

Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

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September 19, 2016

VIA Certified Mail No.: 7014 1820000 1 3560 5991

Robin Crosbie, Town Manager  
Town of Ipswich  
Town Hall  
25 Green Street  
Ipswich, MA 01938

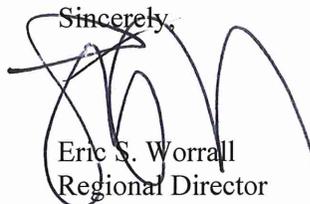
City/Town: Ipswich  
PWS Name: Ipswich Water and Sewer Division

PWSID: 3144000  
WMA Registration No. 31714402  
Emergency Declaration  
UAO-NE-16-F004

Dear Ms. Crosbie:

The Massachusetts Department of Environmental Protection (“MassDEP”) received a petition from the Town of Ipswich, dated September 19, 2016, requesting an Emergency Declaration under the provisions of the Water Management Act, M.G.L. c. 21G, §15 (the “petition”). According to the petition, due to drought conditions the Town’s ability to maintain a continuous supply of water to meet its demand has been compromised. As a result, the Town is seeking permission to use its three active sources in the Ipswich Basin (Winthrop Well #2 3144000-04G; Essex Road Wells 3144000-06G; and Fellows Road Well 3144000-07G) at volumes that may lead it to exceed the threshold volume for permitting of those sources. Attached is the MassDEP’s Declaration of State of Water Supply Emergency, No. UAO-NE-16-F004. MassDEP also recognizes that drought conditions in Ipswich have made it necessary to evaluate all public water supply options available as short and long term sources for the Town. MassDEP is committed to a continued dialogue with the Town in support of its efforts to conserve water and pursue alternative sources. If you have any questions regarding this letter, please contact me at (978) 694-3225.

Sincerely,



Eric S. Worrall  
Regional Director

cc: Vicki Halmen, Water Director  
Water Department  
272 High Street  
P.O. Box 151  
Ipswich, MA 01938

Town of Ipswich Board of Health  
Town Hall  
25 Green Street  
Ipswich, MA 01938

e-cc: Duane LeVangie, MassDEP-BWR-Boston  
Heidi M. Zisch, MassDEP-OGC-NERO

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and representing an immediate threat to the public health, safety or welfare of the residents of Ipswich.

6. The Town instituted water use restrictions on June 20, 2016, which were increased to a complete ban on non-essential water use on July 20, 2016.
7. The Water Management Act, M.G.L. c.21G, § 15, and the Water Management Regulations, specifically the section set out at 310 CMR 36.40(1), authorize any water system to petition MassDEP for a Declaration of a State of Water Supply Emergency if it finds that there exists or impends a water supply shortage of a dimension which endangers the public health, safety or welfare.
8. Pursuant to M.G.L. c.21G, § 15, and the Water Management Regulations set out at 310 CMR 36.40(2), MassDEP may declare a state of water emergency if it finds that there exists or impends a water supply shortage of a dimension which endangers the public health, safety or welfare. Further, in response to a petition for a Declaration of a State of Water Supply Emergency and pursuant to this statutory section, MassDEP may require the water supplier to submit for its review and approval a plan for restraining the use of water by whatever means it deems appropriate and feasible. The statute limits any Declaration of a State of Water Supply Emergency to no more than six months in the aggregate in any twelve month period, unless MassDEP determines that a longer state of emergency is required to protect the public health.
9. The Water Management Regulations at 310 CMR 36.40(3) authorize MassDEP staff to issue verbal declaration of a water supply emergency, which expires by the verbally set terms or by operation of 310 CMR 36.00 within ten (10) business days from the date of the verbal declaration, whichever is earlier, unless the public water supplier submits a written petition to MassDEP within the ten (10) business day period.
10. Furthermore, the Water Management Regulations at 310 CMR 36.40(2) provides:

Upon receiving a petition for a declaration of a state of water supply emergency, the Department may declare an emergency if it finds that there exists or impends a water supply shortage of a dimension which endangers the public health, safety or welfare, due to circumstances including, but not limited to:

  - (a) Demand for water exceeds the availability of water;
  - ...
  - (d) Inadequate source of water, inadequate distribution system capacity, inadequate storage capacity or drought including seasonal water shortages which repeatedly affect the same public water system....
11. Pursuant to the Water Management Act, M.G.L. c.21G, § 17, MassDEP may issue orders during a state of water emergency declared under M.G.L. c.21G, § 15 to, among other things, establish priorities for the distribution of any water or quantity of water use, to permit any person engaged in the operation of a water supply system to cease the

distribution of water, to distribute water to certain users as specified by MassDEP, and to require the implementation of specific water conservation measures.

### **Determination and Order**

12. For the reasons set forth above and pursuant to the Water Management Act, M.G.L. c.21G, § 15, MassDEP hereby determines that a water supply emergency exists and that it endangers the public health, safety or welfare of the citizens of the Town. Unless extended by MassDEP, this Emergency Declaration shall remain in effect until March 19, 2017 or until such time as MassDEP determines that emergency conditions no longer exist, whichever is sooner.
13. By issuing this Emergency Declaration, MassDEP hereby grants the Town authority to use its active registered sources (Winthrop Well #2 3144000-04G; Essex Road Wells 3144000-06G; and Fellows Road Well 3144000-07G) pursuant to Registration No. 31714402 above the registered volumes, subject to the following specific conditions:
  - A. The Town shall only utilize their Ipswich River Basin registered wells as needed to meet system demands greater than the available capacity of the Town's other available sources and should not exceed the Department approved maximum daily yield of those sources:

Well No. 04G should not exceed 0.23 mgd  
Well No. 06G should not exceed 0.21 mgd  
Well No. 07G should not exceed 0.31 mgd

The Town shall maintain records of any water pumped from these sources as required under the Regulations during the duration of this Declaration and provide those records to the Department on request.
  - B. The Town shall submit to MassDEP a written progress report every two (2) weeks on the capacity of the reservoir system, efforts to control demand both on the municipal system and by private well owners, and system-wide water use.
14. Effective immediately, the current town-wide ban on non-essential outside water use shall remain in place for the duration of this Emergency Declaration. For purposes of this Emergency Declaration, the term "nonessential outside water use" is defined to include those uses that do not have health or safety impacts, are not required by regulation, and are not needed to meet the core functions of a business or other organization. The Town shall have the authority to enforce these regulations through the assessment of penalties or the imposition of fines.
15. Within two (2) days of the date of issuance of this Emergency Declaration, the Town shall provide updated public notice to its consumers through the Town's Reverse-911

system of the issuance of this Emergency Declaration and the ban on all non-essential outdoor water use. The Town shall provide MassDEP with the written text of said notice by September 23, 2016. The Town shall continue to notify customers by any additional means, including but not limited to sign boards, notices on web site and social media, as deemed necessary. If the Town has published notice in a local newspaper and/or on the Town's website or by any other means, then the Town shall also submit a copy of the public notice to MassDEP within ten (10) business days of publication of the notice.

16. On or before November 1, 2016, the Town shall submit to MassDEP a written report documenting all efforts taken by the Town to implement and enforce the ban on nonessential outside water use required herein, including all actions taken by the Town to inform the public of the ban and to enforce the ban, including the assessment of penalties or imposition of fines. The report shall describe water use trends over the period of the emergency and describe progress and the status of all other conservation programs being implemented by the Town. The Town shall submit copies of all materials and notices prepared to inform the public of the need to conserve water and comply with the ban on nonessential outside water use.
17. The Town shall comply with all the remaining terms and conditions of its Water Registration No. 31714402 that remain unchanged by this Emergency Declaration.
18. If the Town fails to comply with the provisions of this Emergency Declaration, MassDEP may assess a civil administrative penalty as provided in M.G.L. c.21A, § 16 and M.G.L. c.21G, § 14. MassDEP may also seek civil judicial penalties as provided in M.G.L. c.21G, § 14. Each day of continued violation shall constitute a separate offense. In addition, MassDEP may ask the Attorney General to bring an action in the superior court to compel compliance with this Declaration.

Issued by the Department of Environmental Protection this 19<sup>th</sup> day of September 2016.

By

Eric S. Worrall, Regional Director

