



April 6, 2012

Kathleen Baskin, P.E.
Director of Water Policy and Planning
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: *Massachusetts Sustainable Water Management Initiative Framework Summary*

Dear Ms. Baskin:

On behalf of the cities and towns of the Commonwealth, the Massachusetts Municipal Association is hereby submitting comments on the *Massachusetts Sustainable Water Management Initiative Framework Summary* (SWMI Framework), released by the Executive Office of Energy and Environmental Affairs (EOEEA) on February 3, 2012. In addition to the comments the MMA is submitting here, we commend and support the detailed comments submitted by the Massachusetts Waterworks Association, and respectfully urge you to support the analysis submitted by both organizations.

The Massachusetts Municipal Association became involved in the SWMI stakeholders group because it was our hope that the process would provide an opportunity to consider water resources in an integrated way. Unfortunately, the SWMI Framework as drafted is not an integrated policy, and focuses solely on regulating water withdrawals to improve aquatic habitat. This would be the first time that the permitting process would be used for this purpose, and this new framework would fundamentally change the permitting process from protecting public health and safety to a much narrower outcome of protecting and increasing fluvial fish.

The fact is that the current regulations are working. Investment in municipal water systems, use restrictions and conservation measures implemented by cities and towns have dramatically reduced water use in the Commonwealth. The SWMI process has shown that the impact of water withdrawal on streamflow is now much less of a problem than originally thought, and there is not sufficient evidence to support the claim that further reductions in water withdrawals would significantly increase fish in streams and rivers.

The proposed framework would dramatically increase costly regulations on cities and towns, reduce revenue and limit economic growth across the state – an extraordinary change in public policy and outcomes, with no meaningful way to measure or monitoring improvement or actual progress. Modeled progress is not a reliable or valid way to determine whether the SWMI framework or resulting regulations would be effective.

The SWMI initiative does nothing to address large-scale watershed planning. Watershed-based planning is the only way to achieve sustainable water management. Evaluations could be made on a watershed basis and mitigation measures could be targeted that would have the most beneficial impact on fish populations. A good example of the benefits of such planning is demonstrated in the Taunton River Watershed Plan, which is integrating multiple aspects of water management. Basing the state permitting process on a command-and-control approach to limit water supplies is unbalanced and ignores other more feasible and productive ways to protect fish, such as improving water quality (by reducing nutrient

pollutants and other steps), restoring stream habitats, removing or limiting impervious surface cover, removing unneeded and undesirable dams, as well as traditional water conservation and stormwater management programs and initiatives, just to name a few examples.

It is disappointing that the proposed framework places so much emphasis on reducing the availability of the public water supply for our residents and businesses as the primary means of increasing streamflow, and de-emphasizes public health and safety and ignores the more important environmental impacts of impervious cover, dams, and nutrient pollutants on water quality, which we believe have a much greater impact on aquatic life. One example of the proposed shift in focus in the framework from public health and safety to fish abundance is the suggestion that in times of drought, when drinking water is scarce, communities release water from surface reservoirs in order to increase streamflow. The primary purpose of reservoirs is to maintain an adequate water supply for public use, health and safety, not to increase streamflow. The proposed framework would, with very little public awareness and input, amend that purpose.

We believe the SWMI Framework would be ineffective and would burden residents, businesses and municipalities with new and more stringent regulations that would mandate significant costs on local taxpayers and limit economic activity and growth. Massachusetts is currently facing a water infrastructure finance crisis and this is not the time to impose new unfunded mandates.

In 2009, the state created a Special Water Infrastructure Finance Commission as a means of developing a long-range plan for the state and its cities and towns to maintain their waterworks. In a preliminary report, the commission determined that Massachusetts faces a \$10.2 billion gap in the resources needed to adequately maintain drinking water systems, and an \$11.2 billion shortfall for resources needed to maintain wastewater infrastructure. Our cities and towns will also be facing huge investments to deal with stormwater infrastructure, conservatively estimated by the Commission at approximately \$18 billion over the next 20 years. Communities are grappling these huge financial challenges and must be free to target their limited resources on areas that will have the biggest impact and the largest investment return. Because SWMI focuses primarily on extreme restrictions on water supply withdrawals and on forcing costly mitigation measures on cities and towns, the framework would severely limit growth and economic development. The proposed framework would reduce the revenues necessary to maintain the existing infrastructure and force dramatic increases in rates paid by taxpayers, residents and businesses.

In January, the MMA membership approved a resolution opposing unfunded mandates and unanimously endorsed three bills now in before the House Ways and Means Committee. This legislation would have a much greater impact on improving the health of our lakes, rivers and streams. S. 1985 would provide \$17 million for the repair and removal of dams. H. 3027 would limit the amount of phosphorus in fertilizers. S. 1055 would allow communities to charge developers a reasonable fee to establish a fund to maintain local water infrastructure.

We have over 3,000 dams in Massachusetts, approximately one dam for every two miles of streams, and they have a dramatic impact on streamflow, water temperature, barriers to fish population and the amount of phosphorus in a waterbody. Phosphorus runoff from lawn fertilizer and impervious surfaces is now the leading cause of pollution in our waterways, accelerating algae and plant growth, robbing aquatic life of necessary oxygen to survive. Addressing these issues should be the first priority if the Commonwealth is seeking meaningful and timely improvement.

The MMA policy also called for the federal and state governments to “maintain funding amounts established for infrastructure needs, identify the costs of regulations, and reduce wastewater and stormwater treatment costs.” The SWMI framework contains no analysis on how much the

implementation and compliance would cost our cities and towns through lost revenues, restrictions on economic growth, and expenses associated with compliance or mitigation measures.

The communities of Massachusetts take their environmental responsibilities seriously and are already leading the way with innovative strategies to conserve water and manage their water use with nature in mind. For example, to benefit the Ipswich River, the Town of Reading discontinued drawing on municipal wells in the watershed area, and Danvers structured development fees to provide funds for water conservation projects. Scituate leaders have restricted lawn watering to protect the First Herring Brook, Kingston officials removed a local dam to meet their federal MS4 permit, Plymouth leaders worked with developers to increase the amount of stormwater that returns to the Eel River, in Franklin, the community has imposed water use restrictions, and developed and implemented new and innovative stormwater management techniques. There are countless such examples across the Commonwealth. Rather than impose a top-down, rigid and restrictive framework and regulations, state policies and should facilitate the good work of cities and towns so communities can maintain and expand upon these impressive efforts.

To summarize, the MMA does not support the proposed SWMI Framework. The new approach suggested by the framework would shift the focus from protecting public health and safety to an over-emphasis on increasing fluvial fish and aquatic life. We have serious reservations as noted above, and believe that the framework is incomplete, relies on a costly and burdensome regulatory scheme that would fail to meet its goals, overlooks effective and feasible holistic approaches, and in the end, would restrict our economy and burden communities and local taxpayers.

We respectfully ask the Patrick-Murray Administration to go back to the drawing board and return to the original intent of SWMI, which is to develop a true plan for a holistic and integrated water management policy. In addition, we are hopeful that the Administration will join with municipal leaders and other stakeholders in passing the important environmental legislation noted above.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Beckwith". The signature is fluid and cursive, with a large initial "G" and "B".

Geoffrey C. Beckwith
Executive Director, MMA

cc: His Excellency Deval Patrick, Governor of the Commonwealth
The Honorable Richard Sullivan, Secretary, EOEEA