

**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

August 16, 2011

The Honorable Marc Pacheco  
The Honorable Anne Gobi  
Joint Committee on Environment, Natural Resources and Agriculture  
State House, Room 312B  
Boston, MA 02133

**RE: HB 255/SB 349--An Act Relative to Sustainable Water Resources Request for Adverse Report out of Committee**

Dear Chairs Pacheco and Gobi:

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 HB 255/SB 349 – An Act Relative to Sustainable Water Resources. We are requesting an adverse report out of committee. The Coalition represents almost 40 municipalities and publicly-owned wastewater, drinking water and stormwater utilities across the Commonwealth. We have many concerns about this legislation, which are outlined in detail below.

1. **This legislation is unnecessary and duplicative.** For the past 18 months the Executive Office of Energy and Environmental Affairs Sustainable Water Management Initiative has been tackling the very streamflow issues that are the focus of this legislation. SWMI has used a large and diverse group of stakeholders to study and attempt to formulate streamflow criteria and address water supply and aquatic habitat issues. The process to date has been both enlightening and contentious. While it has led to a better understanding of where and how streams have been altered, it has also highlighted the complexity of the problem and our lack of knowledge relative to real, workable solutions. Nevertheless, the SWMI process, a stakeholder process, is the only means to tackle this difficult problem. Legislation is not going to restore streams to natural flow and will likely just set the long and agonizing stakeholder process back to square one.
2. **Flow impaired streams are not a statewide problem needing a legislative fix.** The SWMI process has introduced new science that clearly demonstrates that flow impaired streams are not the norm across the Commonwealth. Rather, only 12% of the 1,400 streams assessed show evidence of flow depletion. Almost an equivalent number were found to be surcharged, that is, having more flow than they naturally would. With the underlying cause of

flow depletion still unclear it makes far more sense to look at the individual problem streams and assess causes and potential solutions than to use a statewide legislative directive that will potentially impact all communities and public water systems.

3. **Urbanization, not water withdrawals, is the problem.** The latest science presented by state agencies finds urbanization, as measured by impervious area, to be the single largest factor in aquatic habitat degradation. Focusing on the Water Management Act, a law that regulates water withdrawals, as this legislation does, completely misses the point and will lead to unwise expenditures by both the regulated communities (cities, towns and industry) and the regulators (DEP) that will not produce desired results. The target is clear, but the legislation is aiming elsewhere.
4. **Streamflow restoration expectations have no basis and will waste resources.** The legislation assumes that somehow, in a state with a 350-year history of river and stream alteration and degradation and a population that has burgeoned to over 6.5 million people, all streams can be restored to some semblance of natural flows. Natural flows include adequate low flows as well as high flood flows and everything in between. Proponents have yet to produce any documented evidence that such an outcome is achievable, let alone achievable through water conservation. Cities and towns and the Commonwealth can ill-afford to squander limited financial resources chasing an expectation that may not have any basis in reality.
5. **Water use is already on the decline.** Water consumption in Massachusetts has declined significantly since the Water Management Act was enacted in 1986. Since that time, water withdrawals in 65% of the 28 river basins in the state have declined or remained at 1985 levels despite a growing population. Withdrawals have increased in other basins but statewide water use efficiency has only improved thanks to higher water and sewer costs to ratepayers, more efficient appliances, more efficient industrial use and a growing conservation ethic among all segments of society. Legislation that is directed at restoring natural streamflow via water conservation through the Water Management Act is not needed and appears to be 20 years behind the times.
6. **Water Management Permits already address conservation and streamflow.** The latest versions of Water Management Permits issued to water suppliers, cities and towns heavily emphasize expanded water conservation efforts directed at reducing streamflow impacts. While most water suppliers will question the validity of the conditions, methods and assumptions used in these permit requirements they are no doubt being applied and enforced by DEP. This legislation seems to assume that the Water Management Act and DEP have failed to address streamflow issues but the permits that water systems have in hand tell otherwise.
7. **Dam removal options are addressed in other legislation.** Dam removal as an option for a dam owner is a difficult process but not one that is prevented by current law or regulation. In fact, Massachusetts leads the northeast in the number of dams removed in the past year with ten. The Division of Ecological

Restoration strongly advocates for and supports efforts to remove dams. The proposed legislation includes some beneficial language relative to dams. However, this language reflects that found in SB 367, a bill that has already been recommended by Committee and Senate Ways & Means and awaits full legislative action. In regards to dams, the Sustainable Water Resources bill is duplicative and unnecessary.

8. **Water banking is already addressed in other legislation.** The authority for cities, towns and districts to create water banks may be a useful tool for some municipalities. The language needs to be expanded to cover sewer connection fees and stormwater fees also and it should be limited to a local option choice only. Agencies should not be allowed to require water banks through permits. However, a previous bill, SB 1055, already addresses water banks and it is our understanding that water suppliers and river advocates are discussing alternative language in that bill which would make water banks more acceptable to both sides. There is no need to complicate the Sustainable Water Resources bill with this matter.

Our members are environmental stewards. Our objectives are to protect the Commonwealth's valuable natural resources and public health while preserving the financial stability of our communities and ratepayers. We urge you to issue an adverse report out of committee on HB 255/SB 349. The bill is unnecessary and duplicative. It ignores environmental realities and does not take into account existing legislation or current regulatory and permit requirements. The bill does a great disservice to the residents and businesses of Massachusetts by not addressing the issues appropriately and, in fact, mandating costly and unsustainable approaches.

Sincerely,

MASSACHUSETTS COALITION FOR WATER RESOURCES STEWARDSHIP



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

Cc: MCWRS Board of Directors and Members