



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

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**Meeting Minutes for October 14, 2021**

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

*Minutes approved January 13, 2022*

**Members in Attendance:**

Vandana Rao	Designee, Executive Office of Energy and Environmental Affairs (EEA)
Anne Carroll	Designee, Department of Conservation and Recreation (DCR)
Kathleen Baskin	Designee, Department of Environmental Protection (MassDEP)
Hotze Wijnja	Designee, Department of Agricultural Resources (DAR)
Kate Bentsen	Designee, Department of Fish and Game (DFG)
Todd Callaghan	Designee, Massachusetts Office of Coastal Zone Management (CZM)
Vincent Ragucci	Public Member
Kenneth Weismantel	Public Member
Samantha Woods	Public Member

**Members Absent**

Linda Balzotti	Designee, Department of Housing and Community Development (DHCD)
Thomas Cambareri	Public Member
Marcela Molina	Public Member

**Others in Attendance:**

Erin Graham	DCR/Office of Water Resources
Marilyn McCrory	DCR/ Office of Water Resources
Vanessa Curran	DCR/ Office of Water Resources
Sara Cohen	DCR/ Office of Water Resources
Viki Zoltay	DCR/Office of Water Resources
Kara Sliwoski	DCR/Office of Water Resources
Jennifer Pederson	Mass Water Works Association
Jesse Leddick	DFG/Natural Heritage and Endangered Species Program
Duane LeVangie	MassDEP
Greg Stewart	USGS
Bob Worthley	Foxborough Water Dept.
Chris Gallagher	Foxborough DPW Director
Maura Callahan	Callahan Consulting
Rebecca Elwood	HDR
Lexi Dewey	Water Supply Citizens Advisory Committee
Andreae Downs	Wastewater Advisory Committee
Gardner Bent	USGS
John Scannell	DCR DWSP
Anna Mayor	MassDEP
Read Porter	EEA
Sarah Bower	Mass Rivers Alliance
Ashley Desrosiers	EEA
Richard Carey	MassDEP

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Brian Croteau	Town of Winchendon
Gerald Clarke	Dover BOH
Warren Lent	Green Industry Alliance

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

**Agenda Item #1: Welcome and Introductions**

Rao welcomed the attendees and Commissioners and announced that the meeting was being recorded for the purpose of the minutes and all votes would be taken by roll call. She asked those who are not speaking to mute themselves and invited those who wish to speak during the meeting to indicate this in the chat window. A roll call of the Commissioners was taken.

**Agenda Item #2: Executive Director's Report**

Rao announced that the hydrologic conditions have improved tremendously with above average rain over the last several months which has helped move us out of drought. The Drought Management Task Force met last week with the press release due to be released soon. The recommendation was to move the Cape Cod Region to normal conditions, so all regions have fully recovered. Groundwater is still lagging in some areas but has been recovering slowly.

Rao moved up agenda item #6 and introduced Imagine a Day Without Water, which is on October 21. It's a nationwide day of education and advocacy about the value of water and water infrastructure. It's a nationwide effort coordinated by U.S Water Alliance and supported by many water organizations and states. It's in its seventh year, and we'd like to participate this year especially now that we have water conservation products that were developed in conjunction with Shields Design Studio. It is particularly important to let residents know where their water comes from and what it takes to bring their water to them, and the critical role water suppliers play. Over the next week we will be part of this water campaign. We have an EEA intern, Ashley Desrosiers, who has been working with us closely over the last month on water conservation-related matters. She has primarily been looking at the Imagine a Day Without Water campaign and targeting our messaging.

Desrosiers introduced herself and gave some background on Imagine a Day Without Water. It is a weeklong opportunity to feature content from the Conserve MA Water website. This year's theme is focused on inviting people to learn more about where water comes from and where it goes. We have an infographic "What we really pay for when we pay for water" that will be the basis of what we feature throughout the week. The image highlights the four Ps: pipes, power, processes, and people. The hashtag is #valuewater on social media.

**Agenda Item #3: Hydrologic Conditions and Drought Status Update**

Graham provided an update on the hydrologic conditions for September. Temperatures for the month were above normal. It was the second-warmest September on record for Boston. Precipitation was overall above average. The remnants of Hurricane Ida provided significant rainfall at the beginning of the month. Longer look-back periods on the Cape were finally cleared of residual dryness. Streamflow was mostly above normal except for the Cape where it was normal. Groundwater continues to be overall high except for the Cape and Islands regions which are in the normal range. Wells are recovering in those areas. Lakes and Impoundments are all normal. The KBDI values and the crop moisture index are normal. As Rao mentioned, the DMTF

met last week and the recommendation was to remove any drought from the Cape. The U.S. Drought Monitor from the last week of September shows just a sliver of drought on the elbow of the Cape which has since been removed. The full hydrologic conditions report is online at <https://www.mass.gov/info-details/water-data-tracking#hydrologic-conditions-reports->.

**Agenda Item #4: Vote on the Meeting Minutes of July 2021**

Rao invited a motion to approve the meeting minutes for July 2021.

V	A motion was made by Weismantel with a second by Ragucci to approve the meeting
O	minutes for July 8, 2021.
T	
E	The roll call vote to approve was unanimous of those present.

**Agenda Item #5: Presentation and VOTE: Staff Recommendation, Town of Foxborough's Request to Reduce Monitoring Required under Its Interbasin Transfer Act Decision**

Rao introduced Viki Zoltay of WRC staff, who had given an initial presentation on the draft staff recommendation at last month's WRC meeting. Rao also noted that Foxborough had provided some supplemental information via letter the day prior which has been distributed to Commissioners. Zoltay acknowledged the staff and consultants present at today's meeting who are representing Foxborough. Zoltay gave a refresher presentation about the Witch Pond water supply wells in Foxborough including some background, the ITA timeline, the monitoring reduction request, existing impacts, potential new impacts, and recommendations. The site is in the headwaters of the Ten Mile River Basin, in the Bungay Brook subbasin. There are other public water supplies in the same area and Zoltay acknowledged the complexity of the site. The full presentation is available at <https://www.mass.gov/doc/foxboroughs-request-for-monitoring-reductions-at-its-witch-pond-wells/download>

Callaghan arrives at 1:26 pm.

WRC staff have provided a letter of support for Foxborough to obtain a grant to fund an M36 audit to address their high Unaccounted-for Water (UAW), with which many communities struggle. Zoltay discussed Foxborough's request to reduce monitoring at some non-threshold monitoring locations (i.e., those that don't necessitate a reduction of pumping), to eliminate winter monitoring at remaining non-threshold locations because of wear and tear on the equipment, to reduce frequency for vegetation monitoring, and to reduce the scope for annual reporting. She also discussed the staff recommendations on these requests.

Woods thanked Zoltay for a well-organized presentation and asked about adjusting the threshold, if the point of doing that is to be more protective? Zoltay responded yes, there are two threshold elevations, a reduced pumping threshold and a no pumping threshold, and they are close to each other. Options include adjusting the reduced pumping threshold to a higher elevation, or further reducing the rate of reduced pumping to slow a decline to the no-pumping threshold elevation.

Baskin observed that several recommendations are regarding the development of a plan. What happens when the plans are developed, will Foxborough be coming back to the WRC? Rao envisions a multi-agency consultative process with Foxborough, DEP, DFG, and WRC staff and then bringing plans back to the WRC. Plans are for UAW, vegetation monitoring, and

evaluating/reassessing the thresholds in consultation with Foxborough. With staff recommendation approval, it sets the stage for working on these plans. Baskin thinks this leaves things a bit up in the air until the plans are finalized. Baskin also received the additional information from Foxborough and was unable to review prior to this meeting. Is there a pressing need to vote today? If not, Baskin is open to delaying.

Rao invited Leddick to speak. Leddick's office (NHESP) has been involved in this since the beginning and supports the staff recommendations as they are laid out. The site is an Atlantic white cedar swamp which is unique and biologically significant. In addition to the Hessel's hairstreak butterfly, there is recent evidence of another species of concern in this area.

Chris Gallagher noted that Maura Callahan has been a consistent factor for the town throughout this process and asked Callahan to weigh in on some of the supplemental information provided by the Town. Callahan said there is a natural hydroperiod in Atlantic white cedar swamps. Water levels are highest in late winter and early spring. In summer, water levels decline and the swamp becomes dry, but it recovers later in the fall. This cycle is natural and beneficial, and happens whether pumping occurs or not. Callahan feels that the wetlands damage is overemphasized. The original wetland plan was completed by Earth Tech. Roger Hill came to Foxborough from HDR and asked HDR to review and comment on the plan; HDR found it inadequate. HDR recommended a more substantial monitoring program which was done in consultation with Tim Simmons (formerly of NHESP) and Linda Marler Hutchins (formerly of DCR). Callahan noted that water levels have recovered in the swamp and in the peat and have remained above threshold levels but have not in the pond. This year has been different. Attleboro has not withdrawn from Lake Mirimichi and Plainville has not pumped the Mirimichi wellfield, and Foxborough has not pumped from the Witch Pond wells. However, Mansfield is pumping Wells 6 and 10 due to PFAS in some other wells. In 2019 Mansfield added infrastructure at Wells 6&10 to the Albertini Treatment Plant. This allows them to withdraw more water now than they have in the past. Callahan added that Witch Pond is shallow, in a later stage of eutrophication, and has development around it which has increased nutrient loading. Callahan has worked with WRC staff for the past 2-3 years on this request but has not presented to the WRC directly. She walked through a list of upgrades that Foxborough has completed, such as building a new WTP at Chestnut St., replacing the wells at Oak St., increasing water storage, and planning and funding the completion of a transmission pipeline from the Sprague St. wells to the Witch Pond WTP. The Town anticipates these upgrades will reduce the need for future Emergency Declarations. Gallagher added that Environmental Partners determined that 28% of the water from the Witch Pond site is leaving town and the basin.

Worthley spoke about UAW. The Town has completed four leak detection surveys and after every survey found maybe 30 million gallons/year (mgy) lost (and immediately repaired the leaks found). On paper they are losing around 400 mg but only finding 30 mg. He suspects it's an accounting problem, which he's been trying to resolve for the last eight years. They have been cross-checking the SCADA and metering systems to verify each is accurate, and have improved how they measure and record hydrant use for system flushing. A 2014 water audit with Comprehensive Environmental didn't find much, only three unmetered parcels. The Town has replaced all three-, four-, six- and ten-inch meters, and are currently working on two-inch meters. They lost about a year on this work due to COVID. They are hoping for the infrastructure bill to

come through, as they still have \$1 million in residential meter replacements to perform. Rao acknowledged the significant efforts made and suggested the losses could be paper losses.

Callahan has not seen any data to suggest that the peat is being compacted and believes the wetland vegetation monitoring data shows a very healthy environment. Leddick added that the key is to tie vegetation conditions to pre-pumping conditions (pre-2011) and it's hard to make any statements on the health of this system and the vegetation without understanding how things have changed over time.

Pederson asked if the Foxborough response letter could be sent to the WRC listserve? Rao agreed. What is the new species of special concern? Leddick responded that it's the blue-spotted salamander. It was mentioned in the staff recommendation that PFAS have been detected in Wells 14, 14R, and 15, with 14R having the lowest levels of the three. If PFAS levels start increasing in these communities, is there any leeway in this recommendation to address it? While the environmental protection piece is important, they are also responsible for providing safe drinking water. Rao responded that through the ITA the WRC must assess the environmental impacts and if there are water quality issues that would be looked at under the viability criterion of the ITA. Water quality issues have been accepted by the WRC as reasons for local sources not considered as viable.

Weismantel noted it would be helpful to see a graph of water pumped from this area over time vs. water levels in the peat. He doesn't see the utility of using these sources except as a backup during an emergency. Maybe Foxborough can speak to why they are keeping this going. Also, UAW has been getting worse over time despite the Town's efforts and is concerning. Weismantel agrees that if more time is needed to sort out a few issues between WRC staff and Foxborough, he doesn't see the urgency of the vote taking place today. However, the recommendations for putting plans together, especially for UAW, should be insisted upon by the WRC, otherwise we would be violating our true intent.

Woods asked a question on emergency declarations, what allows a town to invoke one? And is it correct that the ITA (and any conditions) do not apply during an emergency declaration? Rao confirmed that is correct, and LeVangie added that communities have to formally request an emergency declaration from DEP and receive its approval. Zoltay added that the information provided in Foxborough's response received yesterday is mainly in the staff recommendation already.

Rao summarized that there are three items in the staff recommendation that represent actions that WRC staff and Foxborough will have to take over the next six months or so: UAW, pumping thresholds, and vegetation monitoring. Should the Commission wait to vote until these three items are worked out? Baskin asked if any extra time would be used to consider the letter Foxborough submitted, or the uncertainties related to the three plans/action items? Rao responded that it would be mainly for the three action items as most of the information in Foxborough's letter was previously submitted to staff, although Commissioners are welcome to review the letter. Zoltay added that the strategy was to bring Foxborough up to compliance with monitoring in the short term while working on some of these items over a longer time frame.

Weismantel asked what are the negative aspects or benefits of not voting today? Rao responded that if we do vote, we can relieve the Town of winter monitoring and get them started on replacing aged wells. It also reaffirms what the prior conditions were. Weismantel requested that Foxborough staff weigh in on if they want to delay.

Gallagher responded that they have been working to develop Well 14R (and haven't run Wells 14 or 15 for a year) through the winter before 14R can get back online. He requested to delay the vote to put the recommendations into place and come to agreement on a staff recommendation that Foxborough can move forward with.

Pederson noted it seems that Foxborough asked for relief but is getting new conditions. What is the process for reviewing compliance with prior conditions and why wasn't this caught earlier? Rao answered that with Covid and being short-staffed it has taken staff some time to comb through the data. There has been staff turnover, Viki is new to the project and there is a significant amount of past material. The present staff recommendation does allow for some relief and is also reaffirming prior ITA Decisions. Pederson asked about UAW – WRC staff want Foxborough to develop non-residential conservation metrics; with a large commercial and industrial customer base, what happens if the commercial customers do not meet the targets? Rao responded this has been in the ITA Conditions since the 2001 Decision. It's not an entirely quantitative metric and includes looking at what efforts the Town has made to work with that sector.

Carroll asked what conditions Foxborough staff feels they cannot meet and asked for clarity around any sticking points. Carroll added that with staff turnover and drought it has taken a while to review everything and Zoltay has put in a tremendous amount of time on this. Callahan added that they have replaced all damaged and rotted monitoring sites and installed new transducers. However, they cannot access sites 8-97 and 9-97 as they don't have permission to go on Mansfield's land. Zoltay added that one of the recommendations is to amend the existing agreement with Mansfield to include these two sites. Rao asked for Foxborough staff to provide redline strikeouts edits and suggested that the vote could be tabled for at least one month. Commissioners agreed to table the vote.

Callaghan left the meeting.

Due to the extensive Foxborough discussion and the need to vote on DEP's surface water quality standards today, Rao asked if USGS staff were amenable to moving today's scheduled USGS presentation (Agenda Item #8) to the next meeting on November 10th and they agreed.

**Agenda Item #7: DEP's Surface Water Quality Standards**

Rao introduced Baskin and DEP's surface water quality standards (SWQS), which have already been before the WRC twice. Baskin introduced Carey, the Acting Director of DEP's Watershed Planning Program and also Section Chief for the SWQS, to present the final regulations for the SWQS. Once they are approved by WRC, then they go to EPA for approval. DEP is seeking a vote today.

Carey gave a refresher presentation and walked through a summary of the final revisions made to the regulations (314 CMR 4.00), which were last updated in 2013. The revisions include

changes to both the narrative section and the figures and tables section of the Standards. The tables and figures were revised primarily to improve organization and clarity. Additionally, new Cold Water designations were made for 153 streams. The new Cold Water designations allow for better alignment with MassWildlife’s Coldwater Fish Resource designations. Several site-specific criteria for surface waters or surface water segments were either removed or revised. Site-specific criteria supersede otherwise applicable statewide criteria.

The narrative section revisions include the following:

- General Provisions (314 CMR 4.01)
- Procedures for Sampling and Analyses (314 CMR 4.03(6))
- 401 Water Quality Certifications (314 CMR 4.03(7))
  - o Federal rule finalized in 2020
- Toxic Pollutants (314 CMR 4.05(5)(e))
  - o New Table 29: Generally Applicable Criteria
  - o Updates to model- and equation-based criteria
- Bacteria Criteria (314 CMR 4.05(5)(f))
  - o Updated for consistency with EPA 2012
- Organoleptic Effect Criteria (314 CMR 4.05(5)(g))
  - o Created a new Table 30
- Application of Criteria (314 CMR 4.05(6))

The full presentation is available at <https://www.mass.gov/doc/final-revisions-to-314-cmr-400-massachusetts-surface-water-quality-standards-swqs/download>.

Rao asked about the process after WRC approval. Baskin said that these regulations will go to the Secretary of State’s office next. They are already approved internally by EEA and the version being voted on today is the final approved package. They still need to be approved by DPH. The filing date for the Secretary of State would be two weeks from tomorrow. There is a time-sensitive nature to the vote as there are wastewater permits which have an aluminum standard and DEP needs to move ahead with reporting out on listing of waterbody segments. DEP doesn’t want to write new reports using the old standards. Rao recommended moving ahead with voting on the regulations. Pederson agreed with Baskin that water treatment plants have been waiting for the updated aluminum standards and also hopes the vote can be taken today.

Rao asked McCrory to read the motion. McCrory read the motion ‘to approve final revisions to 314 CMR 4.00: The Massachusetts Surface Water Quality Standards’.

V O T E	A motion was made by Ragucci with a second by Weismantel to approve the SWQS. The roll call vote to approve was unanimous of those present.
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Carroll noted that the November WRC meeting will be held on Wednesday, November 10<sup>th</sup> instead of the second Thursday, due to the Veterans Day holiday.

Meeting adjourned, 3:27 pm.

**Documents or Exhibits Used at Meeting:**

**ATTACHMENTS:**

1. WRC Meeting Minutes, July 8, 2021
2. Staff Recommendation dated October 14, 2021: Town of Foxborough's Request to Reduce Monitoring Required under Its Interbasin Transfer Act Decision
  - a. Redline version
  - b. Clean copy
3. Summary, dated February 26, 2021: Final Revisions to the Massachusetts Surface Water Quality Standards (314 CMR 4.00)
4. Public Notice for the *Environmental Monitor* from the Water Resources Commission: Receipt of a Request from the Auburn Water District for Approval of an Action to Increase the Present Rate of Interbasin Transfer under the Interbasin Transfer Act, MGL Chapter 21 Section 8B-8D
5. Interbasin Transfer Act project status report, October 4, 2021
6. Hydrologic Conditions in Massachusetts, September 2021 (available at <https://www.mass.gov/info-details/water-data-tracking>)

Compiled by: (VC)

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.