

CONTACT: Kerry Mackin, Ipswich River Watershed Association
978-887-2313 or 978-223-8715 (cell)

Margaret Van Deusen, Charles River Watershed Association
781-788-0007 x 234

MEDIA RELEASE – FOR IMMEDIATE RELEASE

Superior Court rules for Ipswich River, denies Hamilton claims in water case

In a landmark ruling on river protection, Superior Court Justice Elizabeth M. Fahey overruled the Massachusetts Department of Environmental Protection (DEP) and ordered the agency to determine the “safe yield” of the Ipswich River. The Judge agreed with Ipswich River Watershed Association’s claim that the Water Management Act required DEP to make such a determination when it issued a revised water withdrawal permit to Hamilton. Safe yield, which plays an important role in the Act, is the amount of water that can safely and sustainably be pumped out of a river basin without damaging the river and its tributaries.

DEP acknowledged that it had allocated more water than the Ipswich River Watershed can sustain, but claimed it did not have to reconsider the safe yield even though it knew it was being exceeded and that the river’s ecological integrity was not being protected. Justice Fahey disagreed, and remanded the issue of safe yield to DEP for an accurate determination to be completed “as soon as possible.”

The Court also ruled that Hamilton’s water withdrawal permit conditions are necessary to protect the Ipswich River, despite Hamilton’s claims to the contrary. This was the second defeat for Hamilton regarding its claims about conservation requirements in its permit, following a similar decision issued last year by the DEP Commissioner, after a hearing and recommended decision by Magistrate James Rooney.

“Safe yield is fundamental to the Water Management Act, which was passed in 1986, but DEP has been allocating water for years while ignoring safe yield,” said Kerry Mackin, Executive Director of the Ipswich River Watershed Association. “We are very gratified that the Superior Court has ordered DEP to stop ignoring this pivotal aspect of the law.

“This is a huge victory for those working to protect rivers. It will benefit the Ipswich River and rivers throughout the state that are impacted by excessive water withdrawals and low flows,” said Margaret Van Deusen, attorney for the Charles River Watershed Association, who represented IRWA, Essex County Greenbelt Association and a group of concerned citizens in bringing the appeal in Superior Court. This case and one dismissing Topsfield's claims, are the first appeals of DEP’s water conservation requirements to be decided by a court, and the first judicial decisions interpreting the Water Management Act. The Ipswich River is the most highly stressed river in the state and was ranked the third most endangered river in the country by American Rivers, a national rivers group.

“We look forward to working with Hamilton and its residents and businesses, to help them comply with the requirements,” said Mackin. “The first order of business is to limit lawn watering. The Ipswich River has been experiencing low-flows since June 29th, so lawn watering is only allowed in the evening or early morning by hand-held hoses, including for those using private wells. The good news is that you don’t need to water lawns during hot dry periods – the grass will go dormant and green up again when the rains and cool weather returns.”

###