

COALITION MEMBERS

Agencies

Charles River Pollution
Control District
City of Haverhill
City of Holyoke
City of Marlborough
City of New Bedford
South Essex Sewerage District
Springfield Water and
Sewer Commission
Town of Concord
Town of Framingham
Town of Franklin
Town of Jaffrey NH
Town of Medfield
Town of Milford
Town of North Reading
Town of Northbridge
Town of Shrewsbury
Town of Southbridge
Town of Yarmouth
Upper Blackstone Water
Pollution Abatement District

Affiliates

Cherry Valley Sewer District
City of Beverly
City of Chicopee
City of Peabody
City of Salem
City of Worcester
Town of Bellingham
Town of Danvers
Town of East Longmeadow
Town of Marblehead

Corporate

AECOM
BETA Group
Brown and Caldwell
CDM
Kleinfelder/SEA Consultants
Stantec Consulting
Weston & Sampson

Legal

Anderson & Kreiger LLP
Bowditch & Dewey

July 18, 2011

The Honorable Robert A. DeLeo
Speaker of the House
Massachusetts House of Representatives
State House, Room 356
Boston, MA 02133

Dear Speaker DeLeo:

I am writing to you on behalf of the membership of the Massachusetts Coalition for Water Resources Stewardship (the Coalition) to express our opposition to the Public Lands Preservation Act (PLPA, H. 3438), and strongly urge you to vote against this measure, which has recently been placed on the House Calendar. The Coalition represents almost 40 municipalities and publicly-owned wastewater, drinking water and stormwater utilities across the Commonwealth.

Our concern about this legislation has not changed since our January 11, 2010 letter to the Joint Committee on Environment, Natural Resources & Agriculture. This legislation proposes a completely unwarranted and unnecessary burden on communities and public utilities across the state that provide essential drinking water, wastewater and stormwater treatment and management services to the Commonwealth's citizens and businesses. The services our members provide protect public health and the environment and contribute to economic growth. Water suppliers engage in extensive land protection efforts to ensure high quality drinking water. Wastewater and stormwater treatment facilities build infrastructure that is necessary to protect public health and the environment. H. 3438 would be a deterrent to our efforts to integrate water resources management with innovative measures such as using large open space tracts for stormwater and wastewater discharge to recharge dwindling groundwater resources. It would also be an obstacle to obtaining an easement for an underground water or sewer main through a park or for access to a reservoir. Public parkland lends itself to a dual environmental benefit – open space AND enhanced water resource management.

A clear process already exists to protect public lands, as established by an amendment to the Massachusetts Constitution in 1997 (Article 97). That amendment states that "lands and easements taken or acquired for such purposes shall not be used for other purposes or otherwise disposed of except by laws enacted by a two thirds vote, taken by yeas and nays, of each branch of the general court."

H. 3438 would go far beyond that strong constitutional standard and undermine local decision-making authority regarding municipally owned land by imposing severe restrictions on cities, towns and local and regional utilities, by requiring that municipal public land acquired for natural resource purposes (Article 97 land) not ever be disposed of or converted to other uses without a costly demonstration process to prove that there is “no feasible alternative,” and by requiring comparable natural resource land to be provided if land is transferred. The waiver process outlined in SECTION 1, Section 4 is not a guarantee, nor does it go far enough. Our taxpayers and ratepayers are already under extreme financial pressure due to the economy and increasing water and sewer rates resulting from ever more stringent regulations that are based on questionable science and diminishing environmental returns.

This legislation would place an undue, unnecessary and costly burden on our communities and local taxpayers and ratepayers, who already face some of the highest public construction and land acquisition costs in the country. H. 3438 would unquestionably drive the costs to taxpayers and ratepayers even higher. Requiring communities to engage in and fund a state-mandated feasibility study, and to purchase new land or pay mitigation for land they already own, would impose overwhelming financial costs, escalating the burden on taxpayers and ratepayers to implement locally voted and approved land use decisions. This bill would create another large unfunded state mandate on municipalities and public utilities.

Under current law, the transfer of these lands requires a number of local votes, including votes by local commissions, legislative bodies and executive officers before going to the Legislature and finally the Governor. We firmly believe that it is important to trust local government, the Legislature and the Governor to make these decisions, and we ask that you reject the unnecessary conditions and burdens that H. 3438 would place on our communities, taxpayers and ratepayers.

Nearly 60 percent of undeveloped land in the Commonwealth is privately owned and unprotected. Many private acres are lost daily due to developments that could be planned more effectively. To ensure the preservation of our most critical natural resources, the state must employ a variety of tools, from improved local zoning and increased capital investments in land protection, to enhanced tax incentives for voluntary land donations by private landowners. The municipal community has worked hard over the past few years to help pass both the Environmental Bond Bill and Massachusetts Land Conservation Incentives Act. Most recently, local officials testified in favor of Senate 90, An Act to Sustain Community Preservation.

In fact, these measures have worked. In the past four years, Massachusetts has protected nearly 75,000 acres of land, including 16,478 acres in fiscal 2010, the equivalent of 54 acres a day. Much of this land would not have been preserved without the efforts of municipal governments and the many volunteers and staff responsible for their conservation efforts, as well as the Commonwealth’s land trusts and environmental organizations and the many landowners across the state who donated property. In FY10 alone, the Commonwealth’s investment of \$46,349,577 was matched by \$16,970,408 in

funding from municipalities, landowners, and non-profit organizations.

Our members are stewards of public and environmental health and public lands. H. 3438 would interfere with our ability to discharge our responsibilities and act in the public interest. H. 3438 is completely unnecessary, proposes an unprecedented and undue burden on taxpayers, ratepayers and municipalities, and seeks to interfere with the local democratic process that is most appropriate to make decisions about municipally owned land. We strongly urge you to reject H. 3438.

Sincerely,

MASSACHUSETTS COALITION FOR WATER RESOURCES STEWARDSHIP

A handwritten signature in black ink, appearing to read "Robert L. Moylan, Jr.", written in a cursive style.

Robert L. Moylan, Jr., P.E., President
Commissioner, Worcester Department of Public Works & Parks

Cc: Representative Brian S. Dempsey
Representative Anne M. Gobi
MCWRS Board of Directors