard practice to seek input and advice from multiple resource agency staff during ITA reviews, and that this practice would continue in the future. Rao stated that Commission staff rely on the expertise of DFG, Natural Heritage, and other agency staff around natural resource issues. Commission staff will consult with subject matter experts at the various

agencies on relevant aspects of interbasin transfer applications and policies developed by the Commission.

Rao noted that many of the comments in the recent MRA and CRWA letter had been addressed in the response to comments document, and changes were made accordingly to the draft revised regulations. She proposed several additional clarifications to the language of the regulations to address concerns raised in the letter.

Regarding the definition of regional water supply system, she suggested an additional amendment to clarify the Commission's intent: "two or more" refers to two or more additional communities outside the donor basin. She added that the Commission has discretion on whether to accept an application from a regional water supply system for review under the Regional System Expansion provisions or to require review under the regular process.

She also explained a minor change to Section 4.10, which was made to make the language consistent with the definitions section and to clarify that the commission needs to be satisfied that an applicant fits the definition of "regional water supply system." Carroll clarified that the criteria the Commission uses to evaluate the donor and receiving portions of the application remain the same, whether the applicant seeks the Regional Expansion review process or the traditional review process. The difference between the two processes is the ten-year check-in requirement, the twenty-year expiration for transfers approved using the regional process, and the separation of donor basin and receiving basin criteria review. Rao clarified that annual reporting by approved entities will still be required, whether the regional or traditional review process is used, and the Commission retains the authority to condition its approvals of interbasin transfers.

Callaghan asked how many systems fit the definition of a regional water supply system. LeVangie responded that five to ten systems currently might fit this definition.

Much discussion ensued on the definition of a regional water supply system, and whether the language in the regulations should include "municipality," "community," "water supply district," or "public water system." Several in attendance expressed a preference for limiting the definition of a regional water supply system, so as not to open up the regional process to entities for which the process was not intended, thus tying up water allocations for years, while others noted the definition needs to be broad enough to cover entities, such as a power plant, that have been approved to receive water in the past. Yeo and Rao noted that guidance accompanying the regulations can clarify the commission's intent, while Zimmerman emphasized that the language in the regulations must be able to stand on its own; he suggested removing the word "community" from the definition of regional water supply system. Weismantel agreed that "community" is intended to refer to cities and towns. Yeo noted that many water suppliers are not municipal systems. It was finally agreed to remove the word "community" and leave the word "municipality."

Sula cautioned against relying on the definitions of terms outside of the ITA regulations and commented that "water supply district" can be interpreted as a generic descriptive phrase rather than a specifically defined term, and that "water supply district" captures entities that are not municipalities or part of a municipality. Further discussion of "public water system" followed.

Yeo said that the guidance accompanying the regulations can clarify what is meant by certain phrases. Weismantel suggested delaying a vote on the regulations so that clear language can be crafted. Rao acknowledged this concern but noted all that has been accomplished in the regulation update effort over the last two years and encouraged commission members to work out the few minor issues needing clarification.

Cohen outlined possible scenarios and pointed out that what is at issue here is whether an entity comes before the Commission one time (using the Regional Expansion bifurcated review process) or multiple times (using the traditional review process). In either case, the Commission will conduct a rigorous review of applications by both donor and receiving basin entities. Drury added that ITA guidance already exists and has evolved over time, and that the guidance will be further updated to reflect the Commission’s body of work since the Interbasin Transfer Act was passed.

Rao stated that the proposed definition is a good compromise, which clarifies that it is the intent of the commission that this section of the regulations applies to a “regional” system, meaning a water supply system that partially or wholly supplies water, outside the donor basin, to two or more municipalities or public water systems.

In response to several requests, Rao read the proposed amended language: “A ‘Regional Water Supply System,’ for the purposes of 313 CMR 4.00 means a water supply system that serves or proposes to serve, either partially or entirely, two or more municipalities or public water systems outside the donor basin.”

Rao clarified the process for voting on the amendments and on the regulations as amended. She first invited a motion on the proposed amendments to the revised regulations.

V O T E	<p>A motion was made by Yeo with a second by Weismantel to amend 313 CMR of the revised Interbasin Transfer Act regulations, dated November 2017, as follows:</p> <ul style="list-style-type: none"><li>• in 313 CMR 4.02,<ul style="list-style-type: none"><li>• delete the word 'Pollution' and replace with 'Pollutant' in the definition of NPDES.</li><li>• Clarify the definition of Regional Water Supply System to read: “Regional Water Supply System, for the purposes of 313 CMR 4.00, means a water supply system that serves, or proposes to serve, either partially or entirely, two or more municipalities or public water systems outside the Donor Basin.”</li></ul></li><li>• in 313 CMR 4.09(2)(d)1.vii., delete the term “drainage” and replace with “stormwater or low-impact development.”</li><li>• in 313 CMR 4.10, clarify the first sentence of the introduction to read as follows: “The following procedure is available for a Regional Water Supply System seeking to increase its Present Rate of Interbasin Transfer of water by expanding its service area to multiple potential municipalities or public water systems.”</li></ul> <p>The roll-call vote to approve was 11 in favor and 0 against.</p>
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Rao then invited a motion on the revised regulations, as amended. A motion was made by Yeo with a second by Ragucci.

Before the vote, discussion ensued on the language in section 4.10 (Approval of an Action to Increase the Present Rate of Interbasin Transfer Due to the Expansion of the Service Area of a Regional Water Supply System), in particular, the commission’s discretion to deny an applicant’s request to use the bifurcated review process. Rao asked Sulla to comment on the second sentence of 313 CMR 4.10:

The Commission may allow such a system to file an application that allows the Commission to evaluate and approve criteria applicable to the Donor Basin separately from criteria applicable to the Receiving Area.

Sulla explained that section 4.10 describes a “streamlined” review process for regional water supply systems, while giving the commission discretion, through the word “may,” to determine that an applicant does not meet the definition of a “regional water supply system” and, therefore, must follow the traditional review process rather than the bifurcated process. She added that if the Commission has the discretion to allow the bifurcated application process, it also has the discretion to deny that process and require the applicant to follow the traditional application process.

Weismantel requested clarification about the authority the Commission delegates to staff and requested that guidance be updated to reflect the revised regulations. He also urged the commission to retire policies that have now been incorporated into the regulations to avoid potential conflicts. Rao confirmed on both comments.

Discussion followed on the cost of the full review process, with Drury noting that the town of Wilmington’s application to join the Massachusetts Water Resources Authority’s water supply system was the most recent application requiring the full review process. She noted that other issues not related to the ITA were addressed in the town’s *Environmental Impact Report*, making it difficult to estimate the costs of the ITA process in that case. Yeo added that the bifurcated process also reduces state agency staff time involved in reviewing multiple applications from the same entity.

V	A motion was made by Yeo with a second by Ragucci to approve the revised Interbasin Transfer Act regulations, 313 CMR 4.00, dated November 2017, as amended.
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Rao summarized improvements resulting from the revisions to the ITA regulations, including improved clarity and articulation of a more straightforward process, while staying true to the intent of the Interbasin Transfer Act. She added that staff will continue to work closely with applicants to clarify the expectations of the commission and make sure the applicant understands the analyses required.

Rao noted that the commission received comments reflecting differing points of view on the proposed revisions and acknowledged differences even among agency staff. She added that the final revised regulations benefitted from these diverging viewpoints. She noted the unanimous

vote to approve the revised regulations and thanked commission members and the public for their input.

**Agenda Item #5: Presentation: CZM Storm Water Management Tool Kit for Climate Resiliency & Water Infrastructure Resiliency Projects Funded through the Coastal Resiliency Grant Program**

Rao introduced Cristina Kennedy and Patricia Bowie of EEA's Office of Coastal Zone Management (CZM).

Kennedy summarized the findings of a report funded by CZM, in cooperation with MassDEP, *Assessment of Climate Change Impacts on Stormwater BMPs and Recommended BMP Design Considerations in Coastal Communities* (see link in list of documents and exhibits below). The project evaluated the performance of twenty-six best management practices that had been funded by state grant programs, including CZM's Coastal Pollutant Remediation grant program. Both green and gray infrastructure projects were evaluated. The field assessment identified the vulnerabilities of the BMPs to climate change and outlined common-sense design recommendations.

Questions and discussion addressed ways to disseminate the guidance, incorporating the guidance and consideration of climate change into the state's stormwater regulations, and ways to ensure that BMP maintenance occurs. Kennedy noted that the new MS4 permits encourage municipalities to share resources.

Bowie provided an overview of CZM's Coastal Resiliency grants program and its results over the past five funding cycles. The program provides both technical assistance and funding to coastal communities to reduce risks associated with coastal storms, flooding, erosion, and sea level rise. The program addresses a funding need identified in the 2011 *Massachusetts Climate Change Adaptation Report*. Since its inception in Fiscal Year 2014, the program has distributed \$11 million for 86 projects in 43 communities. Bowie noted that funding requests far exceed the funding available. Bowie outlined eligible applicants and project types, including vulnerability and risk assessments; public education; local bylaws, adaptation plans, and other management measures; redesigns and retrofits; and natural storm damage protection.

Bowie highlighted projects that address the vulnerability of water and wastewater infrastructure to catastrophic flooding. She also discussed projects that use natural approaches, such as reestablishing floodplains and enhancing tidal exchange through stream daylighting and culvert replacement. She also highlighted efforts by the Northeast Climate Science Center to develop downscaled climate change projections for temperature, precipitation, and sea level rise.

Rao noted that these CZM funding programs help communities implement innovative approaches to strengthen their stormwater infrastructure. Drury suggested that the Commission schedule a field trip to some of the demonstration sites. Rao thanked Kennedy and Bowie for their work.

Meeting adjourned, 3:25 p.m.

**Documents or Exhibits Used at Meeting:**

1. WRC Meeting Minutes
  - a. October 12, 2017
  - b. November 9, 2017
2. Interbasin Transfer Act Regulations (313 CMR 4.00)
  - a. 313 CMR 4.00 ITA Regulation Summary Document
  - b. 313 CMR 4.00 - ITA Regulation redline 5-12-2016 public review draft (approved by WRC)
  - c. 313 CMR 4.00 – ITA Regulation Changes since public review draft
  - d. 313 CMR 4.00 – ITA clean copy final
  - e. ITA Regulations - Response to Comments
  - f. Correspondence dated January 10, 2018, from Massachusetts Rivers Alliance and Charles River Watershed Association to Water Resources Commission regarding Proposed Revisions to Interbasin Transfer Act Regulations, 313 CMR 4.00
3. [WRC FY17 Annual Report](#)
4. Interbasin Transfer Act project status report, 18 December 2017
5. 2018 Meeting Schedule, Water Resources Commission
6. Hydrologic Conditions in Massachusetts, December 2017 (available at <https://www.mass.gov/water-data-tracking>)
7. Presentation by Cristina Kennedy, Office of Coastal Zone Management: Climate Change Impacts on Stormwater Infrastructure
8. Link to report, *Assessment of Climate Change Impacts on Stormwater BMPs and Recommended BMP Design Considerations in Coastal Communities*: <https://www.mass.gov/service-details/report-on-climate-change-impacts-to-coastal-stormwater-treatment-systems>
9. Presentation by Patricia Bowie, Office of Coastal Zone Management: Massachusetts Coastal Resilience Grants Supporting Local Adaptation Efforts
10. Link to CZM's StormSmart Coasts website (provides links to the Coastal Resilience Grant Program, a new Sea Level Rise and Coastal Flooding viewer, factsheets, and other publications and guidance documents on managing coastal hazards): <http://www.mass.gov/eea/agencies/czm/program-areas/stormsmart-coasts/>

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, 8<sup>th</sup> floor, Boston, MA 02114.