

Turf war slows data flow on Cape water quality

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WEST BARNSTABLE — A dispute between a state agency and the University of Massachusetts at Dartmouth over who owns scientific data threatens the Cape's effort to clean its coastal waters, local officials say.

Since July, UMass-Dartmouth's School of Marine Science and Technology has refused to sign its annual contract with the state Department of Environmental Protection to finish analyzing water quality data collected by southeastern Massachusetts towns. The data are necessary for municipalities to proceed with wastewater management plans and the cleanup of local bays and estuaries.

UMass-Dartmouth officials argue that the data and computer models developed by the marine science school Coastal Systems Program, under the direction of Dr. Brian Howes, do not belong to the DEP as claimed in the contract.

"That stalemate is slowing everything down," Paul Niedzwiecki, executive director of the Cape Cod Commission, said at yesterday's meeting of the county's Wastewater Collaborative in West Barnstable. "This is the bottom. The straw that could break the camel's back."

Howes and the school were criticized Tuesday by State Auditor Joseph DeNucci for the mismanagement of contracts connected with the estuaries project. A state audit found inadequate documentation, no-bid contracts and a potential conflict of interest by Howes, who had not disclosed a former business relationship with a Cape company, Applied Coastal Research and Engineering of Mashpee, to which he guided grant money.

Howes's longtime collaborator, engineer John Ramsey, is a principal in Applied Coastal.

UMass-Dartmouth officials defended the school and Howes Tuesday but said they had taken steps to correct the issues.

Both UMass and DEP officials said yesterday that the contract stalemate will not doom the estuaries project.

"Everybody wants to see its success and believes it is a quality project and potentially a national model," said UMass spokesman John Hoey.

"We think we're close to reaching an agreement," said DEP spokesman Ed Coletta. "We look forward to continuing with SMAST. There's no question we're happy with the quality of the work so far."

The contract issue, however, remains a thorn for Cape towns, which want their data.

"Orleans has spent \$250,000 to get this stuff," said Augusta McKusick, Orleans representative to the Wastewater Collaborative. "We're talking about filing a Freedom of Information Act request to get our data."

Orleans was first promised its analysis by 2005, McKusick said. Town officials want to discuss funding for wastewater solutions at a spring town meeting, but are missing the information that tells them what they need to do.

The estuaries project is mandated by the federal Clean Water Act to clean unhealthy water bodies. The state has estimated it could cost towns in Southeastern Massachusetts billions of dollars to do that through sewers and other watershed protection methods.

Since 2001, the DEP and coastal towns have been identifying estuaries and bays that are endangered by nitrogen and other contaminants from septic systems, roadways, lawns and other sources. The nitrogen, which comes mostly from septic systems, fuels algal blooms that rob the water of oxygen and kill fish, plants and animals.

UMass's role is to take data provided by towns and other organizations and run it through a computer model developed by Howes and Ramsey that combines groundwater data with the physical characteristics of a water body to show how it responds to nitrogen.

The report lays out the maximum levels of nitrogen for each bay or estuary and a way to evaluate the effectiveness of proposed solutions.

But UMass and the DEP disagree over who owns the data behind those reports.

Howes said he is not involved in contract negotiations but that one problem is that some of the data was provided by towns and other organizations that did not sign away their intellectual property rights.

"We also provided millions of dollars worth of data we collected before the Massachusetts Estuaries Project began," Howes said.

He said that data has never been included as part of previous annual contracts.

The marine science school is also considering a fee-based service that would offer the computer model and data to communities as a way to monitor water quality and ensure compliance.

The contract issue is a "misunderstanding" rather than a dispute, Howes said. The University of Massachusetts has a clear policy on intellectual property rights that he believes DEP did not understand.

Howes also responded yesterday to the auditor's accusations.

Poor record keeping did occur as the university was transitioning from a small teachers college to a research institution, he said, adding that many of those practices has since been rectified. He also said that he was collaborating with Ramsey on nitrogen research and didn't need to go through a competitive bid process to award a contract to Ramsey's company.

"The main thing is that we've spent five years on this project and, for the past three years we've delivered everything we've been asked to do on time and on budget," Howes said. "We're saving everyone millions of dollars. We need to keep this project moving forward."

Andrew Gottlieb, executive director of the Cape's wastewater collaborative, worried yesterday that the good work done by the estuaries project will go to waste if the state has find someone other than the

UMass-Dartmouth scientists to complete the project.

He is writing letters to the DEP and possibly others in the Patrick administration, he said, urging a speedy resolution and reaffirming the worth of the project.

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Estuaries project

The project is under the state Department of Environmental Protection as mandated by the federal Clean Waters Act.

- It identifies estuaries and bays that are endangered by nitrogen and other contaminants from septic systems, roadways, lawns and other sources. Nitrogen fuels algal blooms that kill fish, plants and animals.
- The DEP contracts with the Coastal Systems Program of the School of Marine Science and Technology at the University of Massachusetts-Dartmouth under the direction of Dr. Brian Howes. The program provides towns with data analysis of water-quality samples and computer models of how contaminants affect local waterways.
- Since July, UMass-Dartmouth has refused to renew the program's contract with the DEP, saying that the data created and analyzed by the university does not belong to the state.