



Organization for the Assabet River



November 3, 2005

Robert Golledge, Commissioner  
Department of Environmental Protection  
1 Winter Street  
Boston, MA 02108

Re: **Variations and No Net Loss Policy**

Dear Commissioner Golledge:

The undersigned organizations object strenuously to the variance recently issued for the Blue Hills Covered Storage Project. This variance decision sets a dangerous precedent. It departs from all previous variance decisions, which have consistently required a minimum of 1:1 mitigation for lost wetland resources. Setting aside the question of whether or not this particular project meets the “overriding public interest” test, it was completely uncalled for and unnecessary to issue a decision that not only allows net loss of over 8 acres of wetlands but also

repudiates the Department's endorsement of the No Net Loss policy adopted by the Water Resources Commission in 1990<sup>1</sup>.

The Department of Environmental Protection (DEP) has, for the past 15 years, consistently and repeatedly issued documents touting a wide variety of steps that it took to implement the No Net Loss policy. Every single variance decision issued during this time has upheld this vital policy, which is so fundamental to the state's wetlands protection goals. You have stated verbally to some of us that the Blue Hills Covered Storage Project was a "special circumstance," and that was why it is being allowed to proceed without a minimum of 1:1 mitigation. While we remain unconvinced of that, we are dismayed that you did not even explain those "special circumstances" in your variance decision. Furthermore, all variances by definition are special circumstances, and stating that this is a "special case" does not prevent this decision from being seen as setting a precedent. You could have drawn boundaries around this project to prevent future variance projects from asking that they too be allowed to fill acres of wetlands without mitigation. Instead, you inexplicably chose to disavow DEP's longstanding commitment to the No Net Loss policy.

The issue is clear and simple. Variance projects by definition entail large amounts of wetland alteration not otherwise allowed by the regulations. A minimum of 1:1 mitigation must be required for all such projects in the future.

We urge you in the strongest possible terms to take the following steps:

1. Grant the pending Motion for Reconsideration and revise your decision to require the replication recommended by the Administrative Judge.
2. Formally issue the No Net Loss Policy as a DEP Wetlands Program Policy;
3. Revise the Wetlands Regulations to require No Net Loss for all projects, including variances.

We also request a written reply to this letter addressing the substance of our concerns. Please reply to: Heidi Ricci, Senior Environmental Policy Specialist, Mass Audubon, 208 South Great Road, Lincoln, MA 01773.

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<sup>1</sup> Some of the undersigned groups believe that you should have endorsed the Adjudicatory Magistrate's recommended decision, while others feel that the project did not meet the overriding public interest test and should have been denied. Regardless, all of us are in agreement that all variance permits issued should require mitigation achieving No Net Loss of wetlands.

Sincerely,

Sue Bass  
Belmont Citizens Forum

Jane Winn  
Berkshire Environmental Action Team

Chelsea Reiff Gwyther, Executive Director  
Connecticut River Watershed Council

Peter Shelley, Vice President  
Conservation Law Foundation

Nancy Goodman, Vice President for Policy  
Environmental League of Massachusetts

Tom Palmer, President  
Friends of Blue Hills

Ken Pruitt, Executive Director  
Massachusetts Association of Conservation  
Commissions

E. Heidi Ricci, Sr. Environmental Policy  
Specialist, Mass Audubon

Bernie McHugh, Coordinator  
Massachusetts Land Trust Coalition

Janet Domenitz, Executive Director  
MASSIRG

Nancy Hammett, Executive Director  
Mystic River Watershed Association

Ian Cooke, Executive Director  
Neponset River Watershed Association

Julia Blatt, Executive Director  
Organization for the Assabet River

Kyla Bennett, Director  
New England PEER

James McCaffrey, Director  
Massachusetts Sierra Club

Robert W. Davis, Technical  
Advisor/Advocacy Director  
Taunton River Watershed Alliance

cc: EOEA Secretary Stephen Pritchard  
Patrick Flynn, DCR Director of Urban Parks