



# The Commonwealth of Massachusetts

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September 14, 2006

## DRAFT RECORD OF DECISION

PROJECT NAME : Town of Reading Admission to the Massachusetts Water Resources Authority (MWRA) Water System  
PROJECT MUNICIPALITY : Reading  
PROJECT WATERSHED : Ipswich/North Coastal, and Chicopee/Nashua  
EOEA NUMBER : 12514  
PROJECT PROPONENT : **Town** of Reading  
DATE NOTICED IN MONITOR : August 8, 2006

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (G.L.c.30, ss. 61-62H) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed this project and hereby **grant a Phase I Waiver** to allow the proponent to proceed with its proposed alternative to obtain all of the Town's water from the Massachusetts Water Resources Authority (MWRA) prior to completion of the Supplemental Final Environmental Impact Report (EIR) for the entire project. A Certificate on the Notice of Project Change (NPC) with a Scope for the Supplemental Final EIR has been issued separately. This Draft Record of Decision (DROD) proposing to grant the Phase I Waiver will be published in the September 26, 2006 issue of the *Environmental Monitor* and subject to a fourteen day public comment period.

### Project Description

The Town of Reading proposes to increase the amount of water purchased from MWRA to enable the town to meet all its water supply needs and subsequently eliminate withdrawal from the Ipswich River basin except on an emergency basis. The purpose of the project is to ensure a safe water supply for the town and reduce adverse impacts to the Ipswich River. The project previously underwent MEPA review and a Certificate on the Final EIR was issued October 31, 2003. At that time, the Town of Reading proposed purchasing up to 219 million gallons of water from MRWA during the May 1<sup>st</sup> – October 31<sup>st</sup> period and limiting the town's use of Ipswich River basin sources to 1 million gallons per day (mgd) during that same time period. The Water Resources Commission subsequently approved a transfer of 219 million gallons per year (mgy) (based on an average of 1.2 mgd during the months of May through October). According to the NPC, the Town of Reading is currently proposing to increase its water purchase from MWRA from 219 to 829 mgy. The Town of Reading proposes to cease withdrawal of water from its

municipal supply wells located in the Ipswich River basin and intends to maintain its local sources as an emergency supply with the capacity to provide disinfection and to maintain or improve existing wellhead protection areas.

### Jurisdiction

The project is undergoing MEPA review and requires a mandatory EIR pursuant to Section 11.03(4)(a)(2) because it will involve a new interbasin transfer of water of 1,000,000 or more gpd or any amount determined significant by the Water Resources Commission. The project requires approval from the Water Resources Commission (WRC) under the Interbasin Transfer Act (ITA) and approval from the MWRA for admission to its water supply system. The proponent is not seeking financial assistance from the Commonwealth. Therefore, MEPA jurisdiction is limited to those aspects of the project within the subject matter of required permits that are likely to cause damage to the environment as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to water supply and broad issues of use and management.

### Waiver Request

On August 1<sup>st</sup> 2006, the proponent submitted a NPC with a request that I grant a waiver to allow Phase I of the project to proceed in advance of completion of the SEIR. As proposed, Phase I involves immediate withdrawal of up to 829 mgd from the MWRA system and would result in the Town of Reading ceasing its withdrawals from water supply sources in the Ipswich River basin.

During Phase I, the Town of Reading will maintain its existing water supply sources as an inactive source in accordance with the Department of Environmental Protection (MassDEP) requirements. If the Town receives the required certificates, permits and approvals for the interbasin transfer, the municipal water supply will then be converted to emergency status, and wellhead protection and other measures implemented in accordance with the Administrative Consent Order established by MassDEP.

### Administrative Consent Order (ACO)

The Town of Reading has entered into an Administrative Consent Order (ACO-NE-06-F001) with the MassDEP which allows the town to receive all of its water from MWRA subject to the conditions and requirements of the ACO. The conditions of the ACO include requirements and timelines for the Town of Reading to file with MEPA, request approvals from the Water Resources Commission and obtain agreements and commitment from MWRA. The ACO also specifies withdrawal limits, and requirements for water conservation requirements and maintenance of the existing municipal water supply system. The ACO states that if the Town of Reading has not received final certificates, permits and approvals for the project by December 31, 2007 (or a later dates agreed to by the parties), the Town of Reading shall immediately cease

its receipt of water from the MWRA system under the ACO and obtain water pursuant to existing approvals including the WRC's June 9, 2005 Decision and the Town's Water Management Act Registration.

### Criteria for a Phase I Waiver

Section 11.11 of the MEPA Regulations provides that the Secretary may waive any provision or requirement of 301 CMR 11.00 not specifically required by MEPA, and may impose appropriate and relevant conditions or restrictions, provided that the Secretary finds that strict compliance with the provision or requirement would: a) result in undue hardship to the proponent, unless based on delay in compliance by the proponent; and b) not serve to minimize or avoid damage to the environment.

In the case of a partial waiver of a mandatory EIR review threshold that would allow the proponent to proceed to Phase I of the project prior to preparing an EIR, the finding required under Section 11.11(1)(b) shall be based on a determination that: 1) the potential environmental impacts of Phase I are insignificant; 2) ample and unconstrained infrastructure and services exist to support Phase I; 3) the project is severable, such that Phase I does not require the implementation of any other future phase or restrict the means by which potential environmental impacts from any other phase of the project may be avoided, minimized or mitigated; and 4) the agency action on Phase I will contain terms, such as a condition or restriction in a permit to ensure due compliance with MEPA and 301 CMR 11.00 prior to commencement of any other phase of the project.

Based upon review of the NPC and comments received, and after consultation with the relevant state agencies, I find that:

- The Town of Reading has entered into an Administrative Consent Order (ACO) with MassDEP that requires the town to reduce its withdrawal of water from the Ipswich River basin to the extent feasible provided the town has in place an agreement and commitment to receive water from the MWRA system. Effective immediately, and during the review and approval process under MEPA and the ITA, the ACO requires that the Town of Reading shall receive an annual average of no more than 2.1 mgd from the MWRA system and shall withdraw from its registered water supply sources only to the extent provided in the ACO or pursuant to an emergency declaration or other MassDEP approval as further detailed in the ACO;
- Comments from MassDEP, the Riverways Program, the Ipswich River Watershed Association, and the Water Supply Citizens' Advisory Committee acknowledge that the proposed withdrawal from the MWRA system in lieu of the Town of Reading water supply wells will benefit the Ipswich River, which is one of the Commonwealth's most stressed rivers;

- Comments from the Riverways Program, the Ipswich River Watershed Association, the MWRA and the Town of Reading support the Phase I Waiver request;
- Comments from MassDEP and Riverways highlight the existence of contamination, the potential for new contamination, and the lack of safer, alternative water sources within the Town of Reading that necessitate use of the MWRA water supply;
- The Town of Reading has made significant progress in improving water conservation and has committed to a range of conservation measures including leak detection, restricting outdoor water use, a rebate program for rain barrels, maintaining per capita residential use below 65 gallons per day and unaccounted-for water to less than ten percent;
- The MWRA, in its comment letter, has determined that the transfer of an additional 610 million gallons per year (an additional 1.67 mgd on average) will have an insignificant impact on the Quabbin Reservoir and discharges to the Swift River. I note that the project change is subject to review and approval by the Water Resources Commission (WRC) under the Interbasin Transfer Act (ITA) and, as part of this review process, the WRC will make a determination regarding impacts to the donor basin;
- MassDEP has indicated that the MWRA withdrawals, including the additional transfer proposed by the Town of Reading, is still within MRWA registered withdrawal volumes;
- The proposed increase in transfer from the MWRA system to Reading will require a mandatory EIR, which will serve as the ITA application to the Water Resources Commission.

This Phase I waiver is conditional upon the proponent's compliance with the conditions specified below:

As a condition of this Waiver:

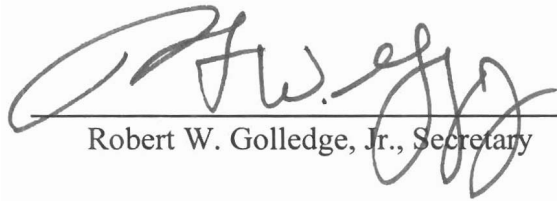
- **The proponent must submit** a Supplemental Final EIR in accordance with the Certificate on the NPC that I have issued separately today; and
- The proponent must comply with the conditions of the ACO including but not limited to:
  - The Town of Reading shall exercise best efforts to obtain all certificates, permits and approvals (including MEPA certificates and WRC approvals under the ITA) within one year of the effective date of the ACO;
  - The Town of Reading shall maintain its existing water supply source as an inactive water supply, and maintain its water treatment plant, distribution system, ownership and control of Zone I and II areas, and capacity to provide water in an emergency as further detailed in the ACO;
  - The Town of Reading shall comply with the conditions of the June 9, 2005 WRC decision, including those specified in the ACO;
  - If the Town of Reading does not receive a final certificate of adequacy on the Supplemental EIR, and other permits and approvals required by December 31 2007 (or a later date agreed by the parties to the ACO), the town shall immediately cease its receipt of water from the MWRA system under the ACO,

and obtain water pursuant to its WMA registration and the June 9, 2005 WRC decision.

Pursuant to Section 11.11 of the MEPA regulations and based on review of materials provided and consultation with state agencies, I have determined that the waiver request has merit. Therefore, I propose to grant the Phase I waiver requested for this project. This Draft Record of Decision (DROD) shall be published in the September 26, 2006 issue of the *Environmental Monitor* for a fourteen-day public comment period, after which I shall reconsider, modify, or confirm the waiver.

September 14, 2006

DATE

  
Robert W. Golledge, Jr., Secretary

Comments received

- 8/11/06 Town of Reading
- 9/01/06 Massachusetts Water Resources Authority (MWRA) Advisory Board
- 9/06/06 Water Supply Citizen's Advisory Committee
- 9/07/06 Ipswich River Watershed Association
- 9/07/06 Department of Environmental Protection, Northeast Regional Office
- 9/07/06 Commonwealth of Massachusetts Water Resources Commission (WRC)
- 9/08/06 Commonwealth of Massachusetts Riverways Program

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