



# Chelmsford Water District

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April 6, 2012

To:  
Kathleen Baskin, P.E.  
Director of Water Policy  
Executive Office of Energy and Environmental Affairs  
100 Cambridge Street, 9th floor  
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Ms. Baskin

As a water supplier in the State of Massachusetts, the Chelmsford Water District feels the need to submit its comments on the Executive Office of Energy and Environmental Affairs' (EEA) draft of the Sustainable Water Management Initiative (SWMI). The District has been closely following the progression of SWMI through the process with the assistance of the Massachusetts Water Works Association (MWWA) and echoes all of their leadership's concern over the Initiative with some added operational concerns as well.

From the beginning this initiative was billed as being built on good or proven science and was expected to be an integrated water resource management plan. The District agrees with MWWA assertions that the science upon which this initiative is founded upon has several issues with its validity. From the District's perception, there appears to be a strong bias toward the view of the data in what the watershed and environmental groups would prefer. This is the perception that is backed by the certain facts left out from the USGIS and TRC reports. Before anything further or substantive of this framework is set into regulation, the District asks that a factual based analysis of what is being proposed will actually achieve the specific stated goals of this initiative, the return of river or watershed health as measured by the specified fish populations.

To start with some of the issues the District has with the SWMI, the USGS report did not place a specific cause and effect relationship between water withdrawals and fish abundance but its interpretation did diminish the effects of more significant influences such as but not limited to water quality and geography. To this end the District strongly agrees with the MWWA assertion that the USGS report representation of what causes differences in fish abundance is refuted by the science of the same report. To continue, MWWA commissioned an

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independent environmental firm, TRC, to evaluate the USGS report. TRC analysis determined the linear relationship between stream flow depletion and fluvial fish counts predicted by this model did not hold true when cross referenced with the actual fish and stream flow data. With these two specific facts; the USGS report science refuting SWMI's representation of its model and the TRC report analysis categorizing no linear relationship; how can the EEA expect a water utility to allocate limited monetary resources to an initiative which has yet to be truly vetted as to attaining the goals set forth?

As a water supplier operating treatment systems to meet both health and aesthetic requirements set forth by the Environmental Protection Administration and MA Department of Environmental Protection, the District has strong concerns as to how SWMI will affect certain compliances of these requirements. To the District's understanding this has yet to be addressed by EEA. If the District will be expected to mitigate for these compliance issues as well as any water demand issues, would the District and other water suppliers be affected doubly by this and can that be considered fair. Please keep in mind in regard to this issue, the ones ultimately affected are the rate payers who in turn will demand explanations for this double impact. While on the topic of treatment systems, the District before putting any treatment system online, has to proceed through a robust piloting program to prove that they will do what has been set out as the goals of the system and that the system as operated will do no harm. Please keep in mind that for the most part these treatment systems are proven technologies. How then as a regulating agency that in this regard that believes in a strong piloting program can you ask water suppliers to accept SWMI without a similar piloting program, being that the initiative's science is not proven nor has it been ground truthed to the asserted goal achievement. The EEA is asking of the District to accept piloting on the one hand and to ignore it on another which the District finds disconcerting and confusing.

The District appreciates the allowance for specific site studies to be performed but these will require the District to fund these studies refute the model's assertions. Since the assertions are not proven, the expenditure of funds for this purpose without proof does not meet the fiduciary responsibility that water suppliers are supposed to adhere to. Since the State is setting the requirements and regulations, it is the District contention that before finalizing these regulations and requirements that they be proven to some degree and if not then, the specific site studies be supported by the State.

The District, as part of its fiduciary responsibilities, continually assesses its capital improvement projects within the framework of having a measurable process for the theoretical improvement. By this measurement, the cost can be measured against the success or failure of the project and in this way is analyzed under good sound management practices. SWMI lacks this improvement measurement framework and so in terms of good management, in terms of both monetary and resources, how can the EEA ask the District to financially commit to this initiative without being able to track or prove the improvement. This would seem to violate the most practical understanding of good management and be in direct conflict with the District's fiduciary responsibility to its budget and rates.

The central focus of SWMI and its framework has been to minimize the existing impact of water withdrawals on stream flow and off setting or mitigating additional water use. How does the EEA justify this when in the face of withdrawal facts that show a general decrease state wide in water withdrawals? The District has committed substantial resources whether in monetary or staff time terms, to meet current water conservation standards under its current permits. Since the initiative's framework will partially be based upon demand mitigation, it is the District's assertion that water suppliers, already trying within their best efforts to attain stated water conservation standards be afforded certain status or recognition under the initiative as to its withdrawals. In that vain, MWWA has stated as to having a fundamental disagreement with using the "baseline" as DEP has recently defined it. The District is already being ask to and has complied with Conditions 1-8, which chief among them was the compliance of meeting the 65/10 standard and the implementation and enforcement of water restrictions. The undertaking of meeting the compliance standard of 65/10 was a significant task for the District. Since water suppliers already being asked to mitigate or minimize the impacts of their existing withdrawals; therefore it is unnecessary to benchmark water use against an arbitrary baseline.

MGL clearly states under MGL 21G, Section 7 that "in adopting regulation establishing criteria and standards for obtaining [Water Management Act] permits, the department shall assure, at a minimum, the following factors are considered...". Among the ten factors identified, "Reasonable protection of water uses, land values, investments and enterprises that are dependent on previously allowable withdrawals." In keeping with this lawful commitment, the District therefore requests that increased withdrawal be defined as an increase above the existing permitted volume. Additionally, the community within which the District resides and many like it have made financial and resource commitments

or plans around their existing permitted volumes. These include current and future investments in capital improvements with their ultimate withdrawal amount in mind. How does the EEA expect these communities to react if this initiative as it is sure to do; disrupt those plans and investments?

MA DEP interpreted Safe Yield to have environmental protection factors; water suppliers still hold that the statutory definition in MGL 21G makes no allowances for such environmental protection factors and the District questions the legality on inserting environmental protection into Safe Yield. Furthermore, as the Framework is currently drafted not only will there be environmental protection factors in Safe Yield but there are also environmental protection factors in the Stream Flow Criteria. Would not this in a sense subject the water suppliers to a type of double jeopardy and the District would interpret this as been adjectivally unfair to be subject to factors in both.

I sincerely wait the further deliberations of SWMI and the answers to the District's comments, as well your answers to the other water suppliers comments.

Sincerely,

  
*Todd A. Melanson*

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