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## **Guidelines for Public Access to Commonwealth Lands under the Care and Control of MWRA 4/11/12**

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**GOAL:** To protect and preserve existing lands under the care and control of MWRA for water supply purposes, while authorizing and permitting public access consistent with good water supply practices. MWRA recognizes the importance of enhancing public access and public involvement in its facilities as a means of improving its own performance in facilities maintenance and building support from its ratepayers.

**POLICY:** It is the policy of MWRA to work with communities, open space and environmental stakeholders, and the public to authorize site specific public access upon Commonwealth lands under the care and control of MWRA. This public access policy refers to the MWRA controlled aqueduct right-of-ways of the Weston Aqueduct, Sudbury Aqueduct, Cochituate Aqueduct and the Wachusett Aqueduct, along with the lands surrounding the MWRA's Weston and Norumbega distribution reservoirs. This policy does not refer to sections of these aqueducts for which an easement over private property is held by MWRA and the Commonwealth of Massachusetts.

The completion of MWRA's Integrated Water Supply Improvement Program (IWSIP) identified the need to plan for the management of lands and facilities (aqueducts, distribution facilities, and reservoirs) that were required to remain part of the regional water system, but whose status was now downgraded to emergency back-up. These facilities would continue to be managed and maintained by MWRA, however, since scarce staff resources are now directed to properly managing the new facilities, the opportunity to work more closely with host communities and non-profits to continue to protect the water supply land has always been a planning and operations goal.

MWRA, in cooperation with MAPC and the communities in Metro-west, published a study in July 1998 on the feasibility of authorizing public access to retired aqueduct right-of-ways. The Beals and Thomas Study identified portions of aqueduct right-of-ways where MWRA controlled lands could be incorporated into local open space plans. The report included discussion of the types of appropriate uses (walking, running, hiking) and the legal, jurisdictional and management decisions that would be required to establish such a policy. Biking could be permitted, as long as the existing soils covering the top of and side slopes of the aqueduct (generally 3-5 feet) pipeline are protected from erosion. Stone dust or gravel or other treatments may be required.

In the intervening years, MWRA has established formal agreements with a few host communities in the form of 8(m) permits and an MOA. It is important to note that each location has unique characteristics and therefore requires the necessary flexibility to address those characteristics, which will be accomplished by customizing the terms of MWRA's required 8(m) permit to be issued for each location.

**MWRA has identified the following as required standards:**

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**General Public Access Permit Conditions**

**I. MWRA Protections**

MWRA retains care, custody and control of all lands and structures for the purpose of supplying potable water to communities in its service area. No public access activity can supersede this legislative mandate.

As it has with both the Deer Island and Nut Island public access areas, MWRA will work with the permittees and other stakeholders to develop a standardized signage plan that includes information to help educate the public about the water system and its important history, and to inform the public about rules and limitations applicable to use of public access areas. MWRA will have the right to approve of the design, dimensions and wording of any proposed signage.

MWRA has the right to review and approve in advance all of the permittee's work, including plans and specifications.

MWRA may enter upon any permitted location to carry out inspection, maintenance, repair and replacement of its property at any time and without prior approval of the permittee.

MWRA may revoke its 8(m) permit at any time, and the permit is not assignable or transferable.

Permitted activity shall not create additional maintenance responsibilities for MWRA. Permittees will be required to perform all necessary maintenance duties to the satisfaction of MWRA.

Each 8(m) permit shall provide for mutually agreeable release and indemnification terms which will protect MWRA from any and all claims, suits, and causes of action including loss, damage or destruction of property, for personal injury or death of any consultant, contractor, employee or agent of either the permittee or by any entity acting by or through the permittee, and from any member of the public. Permittee shall not charge any fee whatsoever for the right of the public to access or use any part of the land areas subject to MWRA's care, custody and control.

MWRA will maintain the right to impose without advance notice any emergency closure procedures to any permitted public access area in the event of a water supply emergency.

**II. Permittee Requirements**

Permittee shall develop and submit to MWRA for its approval a comprehensive Use and Access Plan which shall describe all principal uses of the area intended by the Permittee.

Permittee shall develop and submit to MWRA for its approval a Safety and Emergency Response Plan in conjunction with local police and fire departments, including police patrols when necessary.

Permittee shall be formed as a legal entity having the authority to agree to and to be bound by the terms of MWRA's 8(m) permit for the location to which public access is to be granted. MWRA's 8(m) permit will be issued in the name of that legal entity.

Permittee shall bear all costs and expenses of operation and maintenance of the areas subject to MWRA's 8(m) permit, and permittee shall not incur any expenses for the account of or in the name of MWRA.

Permittee will not, without the advance written approval of MWRA, clear, trim or cut any trees, shrubs or other natural growth on the permitted property. Permittee shall completely repair any damage resulting from trail use that compromises MWRA interests in the land.

Permittee shall be responsible for the development and operation of any trail system, including coordination with abutting property owners and other stakeholders.

Permittee shall cooperate with surrounding municipalities or other public entities in developing a regional passive recreational plan for MWRA lands in the area. All such plans shall require the advance review and approval by MWRA.

Permittee shall be responsible for collection and removal of trash and other debris.

No motor operated vehicles (e.g., dirt bikes, ATVs, etc.) will be permitted anywhere within any area subject to MWRA's 8(m) permit.

Permittee shall post signage acknowledging the trail as MWRA land, including phone numbers for emergency contact, and highlighting the rules and regulations governing public access to and use of the land. MWRA will have the right to approve of the design, dimensions and wording of any proposed signage.