



THE COMMONWEALTH OF MASSACHUSETTS

WATER RESOURCES COMMISSION

100 CAMBRIDGE STREET, BOSTON MA 02114

Meeting Minutes for June 9, 2011

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

Minutes approved July 14, 2011

Members in Attendance:

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| Kathleen Baskin | Designee, Executive Office of Energy and Environmental Affairs |
| Marilyn Contreas | Designee, Department of Housing and Community Development |
| Jonathan Yeo | Designee, Department of Conservation and Recreation |
| Ann Lowery | Designee, Department of Environmental Protection |
| Gerard Kennedy | Designee, Department of Agricultural Resources |
| Tim Purinton | Designee, Department of Fish and Game |
| Joseph E. Pelczarski | Designee, Massachusetts Office of Coastal Zone Management |
| John Lebeaux | Public Member |

Members Absent

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| Thomas Cambareri | Public Member |
| Bob Zimmerman | Public Member |

Others in Attendance:

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| Michele Drury | DCR |
| Rebecca McEnroe | Aquaria Water |
| James Cederbery | Div. of Ecological Restoration |
| Donald Rose | Coler & Colantonio |
| Laila Parker | Div. of Ecological Restoration |
| Lynn Massengill | EEA |
| Bruce Hansen | DCR |
| Erin Graham | DCR |
| Marilyn McCrory | DCR |
| Anne Carroll | DCR |
| Vandana Rao | EEA |

Baskin called the meeting to order at 1:03 p.m.

Agenda Item #1: Executive Director's Report

Baskin announced two upcoming workshops. The New England Water Works Association, working with the Consensus Building Institute, will sponsor a Sustainability Congress on June 20. The Consensus Building Institute will also host a workshop on climate change adaptation on June 20.

Hansen provided an update on the hydrologic conditions for May 2011. Rainfall in May averaged 3.45 inches, or 93 percent of normal, with some variation statewide. There were eleven consecutive days of measurable precipitation at several stations near the end of the month, resulting in low fire danger. Groundwater levels, streamflow, and reservoir levels were all normal. The drought outlook predicts no tendency for drought conditions in Massachusetts through August 2011. Hansen also reported on the three tornadoes that touched down in

Massachusetts on June 1, resulting in four fatalities, 200 injuries, and considerable property damage.

Agenda Item #2: Vote on the Minutes of April 2011

Baskin invited motions to approve the meeting minutes for April 14, 2011.

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| V | A motion was made by Kennedy with a second by Contreas to approve the meeting minutes for April 14, 2011. |
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| T | The vote to approve was unanimous of those present, with two abstentions (Lowery, |
| E | Lebeaux; Yeo not present for vote). |

Agenda Item #3: Vote on Staff Recommendation on the Maintenance Protocol for the Gunderboom Fisheries Exclusion System at the Aquaria Desalination Plant, Dighton

Drury introduced Rebecca McEnroe, representing Aquaria Water. Drury briefly reviewed the background and history of the Aquaria desalination project and requirements related to its deployment of the Gunderboom marine life exclusion system in the Taunton River. She noted that, though environmental agency staff were encouraged by performance of the Gunderboom, concerns remained about overtopping and ensuring timely responses to breaches of the marine exclusion system. As required by the Water Resources Commission, Aquaria developed an operations and management plan to address these issues. Aquaria and agency staff have been in discussions since March to develop recommendations. Drury acknowledged work by Todd Callaghan of Coastal Zone Management, Jack Schwartz of Marine Fisheries, and Gerry Szal and Leslie O'Shea of MassDEP, as well as Aquaria and its consultants.

Drury outlined Aquaria's protocol for monitoring the Gunderboom system and directed commission members to the staff recommendation for details (see exhibits listed at the end of this document). She noted that staff recommends commission approval of Aquaria's proposed maintenance and response protocol for the Gunderboom system. McEnroe asked if Aquaria is expected to modify the written plan to reflect the modifications highlighted in the staff memo. Drury responded that Aquaria should respond to the memo indicating that it will incorporate the changes into the plan.

Questions from commission members revolved around the seining procedure and the number of fish captured during monitoring. McEnroe said that typically about 25 fish per week are captured, with about 3 percent of species of concern represented. She noted that the system attracts bottom-dwelling fish, who seek cover behind the Gunderboom fabric. Drury added that agencies will feel more comfortable once a full season of data (March 1 through November 15) is available to indicate how the Gunderboom operates under a range of conditions.

Lowery requested clarification on the approval authority for this kind of system and the Water Resources Commission's authority to act. Drury responded that the commission approved the transfer of water from the Massachusetts Coastal Basin to the Taunton River Basin, under the Interbasin Transfer Act (ITA), for the Aquaria desalination plant. Such approval required interagency review and was contingent on a demonstration that there will be no damage to the environmental resources, with a particular concern about fish entrainment at the intake to the desalination plant. Conditions of the ITA approval were also included in a Water Management Act permit approved by MassDEP. Drury explained that an interagency group consisting of staff from the Department of Conservation and Recreation, Coastal Zone Management, the Division of Marine Fisheries, and MassDEP has been working with Aquaria on a monitoring plan to

ensure that the fisheries of concern are being protected. Completion of a monitoring plan is one of the conditions of IBTA approval by the Water Resources Commission.

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| V O T E | A motion was made by Purinton with a second by Lebeaux to adopt the staff recommendation to adopt Aquaria's proposed maintenance and response protocol for the Gunderboom marine life exclusion system. The vote to approve was unanimous of those present. |
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Agenda Item #4: Vote on Staff Recommendation on Proposed Offset Credits Resulting in No Net Increase in Interbasin Transfer for 105 Research Road, Hingham

Drury explained that in 2002, two properties in Hingham, 60 Research Road and 105 Research Road, approached the Water Resources Commission for a determination of insignificance, under the Interbasin Transfer Act, for the transfer of wastewater from the Boston Harbor Basin via the MWRA sewer system to the Massachusetts Coastal Basin. The commission found that the transfer of 4,500 gallons per day met the criteria for insignificance.

Drury explained that 105 Research Road, now known as the FoxRock Properties, is expanding to accommodate new tenants, resulting in an increase in water use and wastewater flow. She emphasized that the current proposal does not affect the transfer at 60 Research Road. She added that the proposed transfer of an additional 3,311 gallons per day represents a new transfer from the Weir River subbasin, designated as highly stressed in 2005.

WRC staff suggested that FoxRock Properties investigate the feasibility of doing offsets, in accordance with the commission's offsets policy, adopted in 2007. FoxRock is working with the water supplier, Aquarion Water Company, to identify offsets that would negate the increase in interbasin transfers. Drury clarified that the vote before the commission would allow FoxRock to move forward with implementing the offsets. FoxRock will have to return to the commission at a later date to demonstrate that the offsets have been completed and have negated the increase in interbasin transfers.

Discussions with FoxRock continue on the question of calculating the amount of flows to be offset. In addition, FoxRock will have to satisfy MWRA requirements for offsets for sewer flows, which are over and above those required by the commission. Purinton requested clarification on why the flows from 60 Research Road are not included. Drury explained that the amount from 60 Research Road is not changing. FoxRock Properties has to offset only the new increase in transfer, since the previous increase was found to be insignificant. Purinton commented that, in the end, the Weir River Basin will still be losing water, since there was previously a determination of insignificance.

Graham explained how the offsets will be quantified, starting with a comprehensive water audit to establish water use and building occupancy. Once the amounts to be offset are established, the building owner will implement the upgrades.

In response to a question from Purinton, Rose said there were no plans for exterior water use at the property at this time. The calculation represents peak daily interior water use, based on Title V flows, as this is the calculation that is applicable to the several authorities who are reviewing this proposal. Drury clarified that the commission's jurisdiction is over the additional water leaving the basin, and offsets will preclude more water leaving the basin. Rose added that the

offsets allow the proponent to meet the requirements of both the Water Resources Commission and Aquarion's water management plan.

Baskin asked for details on the scope of the offset projects. Rose outlined potential projects, including a residential condominium association and a hotel. A report describing fixtures replaced and associated costs will be provided to Aquarion and can also be provided to the commission.

Purinton asked if the offsets policy requires a one-to-one ratio of offsets to flow or if the ratio is negotiable. Drury responded that the required ratio is one-to-one, because the Interbasin Transfer Act requires no net increase in interbasin transfer. However, the proponent's consultant plans to add a ten percent buffer to account for the fact that people use fixtures differently. Rose added that MWRA requires a four-to-one reduction of inflow into the sewer system, though the proponent may approach MWRA to discuss a reduction in this requirement.

Discussion followed on the history of stressed basin designations and the reasons for adopting an offsets policy. Purinton asked if the proponent is required to monitor performance of the offsets. Drury replied that the proponent must provide documentation that the offsets were completed. The commission will then be asked to determine that there has been no net increase in interbasin transfer. Rose added that the proponent will need to complete fixture replacements at facilities that agree to accept them and provide its report before it can obtain an occupancy permit, which will allow construction of the expanded facility at 105 Research Road to begin.

Baskin requested a motion on the staff recommendation.

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| V O T E | <p>A motion was made by Purinton with a second by Contreas to allow FoxRock Properties to proceed with proposed offsets to obviate the need for an increase in interbasin transfer, with the understanding that the calculations used to determine the potential flows to be offset will be refined in consultation with Staff, and that documentation of the offsets completed will be submitted for WRC approval before the wastewater flows are increased.</p> <p>Contreas proposed an amendment to include the address of the property. Purinton seconded the amended motion.</p> <p>The vote to approve the amendment was unanimous of those present.</p> <p>The amended motion read, "To allow FoxRock Properties at 105 Research Road, Hingham, to proceed with proposed offsets to obviate the need for an increase in interbasin transfer, with the understanding that the calculations used to determine the potential flows to be offset will be refined in consultation with Staff, and that documentation of the offsets completed will be submitted for WRC approval before the wastewater flows are increased."</p> <p>The vote to approve the motion, as amended, was unanimous of those present.</p> |
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Meeting adjourned, 1:46 p.m.

Documents or Exhibits Used at Meeting:

- Meeting Minutes for April 14, 2011
- Staff Recommendation dated June 9, 2011, on Aquaria's proposed maintenance and response protocol for the Gunderboom marine life exclusion system
- Staff Recommendation dated June 9, 2011, on proposed offset credits resulting in no net increase in interbasin transfer: 105 Research Road
- Interbasin Transfer Act project status report, 22 May 2011
- Current Water Conditions in Massachusetts, June 9, 2011