

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

In the Year Nineteen Hundred and Ninety-Three

Resolution 93-14

To Protect the Endangered and Threatened Species and Their Habitat in Massachusetts and Cape Cod Bays.

WHEREAS, Massachusetts and Cape Cod Bays are extraordinary natural systems that represent both economic and environmental value to the Commonwealth of Massachusetts and to Cape Cod;

WHEREAS, The United State has highlighted the national significance of Massachusetts and Cape Cod Bays by:

- ⊗ designating the bays an Estuary of National Significance;
- ⊗ designating Stellwagen Bank as a National Marine Sanctuary; and
- ⊗ proposing the designation of eastern Cape Cod Bay as Critical Habitat for the right whale;

WHEREAS, The Massachusetts Water Resources Authority (MWRA) proposes to build an outfall to discharge up to 1.27 billion gallons a day of primary and secondary treated sewage effluent into Massachusetts and Cape Cod Bays;

WHEREAS, The United States National Marine Fisheries Service (NMFS) has prepared a Biological Opinion (Opinion) to evaluate the risk from the operation of the outfall to threatened and endangered species and their habitat. The NMFS found that the proposed outfall may affect endangered and threatened species and their habitat in Massachusetts and Cape Cod Bays;

WHEREAS, The Opinion sets forth non-binding Conservation Recommendations and Additional Studies for EPA's consideration when permitting the proposed outfall;

WHEREAS, The NMFS states that the implementation of the Conservation Recommendations and Additional Studies set forth in the Opinion, and attached to this resolution, serve two principal purposes: first, to diminish the conditions that may affect endangered and threatened species and their habitat, and second, to gather information that is necessary to further evaluate whether the operation of the outfall will jeopardize the continued existence of endangered and threatened species and their habitat; and

WHEREAS, At the October 18, 1993 hearing before the House Subcommittee on Environment and Natural Resources, the agencies in attendance made no commitment to incorporate the Conservation Recommendations and Additional Studies in the discharge permit, or attach them to the Court Order, or to conduct the additional studies called for in the Opinion.

NOW THEREFORE,

BE IT HEREBY RESOLVED, the Barnstable County Commissioner's and the Barnstable County Assembly of Delegates:

Call for the incorporation of all Conservation Recommendations and Additional Studies as mandatory conditions attached to the discharge permit issued under the provisions of the Clean Water Act, and/or as mandatory requirements of the Court Order or any other federal or state actions, to protect the integrity of the Cape Cod and Massachusetts Bays ecosystems.


Urge all responsible parties, including EPA, the National Oceanic and Atmospheric Administration (NOAA), the MWRA, the Massachusetts Executive Office of Environmental Affairs and its agencies, and the Conservation Law Foundation to take the actions necessary to ensure that these Recommendations and Additional Studies are implemented in a timely fashion.

Call on EPA and others, as necessary, to conduct the appropriate Additional Studies, as set forth in the Opinion, prior to issuance of any discharge permit under the Clean Water Act. We also urge all responsible parties to implement an appropriately scaled far-field monitoring program prior to the initiation of effluent discharge from the proposed outfall. This information is critical to making a determination of meaningful change in environmental conditions within the bays, as highlighted by Barnstable County's Science Advisory Panel in their review of the Biological Assessment and the Opinion.

In addition, we recommend that the following actions be taken:

1. Definition of clear goals and objectives for the monitoring program recommended in the Opinion to be used to determine change and to determine whether the contingency plan, also recommended in the Opinion, must be invoked. NMFS and other NOAA agencies, and EPA, in consultation with scientist with expertise and special qualifications in relevant fields of study, must define meaningful change in environmental conditions which will affect endangered and threatened species and their habitats.
2. Examination of the effect of growth on the sewage system and its future capacity in the recommended contingency plan. The contingency plan should also evaluate the actions needed as a result of any breakdown in the facility, and identify alternatives to using the proposed outfall.

Adopted on November 3, 1993 by the Assembly of Delegates.



Roland J. Dupont, Speaker

Approved by the Board of County Commissioners 11/3/93, at, 11:30 AM
Date Time

