

“Sustainable Water Management Initiative”

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BACKGROUND: The Sustainable Water Management Initiative (SWMI) was convened by the Executive Office of Energy and Environmental Affairs (EEA) in October of 2009 in an attempt to develop a water allocation scheme that would be protective of human and environmental interests. In November of 2012, after three years of deliberation and debate, EEA released a Framework outlining how they plan to move forward with sustainable water management. The Framework contains many components including a new safe yield methodology, biological categorization of rivers and streams based on certain fish species, streamflow criteria, requirements for minimization of existing impact of water supplies in flow depleted watersheds and offsets and mitigation requirements for additional water withdrawal.

At the outset of Sustainable Water Management Initiative (SWMI), the Massachusetts Water Works Association (MWWA) got involved because it appeared to present a real opportunity to look holistically at water resource management in Massachusetts. It was our hope that the process would expand the dialogue and recognize all stakeholders who have an interest in water resources. We were also led to believe that emerging science was being developed to inform and guide this discussion in a meaningful way. At the end of this process, we regret that our expectations were not met. While we agree wholeheartedly with the goal of sustainable water management, the Framework applies solely to public water systems through Water Management Act (WMA) permitting. As such, it fails to address more pressing and significant environmental challenges or opportunities facing the state.

WATER SUPPLY CONCERNS:

- ◆ The Framework is complex and introduces significant uncertainty for communities, especially those interested in long-range planning for water supply reliability, the development of drinking water sources and overall economic development.
- ◆ We believe the science underpinning this Framework is not compelling enough to merit the regulatory controls being imposed on public water systems. There is a lack of credible evidence linking SWMI implementation with measureable improvements in aquatic habitat.

- ◆ The process was politicized when Governor Patrick intervened after river advocates resigned from the WMA Advisory Committee in protest over MassDEP's proposed methodology for how much water could be withdrawn from a river basin. Since that time, the river advocates continue to pressure the administration to further curtail water withdrawals.
- ◆ In a settlement with the river advocates, MassDEP interpreted Safe Yield to have environmental protection factors. The statutory definition in MGL 21G makes no allowances for such environmental protection factors and MWWA questions the legality of inserting environmental protection into Safe Yield.
- ◆ Existing water infrastructure needs are great and rates will need to substantially increase just to address normal upgrades and maintenance of old water supply systems. Finding revenues for these real, immediate needs will be even more difficult as local resources are siphoned away for SWMI compliance.
- ◆ As this Framework rolls out, suppliers will be assessing whether the measures they are required to implement will achieve the intended outcome. While feasibility and cost are stated considerations of the Framework, these terms lack definition. Also missing within the Framework is a process for measuring improvement over time. Ratepayers and communities are being asked to carry the cost of implementation. As such, they should expect assurances that the returns on these investments are real and measurable, not just modeled progress. This is the responsible way to determine whether the SWMI Framework and SWMI itself has been effective.
- ◆ If the Commonwealth is to address issues affecting aquatic habitat then a holistic watershed approach is needed which encompasses looking at all factors that influence streamflow health. This would include addressing the effects of impervious cover which appear to have a much greater impact on declines in fish populations than water withdrawals.

REQUESTED ACTION:

- ◆ The Legislature should ensure that the regulations resulting from this Framework comport with the legislative intent of MGL 21G.
- ◆ The Legislature should reject any legislation which attempts to create streamflow standards within the Water Management Act as this will upend the balance required by the Act and put aquatic habitat protection above public health and safety.
- ◆ The Legislature should insist that the proper financial impact and cost-benefit analyses be performed before any regulations are promulgated based on this Framework. This analysis should include an assessment of the impacts on economic development that might result from implementation of the Framework.

If you have any questions or desire additional information from Massachusetts Water Works Association, please contact: Ms. Jennifer Pederson, Executive Director, at (978) 263-1388