



March 27, 2014

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The Honorable Deval Patrick  
Governor of Massachusetts  
Office of the Governor  
State House, Room 360  
Boston, Massachusetts 02133

**RE: Concerns regarding Sustainable Water Management in the Commonwealth**

Dear Governor Patrick,

As faithful participants in the Sustainable Water Management Initiative (SWMI) over the past four years, the Massachusetts Water Works Association (MWWA) never walked away from the process even when we strenuously disagreed. Throughout, the MWWA has encouraged the Executive Office of Energy and Environmental Affairs to use SWMI to develop an integrated approach to water management and produce clear, simple regulations.

Instead, the process has resulted in draft regulations that represent a step backwards in the administration's efforts to streamline permitting. SWMI created a number of additional considerations that cities and towns will grapple with when applying for or renewing a Water Management Act (WMA) permit.

As an organization representing 1,100 water professionals across Massachusetts, including members from 230 municipal water departments, we write today to voice our concerns and ask you to halt the new regulations which are a threat to the ability of water systems to supply safe and sufficient supplies of drinking water to the Commonwealth's residents. In brief, our specific concerns include:

- The draft regulations only capture public water supplies with WMA permits rather than taking a holistic approach to water resources management that includes stormwater and wastewater. They regulate and limit the supply of groundwater, while the science on which SWMI is based shows the percentage of impervious cover within a basin represents the single greatest factor when assessing stream health.

- The draft regulations are hopelessly complex. They leave it nearly impossible for municipal water departments to anticipate the cost of mitigation to secure a permit. Further, there is no plan to measure whether the expensive, unfunded and mandated mitigation projects have any impact on stream health.
- The science underpinning the regulations is not compelling enough to merit the regulatory controls being imposed on water systems. SWMI proponents have failed to produce convincing evidence of statewide streamflow impacts caused by water withdrawals, nor have they demonstrated worsening streamflow trends. In fact, state environmental agencies have not even shown that statewide water withdrawals are on the rise thereby necessitating the need to even consider more regulatory controls on public water systems. Long before any watershed group ever formed, water departments in Massachusetts were protecting the environment and providing safe, sustainable drinking water. If we believed we were negatively impacting the environment, we would be the first to take action.
- The draft regulations will require expensive mitigation projects to “offset” increased water use. This is true even for communities which are well within their current permit limits. The mitigation projects, according to DEP, could include dam removals and building fish ladders. With all due respect, these types of projects do not improve water systems or conserve water. Expensive capital projects for SWMI mitigation will cause rate increases on residents and siphon money away from infrastructure projects that should be improving water systems. Residents simply cannot afford to pay for fish ladders when an estimated \$10.2 billion in water system infrastructure improvements are needed in the next two decades.
- Safe, reliable and affordable water is needed for residential and business development. A costly and unreliable water supply impedes business growth. The Commonwealth has aggressively recruited businesses that rely heavily on water, such as pharmaceutical and life science companies. The draft regulations threaten to undo this effort.

On a brighter note, MassDEP has done well to produce a means to resolve the almost 30-year old safe yield logjam in a way that is consistent with the law; consistent with legislative intent and; seemingly consistent with the Statement of Clarification reached with the watershed groups in 2009. A reasonable interpretation of MGL 21G and an understanding of the history of this legislation makes it clear that safe yield was never meant to be a single, all-encompassing factor to determine how water is allocated. Rather, specific concerns related to increased water withdrawals were to be addressed through regulatory criteria and standards for obtaining permits, as clearly stated in Section 7 of the Act. Concerns related to fish and wildlife, recreation, wetland habitat, groundwater recharge, public water supplies, agriculture, water quality and other areas of water resource use and management are to be addressed via permits.

However, we are concerned that if the watershed groups remain unsatisfied and continue to press for more environmental protection within safe yield, greater and more important interests relating to water allocation will be undermined. The safe yield concept advanced by certain watershed groups actually trumps the statutory permitting process by rolling all

“environmental factors” into the term safe yield, thereby making safe yield values extraordinarily low. By doing so, effective water resources management would not be advanced, as permits in many river basins would not be allowed by law. This one sided view of safe yield would also upend the legislative intent of MGL 21G to ensure, where necessary, a balance among competing water withdrawals and uses.

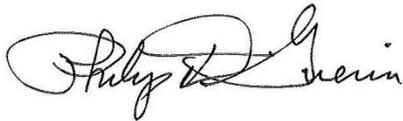
At a time of great uncertainty about future climate conditions, it would behoove the Commonwealth to invest in water supply redundancy and reliability. SWMI does neither, and in fact, accomplishes just the opposite. The draft regulations will make systems less reliable, discourage redundancy and make the development of new supplies more difficult. SWMI as presented is not a good tool for securing our water supply future. While we appreciate this has been a long process, it has unfortunately resulted in unworkable regulations.

We urge you to instruct Commissioner David Cash to restart the process with an eye toward holistic water management that protects access to safe and reliable water supplies. Joining us in this request is the Massachusetts Coalition for Water Resources Stewardship, a nonprofit organization committed to promoting watershed-based policies and regulations that effectively manage and conserve water resources and the Massachusetts Water Pollution Control Association, a nonprofit organization representing more than 800 wastewater professionals. Collectively, our organizations believe the Commonwealth should encourage integrated water resource management planning and reward water infrastructure capital improvements. Furthermore, a holistic approach should be cost-effective and beneficial with measurable results. The regulations as drafted do not meet this objective and should be revisited.

Sincerely,



Jennifer A. Pederson, Executive Director  
Massachusetts Water Works Association



Philip D. Guerin, President  
Massachusetts Coalition for Water Resources Stewardship



Michael Foisy, President  
Massachusetts Water Pollution Control Association

cc: Brendan Ryan, Chief of Staff  
Richard Sullivan, Secretary, EEA  
David Cash, MassDEP Commissioner