



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

Meeting Minutes for November 10, 2022

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

Minutes approved February 9, 2023

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) (left meeting at 2pm with Duane LeVangie as replacement)
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
Christine Hatch	Public Member
Vincent Ragucci	Public Member
Samantha Woods	Public Member

Members Absent

Todd Callaghan	Designee, Massachusetts Office of Coastal Zone Management (CZM)
Ken Weismantel	Public Member

Others in Attendance:

Vanessa Curran	DCR, Office of Water Resources (OWR)
Sara Cohen	DCR, OWR
Erin Graham	DCR, OWR
Kara Sliwoski	DCR, OWR
Viki Zoltay	DCR, OWR
Jason Duff	DCR, OWR
John Scannell	DCR, Drinking Water Supply Protection (DWSP)
Andrea Downs	Wastewater Advisory Committee
Duane LeVangie	MassDEP
Becca George	DHCD
Robert Worthley	Foxborough Department of Public Works
Chris Gallagher	Foxborough Department of Public Works
Katie Ronan	Massachusetts Water Resources Authority
Elizabeth Gilbert	Tufts University
Loni Feinberg	EEA Water Intern
Read Porter	EEA Deputy Counsel
Lexi Dewey	Water Supply Citizens Advisory Committee

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

Agenda Item #1: Welcome and Introductions

Rao welcomed the attendees and announced that the meeting was being recorded for the purpose of transcribing the meeting minutes, 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. Roll call for attendance of Commissioners was taken and a quorum was obtained.

Agenda Item #2: Executive Director's Report

Rao reported that the drought has continued to improve with needed rain in the past couple of months. This has pulled some regions out of the drought. The Drought Management Task Force made its recommendations to the Secretary yesterday and will aim to make a drought declaration through a press release today.

Earlier in the month, Rao attended the Northeast Drought Early Warning System (NE DEWS) two-day conference organized by the National Oceanic and Atmospheric Association (NOAA). Attendees exchanged information on what has worked for their state, communication tools, and funding and discussed how the NE DEWS and Drought.gov website can help with state efforts. At that meeting, Rao shared with attendees that Massachusetts has its own framework for drought monitoring and that folks often get confused between the U.S. Drought Monitor and the state drought maps and official state declarations. This could be mitigated by flagging on NOAA sites that Massachusetts has its own system and official declarations and maybe even providing the state map on their website.

Rao announced that the draft Climate Change Assessment Report is out for public review and comments. This report is a pre-cursor for the State Hazard Mitigation and Climate Adaptation Plan that is required by the Federal Emergency Management Agency that must be updated every five years. As a precursor to that plan, this report is important to read and comment on by November 16. It includes lots of relevant water related topics. And the projections used in the report include the outputs of the project that Rao spearheaded with Cornell and Tufts Universities. The report and commenting are available at <https://www.mass.gov/info-details/mass-climate-change-assessment>.

Finally, an in-person meeting was discussed for the December WRC meeting. Rao asked people to express their interest and availability for this meeting. Most people expressed an interest and some noted conflicts to avoid with timing. The meeting will be held at the Fish and Wildlife facility. There will also likely be a second special meeting scheduled in December for DEP WMA regulations review and vote in case that they are not be ready in time for the regularly scheduled meeting. Baskin noted that that meeting can be virtual. Rao, Cambareri, Richards and Hatch noted the interesting venue including a river inside the building.

Baskin described two MassDEP regulations that are out for comment. One is the Water Management Act regulations update. Comments on those regulations from 2021 will be considered and do not need to be resubmitted. Rao noted that the WMA regulations update's main crux is putting in outdoor water conservation rules during a drought that the WRC already approved in the drought plan. Baskin summarized that it importantly includes outdoor water conservation restrictions for registered water users who do not have conditions on their

withdrawals. The deadline for comments for the WMA regulations is November 18 and available at <https://www.mass.gov/regulations/310-CMR-3600-massachusetts-water-resources-management-program>.

The second set of regulations is a combination package that proposes changes to Title 5 and Watershed Permitting regulations. Title 5 systems are not designed to remove nitrogen, but some nitrogen sensitive areas need this such as Cape Cod. These regulations will designate nitrogen sensitive areas and then require that those areas upgrade their systems to remove nitrogen. And rather than the homeowner paying for that upgrade over a 5-year period, it will allow the towns to assume that responsibility through a watershed permit and work on a variety of nitrogen removing measures over a 20-year period. Comments are due by December 16 and can be provided at <https://www.mass.gov/regulations/310-CMR-15000-septic-systems-title-5#proposed-amendments-public-comment>.

MassDEP will conduct two online information webinars:

- November 15, 6:00 - 8:00 p.m. To register: https://us06web.zoom.us/webinar/register/WN_ad2eFVE8QZ-b_UHTLKIF4w
- November 16, 12:00 - 2:00 p.m. To register: https://us06web.zoom.us/webinar/register/WN_0L6lyWcMRZubaO_EK_3VvA

MassDEP will conduct three public hearings:

- In-person & Remote, MassDEP, 20 Riverside Dr., Lakeville, MA, November 30, 2022 at 6:00 p.m. Register for remote session in advance at: https://us06web.zoom.us/webinar/register/WN_oay0_6bGTjeEUzevfxm7Jg
- Remote Only, December 1, 2022 at 1:00 p.m. Register in advance at: https://us06web.zoom.us/webinar/register/WN_BTOR_A3oSI6EZm56mYdoRw
- In-person & Remote, Barnstable Town Hall, 367 Main St., Hyannis, MA, December 5, 2022 at 6:00 p.m. Register for remote session in advance at: https://us06web.zoom.us/webinar/register/WN_f_YXLbaZRRyJsmdYrtDjNQ

Rao invited a presentation to the Commission on the latter regulations as they will require WRC review and approval. Baskin offered to do so at the next meeting so that the comment period is still open.

Agenda Item #3: Hydrologic Conditions and Drought Status

Graham summarized that for the month of October, temperatures and precipitation were normal to above normal. Some look back periods for precipitation still have deficits. Streamflow was helped by the rain this month, but some gages are still struggling such as the Parker River and gages in the Connecticut River Valley (CTRV) and Cape Cod Regions. Groundwater is still mixed despite some improvements, especially for the Cape Cod and Islands Regions. Lakes and Impoundments index is also still below normal for some regions. Keetch Byram Drought Index have mostly returned to normal but some stations in the Northeast and Central Regions remain elevated. For the Evapotranspiration Index, conditions are favorably moist to abnormally moist going from west to east and is seen in both the crop moisture index and the evaporative drought demand index.

The Drought Management Task Force met yesterday and recommended that the Western Region stay at Level 0, Normal Conditions. The CTRV Region remained at Level 1, Mild Drought. The Central Region improved to Level 0. The Northeast improved to Level 1, but greater concern remains in Essex County, especially the Parker River.

The temperature outlook for the month is for above normal temperature and below normal precipitation. The three-month outlook shows above normal temperatures but no strong signal for precipitation. The drought outlook shows persistence in the Northeast but removal likely in the three-month outlook. The additional precipitation look backs were shown and the 9-month look back was used in the drought deliberations.

Cambareri noted that the new USGS groundwater website seemed to only use about 7 years of data for evaluating percentiles. Zoltay responded that the USGS has a separate New England website that used the full period of record. Cambareri suggested making sure water suppliers and other know about this second website. He also asked about whether it is possible to extend the record for the Herring River which only has short period of record. Graham noted that there is a minimum number of 10 years that sites must have before use. Rao confirmed that criteria is used in our drought monitoring for sites.

Agenda Item #4: Vote to approve minutes from August 11, 2022

Rao invited a motion to approve the meeting minutes for August 2022.

V O T E	A motion was made by Cambareri with a second by Ragucci to approve the meeting minutes for August 2022.
	The roll call vote to approve was unanimous of those present.

Agenda Item #5: Vote to approve WRC Annual Report, FY 2022

Carroll reminded people that the material was reviewed in detail last month and provided a high-level overview of the report. Pederson submitted comments including an addition to the description of the 2021 drought which was very helpful and on the last page some minor comments regarding vacancies. These were all incorporated.

Rao thanked the staff for pulling together this document. She opened the floor for comments, but no comments were made. Rao invited a motion to approve the FY 2022 Annual Report.

V O T E	A motion was made by Cambareri with a second by Balzotti to approve the WRC Annual Report, FY 2022.
	The roll call vote to approve was unanimous of those present.

Agenda Item #6: Presentation and Vote: Staff Recommendation, Town of Foxborough, Modification to Monitoring Requirements Under Its Interbasin Transfer Act Decision

Rao reminded the Commissioners that this item had come before the commission a year ago, at the October 2021 meeting. This staff recommendation is for changes to conditions under their

Interbasin Transfer Act approval. At the October 2021 meeting the Commission asked staff to work further with the town on the conditions and aspects that the town was not in agreement on. Rao thanked the town officials and staff for their efforts in working through many hours of conversation over the past year. The mission of the WRC is to protect natural resources and these recommendations make sure to protect a critical wetland resource.

Curran introduced Bob Worthley who is the Superintendent of the Foxborough Water Department and Chris Gallagher who is the Director of the Department of Public Works. She also acknowledged the town's hard work and thanked them for their attendance today. To reintroduce the project, Curran reviewed the site map and site basics including the ITA jurisdiction due to water withdrawn from wells on-site that are discharged as wastewater in a different town and major basin.

This project was last before the Commission in October 2021. Today's focus is two categories of conditions – existing conditions that need to be met and new or modified conditions. Modified conditions include reductions in some existing monitoring requirements.

Existing conditions include the need to stringently follow pumping rules such that if either reduced or no pumping thresholds are triggered, then pumping from both wells must be reduced or stopped, respectively, within 36 hours. No pumping should occur for 7 days following recovery above the thresholds. If following these rules does not reduce the amount of time spent below thresholds, then changes to threshold elevations or the reduced pumping rate will be re-evaluated by staff. Additional existing conditions include resuming or continuing monitoring at certain sites and continuing or resuming water conservation programs for unaccounted for water. In addition, if wells are used during an Emergency Declaration, then a full outdoor watering ban must be instituted.

Reduced actions include reduced monitoring at staff gage SG-3 from daily to weekly, removing equipment from wells during winter months to reduce wear and tear, and reduced frequency and scope for vegetation monitoring.

New or modified conditions include coordination with the Attleborough Water Department (AWD) to get advance notice before AWD releases water from Lake Mirimichi. Lake levels significantly affect water levels in the Witch Pond area causing triggering of threshold and required modification of water pumping by Foxborough. Staff will help coordinate this effort. In addition, deviations from conditions must be reported in a timely and written manner including a plan for a resolution and a written notification after the resolution of deviation. Surveys must be completed as soon as possible after the wetlands thaw or wells replaced. An invasive species management program must be developed but should be done in coordination with staff. Foxborough will also revise its drought management plan to align with the state's 2019 plan and its outlined outdoor water use restrictions. A suggestion is also made for the town to regulate private wells for outdoor water restrictions. Finally, three reporting-related conditions are included - to provide a summary table of conditions and their compliance status, to use a revised structure for the Annual Monitoring Report and submit a revised Hydrologic and Vegetation Monitoring Plan to reflect the new and revised conditions.

To view Curran's presentation, see <https://www.mass.gov/service-details/review-our-meetings>.

Comments, questions, and responses:

Bob Worthley reminded the Commission that their wells have not run since September 2020, but they are still under the no pumping threshold. There are other water withdrawals in the area and Worthley asked to keep that in mind in the future. Also, it will be a big challenge to address the floating island of phragmites because it is located in a Zone I and cannot be stepped on as it will not hold a person’s weight. Therefore, the only time for removal would be when the pond is frozen. Foxborough is committed to working on it but wanted the Commission to understand the limitations.

Richards commented that invasive species removal is challenging but the state is committed to it and state staff have lots of expertise to offer. There may be funding available. Gallagher thanked the staff, Worthley and their consultant for working together. For the record, he noted that Foxborough is willing to work with staff but there was a bit of disagreement over wells 8-87 and 9-97 and the utility of that data. Foxborough has committed to monitoring those wells and is looking forward to a review in three years to see if the data are useful. Rao noted that this interbasin transfer has been a good example of adaptive management by changing conditions as data are collected and we will continue to follow that model.

Ragucci appreciated the negotiations that took place and liked where it ended up. Cambareri also noted the difficulty in negotiating such matters and thanked Foxborough’s willingness to conduct the monitoring program over the years. The data provide helpful understanding of the site and for adjusting management as needed. He also thanked staff for their efforts. Richards expressed his concern over having the discussion and taking a vote in the same meeting and his ability to represent his constituents. This time he was able to reach staff within a few minutes and is okay with moving forward but this cannot be relied upon. The last presentation was too long ago making it important to separate the presentation and the vote. Woods wanted to confirm with Richards that he was able to confirm with his staff that the endangered species will be protected. Richards confirmed that he is okay with proceeding. Rao acknowledged the need to keep presentations and votes separate.

Rao reviewed two minor changes that have been made. The tables on page 6 now have a comment stating that values are shown in hours representing the sum of 6-hour intervals rather than days because the hours spent beyond a threshold did not necessarily occur in consecutive hours on the same day. Therefore, one cannot divide the hours by 24 hours to derive the number of days. Curran walked through an example calculation of this. On page 17, clarifying language was added to note that wells 8-87 and 9-97 should be monitored continuously using a transducer.

V O T E	A motion was made by Ragucci with a second by LeVangie to accept the staff recommendation of November 10, 2022, with slight amendments as reviewed by staff at November 10 th WRC meeting, to approve a limited number of Foxborough’s requests to reduce monitoring, as described in the staff recommendation, and to approve additional staff recommendations, as presented, to address concerns regarding existing impacts, potential new impacts from increased pumping, and Foxborough’s compliance with conditions outlined in past decisions of the Water Resources Commission.
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	The roll call vote to approve was unanimous of those present.
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Rao asked if anyone had additional topics or comments that they would like to discuss. Without further comments, Rao invited a motion to adjourn.

V O T E	A motion was made by Richards with a second by Balzotti by to adjourn the meeting. The roll-call vote to approve was unanimous of those present.
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Meeting adjourned, 2:20 pm.

Documents or Exhibits Used at Meeting:

1. WRC Meeting Minutes: August 11, 2022
2. FY2022 WRC Annual Report
3. Town of Foxborough, Modification to Monitoring Required Under its Interbasin Transfer Act Decision
 - a. WRC Staff Recommendation dated November 10, 2022
 - b. 2022 Summary of Changes to Foxborough's Interbasin Transfer Act Conditions
4. Correspondence dated October 24, 2022 from the Water Resources Commission to the MEPA Office regarding the Draft Environmental Impact Report (DEIR) for the Reserve multi-use development in Oxford and Auburn
5. Interbasin Transfer Act project status report, October 20, 2022

Compiled by: VZ

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.