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To: RegReform (ANF)
Subject: Comments on Regulatory Review under EO 562 - 310 CMR 36.00

To whom it may concern:

The Westford Water Department (Water Department) would like to provide comments on the Massachusetts Department of Environmental Protection's (MassDEP) regulatory changes as part of Executive Order 562 (EO 562).

We are very concerned about the recently-promulgated changes to the Water Management Act Regulations (310 CMR 36.00) permitting process. These changes incorporate costly burdens on public water suppliers in a noble but unsubstantiated effort to improve aquatic habitats of our rivers and streams.

The regulatory changes in question establish water withdrawal baselines for public water suppliers based on the average of 2003 - 2005 reported water withdrawals. Mitigation is then required for all withdrawals above this baseline in the next 20-year permit period. We feel this baseline definition is not only arbitrary, but penalizes systems that had successful water conservation programs already in place, and rewards systems that were not as conservation-minded (since lower withdrawals during this period will result in a lower baseline whereas higher withdrawals will provide a result in a higher baseline).

In Westford's case, we anticipate requesting an additional volume for withdrawal above our projected baseline – even though this “additional” withdrawal amount is well below our currently registered/permitted withdrawal volume! Simply put, we will be required to mitigate for less water than we are currently allowed to withdraw.

The mitigation requirement will result in a serious financial burden to the Water Department by necessitating the hiring of consultants and implementation of said mitigation project(s). Mitigation projects will compete directly with critical infrastructure improvements for funding and department resources.

We are strongly opposed to these Water Management Act changes and firmly believe they will result in unwarranted waste of Water Department funds and resources that are desperately needed for infrastructure maintenance and improvement of our 100-plus year old distribution system. In fact, the Water Infrastructure Finance Commission was created by the Massachusetts Legislature in 2009 to analyze the Commonwealth's water infrastructure funding needs and to develop recommendations for financing these needs. This Commission identified a \$10.2 billion gap in resources for drinking water infrastructure projects. Considering this significant gap in funding for drinking water infrastructure it seems exceptionally counterproductive to require suppliers to spend what resources they have on withdrawal mitigation projects required under the new Water Management Act regulations!

We are especially concerned that significant money could be spent on these mitigation projects when there is no way to measure success or failure. Furthermore, we have no confidence that the SWMI framework provides credible evidence of improved aquatic habitats by reduced withdrawals.

At a time when we should be investing in our public water infrastructure public water suppliers will be forced to instead spend money on expensive mitigation projects of dubious value. The one-size-fits all approach taken by the revised Water Management Act Regulations is doubtful to result in any appreciable improvements to the environment and may simply result in higher water rates, deteriorating infrastructure, and suppressed economic development.

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