



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

Meeting Minutes for September 11, 2014

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

Minutes approved October 9, 2014

Members in Attendance:

Kathleen Baskin	Designee, Executive Office of Energy and Environmental Affairs (EEA)
Marilyn Contreas	Designee, Department of Housing and Community Development (DHCD)
Anne Carroll	Designee, Department of Conservation and Recreation (DCR)
Rebecca Weidman	Designee, Department of Environmental Protection (MassDEP)
Catherine deRonde	Designee, Department of Agricultural Resources (DAR)
Mary Griffin	Department of Fish and Game (DFG)
Tim Purinton	Designee, Department of Fish and Game (DFG)
Thomas Cambareri	Public Member
Raymond Jack	Public Member
John Lebeaux	Public Member
Paul Matthews	Public Member

Members Absent

Todd Callaghan	Designee, Massachusetts Office of Coastal Zone Management (CZM)
Bob Zimmerman	Public Member

Others in Attendance:

Edward Brearley	Irrigation Association of New England
Jen Pederson	Massachusetts Water Works Association
Michele Drury	DCR
Bruce Hansen	DCR
Duane LeVangie	MassDEP
Linda Hutchins	DCR
Marilyn McCrory	DCR
Karilyn Heisen	CDM Smith
Viki Zoltay	Abt Associates
Jen D'Urso	MassDEP
Peter Weiskel	U.S. Geological Survey
Erin Graham	DCR
Beth McCann	MassDEP
Andreae Downs	Wastewater Advisory Committee
Lexi Dewey	Water Supply Citizens Advisory Committee
Sara Cohen	DCR
Laila Parker	DFG
J. Raymond Miyares	Miyares and Harrington LLP
Lealdon Langley	MassDEP
Wayne Castonguay	Ipswich River Watershed Association

Baskin called the meeting to order at 1:10 p.m.

Agenda Item #1: Executive Director's Report

Baskin announced that the New England Water Works Association is sponsoring a Water Resources and Sustainability Symposium on October 23, 2014, in Boxborough, Massachusetts. The keynote speaker will be Mary Ann Dickinson of the Alliance for Water Efficiency.

Hansen provided an update on the hydrologic conditions for August 2014. August precipitation was 82 percent of normal statewide, with variation across the regions. The Cape Cod region has experienced a rainfall deficit for twelve months. Soil moisture was in the normal range. Groundwater levels are generally normal, with a few exceptions. Surface water levels ranged from above normal in western areas to below normal in southeastern areas. Reservoir levels were in the normal to below-normal range for this time of year. The Drought Monitor indicates abnormally dry conditions in south-central and southeastern areas of the state. The Standardized Precipitation Index values are in the normal range, except for the six-month SPI for Cape Cod and the Islands, which is in the advisory range. The Drought Outlook indicates no drought conditions in Massachusetts through November. A tornado was confirmed in Worcester on August 31.

Agenda Item #2: Vote on the Minutes of July 2014

Baskin invited motions to approve the meeting minutes for July 10, 2014.

V	A motion was made by Contreas with a second by Cambareri to approve the meeting minutes for July 10, 2014. The vote to approve was unanimous of those present.
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Agenda Item #3: Update: Revisions to the Water Management Act Regulations (310 CMR 36.00) and Comments Received

Baskin introduced Duane LeVangie of MassDEP. LeVangie summarized draft revisions to the Water Management Act regulations, summarized comments received from the public review process, and outlined the timeline for public review and promulgation of the revised regulations.

- Key components addressed in the regulatory revisions include safe yield; streamflow criteria; permit requirements, including minimization and mitigation requirements, coldwater fisheries resource protection requirements, and the alternative analysis that will be required in certain locations; and other regulatory updates of a routine nature.
- MassDEP has developed a Guidance Document to accompany the regulations.
- More than 160 written comments were received, and there was strong attendance at six public hearings across the state. A response-to-comments document has been prepared and is being reviewed internally.
- There were common themes in the comments, with comments expressing opposing viewpoints on many of these themes.
- Revisions to the regulations have incorporated many of the issues discussed over the past four years during the Sustainable Water Management Initiative (SWMI) process. Additional revisions in response to the public comments received may clarify definitions, make date and citation corrections, and add language to clarify requirements related to water conservation and reservoir releases. Changes in response to comments will also be incorporated into the Guidance Document.

- The revised regulations are being reviewed internally. MassDEP hopes to bring the revised regulations to the Water Resources Commission for a vote in October, with promulgation at the end of October.
- A web page with technical resources on SWMI is available at <http://www.mass.gov/eea/agencies/massdep/water/watersheds/sustainable-water-management-initiative-swmi.html>.

Matthews arrives.

LeVangie also outlined the schedule, by river basin, for the expiration of Water Management Act permits and the dates for outreach meetings in each basin. The South Coastal Basin will be the first basin where the new process will be applied for renewing WMA permits. An outreach meeting has been scheduled for October 30, 2014, in Kingston.

Comments, questions, and responses:

- Pederson requested that the commission follow its typical process, whereby the regulations are discussed at a meeting, and the commission votes at the following meeting. Response: there have been a number of presentations on SWMI over the years, and the schedule is tight; however, EEA and DEP will take this recommendation under advisement.
- LeVangie said MassDEP does not typically post public comment letters but will make them available upon request. The response to comments will be posted.
- The legislature has the opportunity to review the regulations but a vote is not expected.

Agenda Item #4: Update: Sustainable Water Management Initiative (SWMI) Grants Update and Lessons Learned

Baskin introduced Duane LeVangie of MassDEP to summarize projects completed with SWMI assistance grants and lessons learned from funded projects.

- The purpose of the grants is to assist WMA permit holders with proposed minimization and mitigation requirements. Currently, WMA registrants are not eligible, though it is possible to partner with eligible applicants.
- The grants are funded through state capital funds, and funding is available for five years (2012 to 2016).
- In fiscal year 2013, 17 of 26 proposed projects were funded, totaling \$1.08 million. Most were for planning; one-third were for implementation.
- Projects ranged from fishway improvements in Scituate to a regional water conservation pilot program in the Neponset River Valley to water audits and system optimization in several towns.

LeVangie provided details on projects in Sharon, Scituate, Franklin, and Acton. He summarized lessons learned, noting that WMA permit holders need lead time to plan for and implement minimization and mitigation options and that significant water savings are available through demand management practices.

LeVangie provided links to information on past SWMI grant projects and information on the next funding round. Proposals for FY2014 grant funding are due October 9, and projects must be completed by June 30, 2015. Requests for responses are posted on the state's procurement website (<https://www.commbuys.com/bsol/>).

Comments, questions, and responses:

- Pederson: The water audit projects tested the American Water Works Association's audit methodology, which is more comprehensive and helps water system operators identify where they should concentrate their efforts.
- D'Urso: The USGS stream deplete model was the tool used for the optimization analysis in Franklin.
- Pederson: Six months is a very short timeline for completing projects; a full year is requested.
- Pederson: Projects funded to date illustrate the costs associated with planning for mitigation, not including implementation. She requested that the Commonwealth continue to fund this grant program beyond the initial five years. LeVangie response: it is hoped that the grant projects can establish a pathway for meeting minimization and mitigation requirements.

Agenda Item #5: Update: Revisions to 401 Water Quality Certification Regulations (314 CMR 9.00)

Baskin introduced Lealdon Langley of MassDEP. Langley distributed a summary of final proposed changes to the 401 Water Quality Certification regulations at 314 CMR 9.00. He noted that these are companion regulations to the Wetlands Protection Act and waterways regulations. He provided an overview of the revisions and major comments received. The regulations were amended to:

- Create the opportunity for combined approvals and a single permit for projects that are permitted under Chapter 91, the 401 Water Quality Certification Regulations, and the Wetlands Protection Act. The most common projects affected by this change are likely to be coastal dredging projects.
- Facilitate restoration projects such as dam removal, tidal restoration, and stream daylighting by improving coordination among agencies early in the approval process. In response to concerns about reuse of contaminated sediments, particularly in Areas of Critical Environmental Concern (ACECs), the regulations were amended to incorporate the criteria used in the Massachusetts Contingency Plan to evaluate contaminated soils.
- Fully incorporate stream-crossing standards for all new stream crossings, such as culverts and bridges. Replacement of existing crossings must meet the standards to the maximum extent practicable. Stream crossings that meet these standards also create resilience to climate change.
- Facilitate the permitting of pilot projects for innovative technologies, including renewable energy projects, within waterways. In response to comments, projects that are not water-dependent are excluded; project must rely on wave current or tidal energy.
- Allow limited improvement dredging within ACECs when such dredging restores historic navigation. Approval by communities within the ACEC and approval of a Resource Management Plan by the Secretary of Energy and Environmental Affairs are required.
- Change administrative requirements related to the prohibition on discharging fill to Outstanding Resource Waters. The change streamlines the approval process for public water supply improvement projects and ecological restoration projects.

Langley reviewed the timeline for revisions to these regulations:

- A public comment period and public hearings on the proposed revisions were held, and revisions were made in response to comments.
- Revised regulations are awaiting approval at the governor's office. A vote by the Water Resources Commission will be requested at the commission's October meeting.

Comments, questions, and responses:

- Griffin thanked MassDEP for their work in facilitating ecological restoration projects.
- Weiskel noted that USGS and MassDEP have published a new report on the hydraulic effects of enlarging passage for aquatic and terrestrial organisms at stream crossings. Baskin requested a link to the report.
- Jack commented that the Federal Emergency Management Agency provides funding only if stream crossings are replaced in kind. He asked the Commonwealth work with FEMA or MEMA to change this policy.
- Langley: The public comment process on revisions to the Wetlands Protection Act regulations has concluded; the revised regulations have been reviewed internally and are awaiting approval at the governor's office.

Griffin leaves. Purinton takes seat as the DFG designee to the commission.

Agenda Item #6: VOTE: Final WRC Work Plan, FY2015

Carroll reviewed major areas of the commission's work plan for fiscal year. She noted that the work plan will now be approved on a fiscal year, rather than calendar year, basis. She invited comments. In response to comments and questions, Carroll noted the following changes will be made to the work plan:

- Call out technical assistance on consultations with communities for Water Management Act permitting
- Add updating of the commission's annual report
- Minor corrections to the "As Need Arises" and "Ongoing Projects" sections

V	A motion was made by Purinton with a second by Matthews to adopt the Water Resources Commission Work Plan for Fiscal Year 2015, as amended.
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Agenda Item #7: Update: Environmental Bond Bill and Water Infrastructure Finance Act

Baskin provided an overview of "An Act Providing for the Preservation and Improvement of Land, Parks and Clean Energy in the Commonwealth" (Chapter 286 of the Acts of 2014), commonly referred to as the Environmental Bond. She clarified that the Environmental Bond authorizes spending but does not appropriate funding. The act provides direction from the legislature to the executive branch on priorities. She highlighted several sections of the act, including authorization of funding for SWMI grants. The act also requires MassDEP to conduct a comprehensive review of the impact of revisions to the Water Management Act regulations on municipalities and public water systems.

Baskin also highlighted components of Chapter 259 of the Acts of 2014, "An Act Improving Drinking Water and Wastewater Infrastructure." Baskin noted that this legislation is an

outgrowth of the work of the Water Infrastructure Finance Commission. Baskin, Lebeaux, and Pederson noted the following elements:

- The act establishes several committees, including a continuation of the Water Infrastructure Finance Commission in an advisory role and a pavement coordination committee.
- Subject to appropriation, funds are available to communities who wish to join a regional water system. This includes funding to offset the considerable entry fee to join the Massachusetts Water Resources Authority (MWRA) system.
- The act authorizes an increase in State Revolving Fund to bridge a gap in subsidizing loans made at less than two percent interest.
- The act authorizes municipalities to levy a surcharge on real estate to be used to fund improvements to municipal drinking water, stormwater, and wastewater infrastructure.
- MassDEP is to promulgate regulations to require certain controls on new and renovated irrigation systems.

The act's provisions related to the MWRA generated the most discussion. Contreas asked if the Water Infrastructure Finance Commission (WIFC) had recommended funding to offset the MWRA entry fee, and what criteria MWRA will use to evaluate communities who wish to join the system. She added that the opportunity to join at half the price may spur more communities to join. Pederson noted that the WIFC report included a regionalization recommendation. Baskin added that this legislation pulled together concepts from different water-related bills. Drury added that communities interested in joining the MWRA must meet the authority's criteria for joining, and most would also be subject to the Interbasin Transfer Act, which has criteria for evaluating transfers.

Meeting adjourned, 2:45 p.m.

Documents or Exhibits Used at Meeting:

1. WRC Meeting Minutes for July 10, 2014
2. Proposed FY2015 Work Plan, dated September 11, 2014
3. Correspondence dated July 28, 2014, from Town of Reading to DCR regarding Interbasin Transfer Final Required Annual Report (Condition #8, Water Conservation Program)
4. Interbasin Transfer Act project status report, August 28, 2014
5. Revisions to MassDEP Regulations:
 - a. 314 CMR 9 00: 401 Water Quality Certification for Discharge of Dredged or Fill Material, Dredging, and Dredged Material Disposal in Waters of the United States within the Commonwealth– redline version
 - b. 314 CMR 9 00: 401 Water Quality Certification for Discharge of Dredged or Fill Material, Dredging, and Dredged Material Disposal in Waters of the United States within the Commonwealth– clean version
 - c. 310 CMR 10.00: Wetlands Protection – redline version
 - d. 310 CMR 10.00: Wetlands Protection – clean version
6. Current Water Conditions in Massachusetts, September 11, 2014
7. Presentation by Duane LeVangie. Water Management Act (MGL c. 21G) Regulations (310 CMR 36.00) Revisions Update
8. Presentation by Duane LeVangie. Sustainable Water Management Initiative Grant Program
9. Handout: Amended EOEEA Regulation Summary. Water Quality Certification Regulations

10. Handout: Preface to the Wetlands Protection Act Regulations, 2005 Revisions (310 CMR 10.00) (Final regulations, after public comment)
11. Handout: Preface to the Wetlands Protection Act Regulations, 2005 Revisions (310 CMR 10.00) (Final regulations, redline, after public comment)

Agendas, minutes, and meeting documents are available of the web site of the Water Resources Commission at <http://www.mass.gov/eea/air-water-climate-change/preserving-water-resources/partners-and-agencies/water-resources-commission/ma-water-resources-commission-meetings.html>.