



Massachusetts Association of Conservation Commissions

protecting wetlands, open space and biological diversity through education and advocacy

By email to dep.talks@state.ma.us

July 10, 2014

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Regulatory Comment Box
One Winter Street, Fifth Floor
Boston, MA 02108

Attention: Elizabeth McCann

Re: Proposed Amendments to 310 CMR 36.00, Water Resources Management Program Regulations

Dear Ms. McCann:

The Massachusetts Association of Conservation Commissions (MACC) submits these comments on MA DEP's proposed amendments to the Water Resources Management Program regulations (310 CMR 36.00) implementing the Water Management Act (WMA, G.L. c.21G).

MACC is the professional association of Massachusetts conservation commissions. We represent more than 2,100 conservation commissioners throughout Massachusetts who are responsible for protecting the natural resources of their communities under the Conservation Act (G.L. c.40, § 8c) and for administering and enforcing the Wetlands Protection Act (G.L. c.131, § 40) and municipal wetlands laws and regulations. We protect wetlands, open space, and biological diversity across Massachusetts through education and advocacy and support of conservation commissions. We advocate for strong science-based laws, regulations, and policies, and laws that function well. MACC has been doing that work for fifty-three years.

We support sustainable water management. Large water withdrawals can impact groundwater levels, wetlands and waterways. Over time, persistent and ongoing drawdowns due to groundwater pumping can, in some instances, result in wetlands being reduced in size or in perennial streams becoming intermittent. That would reduce the functioning of wetland resource areas, harming the native flora and fauna they support and the recreational opportunities and water quality protections they provide. It would also affect jurisdiction under the Wetlands Protection Act. MACC is pleased that the Commonwealth has undertaken the Sustainable Water Management Initiative to update rules for permitting water withdrawals.

Massachusetts is fortunate to have relatively abundant water resources. Nonetheless, those resources are finite, and in many instances have been stressed, and careful stewardship is important to protect the environment and provide for clean and sustainable water supplies for human use. MACC supports the efforts of the state to update the WMA regulations. In particular, we support the inclusion of Streamflow Criteria based on new, peer-reviewed scientific modeling developed by the U.S. Geological Survey and the Massachusetts Department of Fish and Game. That scientific analysis confirms and quantifies the large degree to which groundwater withdrawals are already impacting rivers and streams

and provides the basis for a system to regulate withdrawals to avoid and minimize impacts as much as possible.

We recognize that some water suppliers have raised concerns about the proposed regulations. We also do not believe the regulations are perfect, but we think they are an important and necessary step in the right direction.

We believe that clear, consistent, reasonable standards for permitting of water withdrawals have many benefits, including ensuring the ongoing availability of adequate clean water for human use. As water efficiency and conservation have improved over the past several decades, and further progress continues to be made, there will be opportunities to provide water for new growth and development without further depleting these important natural resources. Efficiency in water use can also avoid costly development of new water supplies. As precipitation patterns become more erratic with climate change, resulting in more intense storms as well as more frequent droughts, it is more important than ever that we use our water resources and carefully. Low Impact Development and compact, smart growth are also important measures that communities can implement to conserve water resources along with many other attendant benefits.

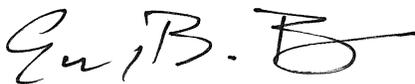
We support the inclusion in the regulations of science-based streamflow criteria, improved protections for coldwater fisheries, and required alternatives analyses for increased withdrawals that would cause a subbasin to fall to a lower streamflow category. We recommend further clarification and strengthening of Safe Yield methodology, water use minimization provisions, and mitigation for increased impacts.

We oppose the proposed revisions to 310 CMR 36.37(2) (formerly 36.40) that appear to limit the rights of environmental groups and 10-person groups to file appeals of WMA permits. Such reduction in the rights of the public to participate meaningfully in environmental decision-making is uncalled for and contrary to good public policy and environmental protection. Reductions in appeal rights would also require MEPA review. 301 CMR 11.03(12)(b).

We understand that 85% of existing water withdrawals are registered withdrawals that are not covered by the proposed regulations. We believe DEP has the authority under the Supreme Judicial Court decision in *Water Department of Fairhaven v. Massachusetts Department of Environmental Protection* to issue regulations that would condition registrations on meeting environmental standards, such as to require reasonable water conservation measures. We encourage DEP to propose and adopt such regulations.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Eugene B. Benson". The signature is fluid and cursive, with the first name "Eugene" and last name "Benson" clearly legible.

Eugene B. Benson
Executive Director
Email: eugene.benson@maccweb.org

copy: MACC Board Advocacy Committee