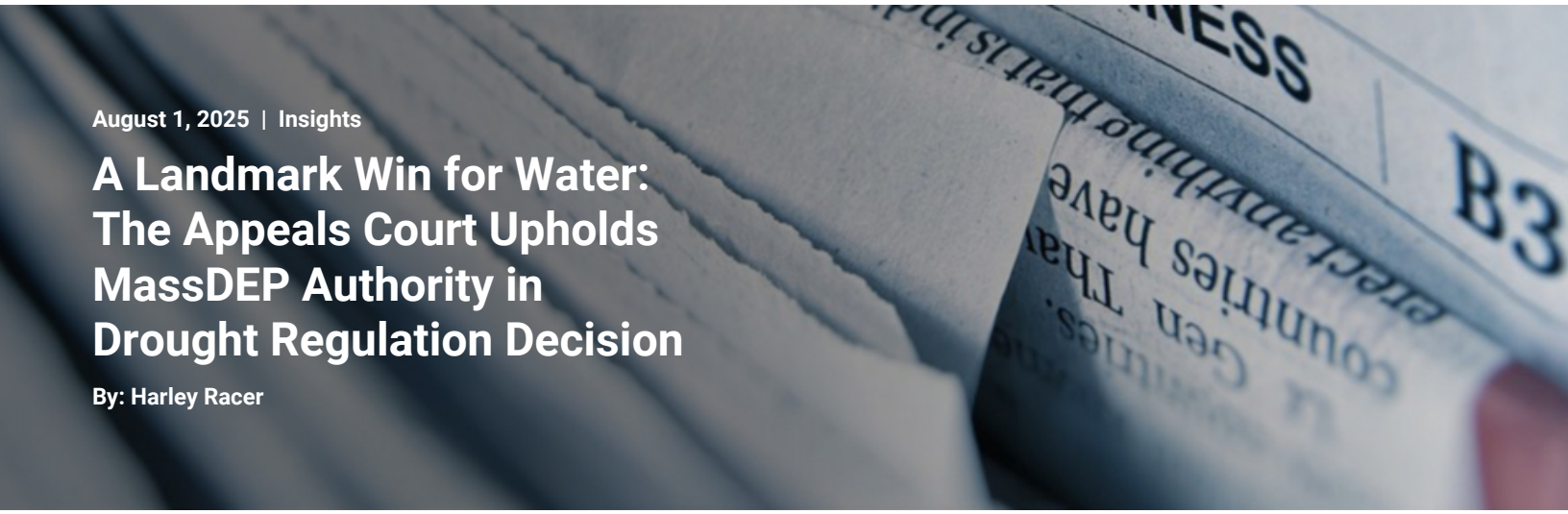

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# A Landmark Win for Water: The Appeals Court Upholds MassDEP Authority in Drought Regulation Decision

By: Harley Racer

We are pleased to share that the Massachusetts Appeals Court has affirmed a victory for sustainable water management and environmental equity. We represented our client, the Charles River Watershed Association (CRWA) as intervener, where we triumphed alongside MassDEP in *Springfield Water & Sewer Commission and others v. Department of Environmental Protection*, (24-P-931), July 31, 2025 published opinion.

Read the opinion

CRWA's intervention supported MassDEP not as an adversary, but as a co-defender of water conservation measures. From the start, we argued that climate-driven drought frequency, coupled with public and environmental health concerns, demands that regulators enforce meaningful conservation and not allow grandfathered entities to opt out. This decision closes the legal gap left by the leading case by confirming that MassDEP's drought-related regulations are permissible and enforceable, even against grandfathered public water suppliers.

This case arose when MassDEP adopted amended regulations to the Water Management Act (WMA) that requires enforceable conservation measures during drought declarations for water suppliers subject to registration statements. Among the new conditions is a requirement to restrict non-essential outdoor water use, e.g., lawn watering or car washing, during declared varying drought levels. Several municipal water suppliers, including the lead plaintiff Springfield Water & Sewer Commission, challenged the regulation, arguing it unlawfully infringed on their grandfathered water withdrawal entitlements under the WMA.

The Appeals Court affirmed a decision issued December 2023 (Suffolk Superior Court, Judge Ham), where the Court rightly recognized that while registrants retain their annual withdrawal entitlement, MassDEP has the authority to regulate when and how water is used during droughts in order to protect overall volumes, water quality, and ecological health.

The Appeals Court ruled that the water suppliers' ready of the WMA "would contravene" and "upend" the WMA's purpose "to manage and conserve water use so as to plan for

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future water needs, protect the natural environment of water and ensure an adequate volume and quality of water for all citizens in the commonwealth, both present and future."

This is a logical and balanced reading of both the WMA and existing precedent. The Supreme Judicial Court previously held in *Fairhaven* that MassDEP must promulgate conservation requirements via regulation, but has broad authority once regulations are in place. The Appeals Court reaffirmed that authority in this decision.

This decision affirms MassDEP's authority and that the agency is empowered to meaningfully respond to the effects that the changing climate will have on water resources and habitats in Massachusetts.

CRWA's press release is here.

*Disclaimer: This summary is provided for educational and informational purposes only and is not legal advice. Any specific questions about these topics should be directed to attorney Harley Racer.*

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