

# Dispute over UMD data threatens coastal cleanups

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A dispute between the Department of Environmental Protection and UMass Dartmouth over who owns scientific data is threatening to derail local efforts to clean up nitrogen-polluted waters along the coast of Southeastern Massachusetts.

For the past six months, DEP's partner, the University of Massachusetts School of Marine Science and Technology, has refused to sign a contract to finish the analysis of data that towns in SouthCoast and on the Cape have collected. That analysis, released in a final report, is necessary for municipalities going forward with wastewater management plans that will start the actual cleanup of polluted estuaries.

"These estuary project reports are the absolute critical next step for cleaning up nitrogen pollution in Buzzards Bay," said Mark Rasmussen, executive director of the Coalition for Buzzards Bay. "We can't move ahead until we get these reports. They are critical."

He worries the contract dispute could delay restoration efforts already under way in estuaries such as the Westport River and Fairhaven's Nasketucket Bay. Towns such as Mattapoissett and Marion, which have yet to analyze Sippican Harbor, Aucoot Cove and other estuaries, could also be affected, he said.

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 belong to the university, not to the DEP as claimed in the contract.

Dr. 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 Dr. Howes who had not disclosed a former business relationship with a Cape Cod company, Applied Coastal Research and Engineering of Mashpee, to which he guided grant money. Dr. Howe's longtime collaborator, engineer John Ramsey, is a principal in Applied Coastal.

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

Both UMass and DEP officials said Wednesday 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 local communities, which want their data.

The stalemate "is slowing everything down," said Paul Niedzwiecki, executive director of the Cape Cod Commission at a meeting of the county Wastewater Collaborative Wednesday morning in West Barnstable.

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

She said Orleans was first promised its analysis would be done by 2005. They scheduled a Town Meeting for next spring to deal with funding wastewater solutions, but are still missing the information that would tell them what they need to do.

Since 2001, the DEP and coastal towns have been identifying estuaries and bays with water-quality issues caused by nitrogen and other contaminants from septic systems, roadways, lawns and other sources.

Nitrogen, mainly from septic systems, is the primary contaminant targeted because it fuels algal blooms that rob the water of oxygen and can kill fish, plant and animal life.

Known as the Massachusetts Estuaries Project, and run by the DEP, the program is mandated by the federal Clean Water Act to restore those unhealthy water bodies. The state has estimated it could cost towns in Southeastern Massachusetts billions to do that through public sewerage, and other watershed protection methods.

SMAST's critical role is to take data provided by towns and other organizations and run it through a computer model that combines groundwater data with the physical characteristics of the particular bay or estuary to give a picture of how it responds to nitrogen. The result is a report that lays out the maximum levels of nitrogen for each water body and a way to evaluate the effectiveness of proposed solutions.

"It gives you your restoration goal," Mr. Rasmussen said.

At the crux of the argument is an intellectual property dispute over who owns the data behind those reports.

Dr. Howes, director of the SMAST Coastal Systems Program, along with Mr. Ramsey developed the computer model. While he is not involved in contract negotiations, he said one of the problems is that some of the data was provided by towns and other organizations who 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," Dr. Howes said.

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

According to Dr. Howes, SMAST is also considering creating a fee-based service using their computer model and the data they would offer to communities as a way to inexpensively monitor water quality to ensure compliance.

Wednesday, Dr. Howes explained that poor record keeping did occur as the university was transitioning from a small teachers college to a research institution. He said many of those poor practices have since been rectified. He also said that he was collaborating with Dr. Ramsey on nitrogen research and didn't need to go through a competitive bid process to award a contract to his 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," Dr. Howes said. "We're saving everyone millions of dollars (compared with towns hiring individual analysts). We need to keep this project moving forward."

Wastewater Collaborative Executive Director Andrew Gottlieb worried that the good work done by the project could be lost if the state has to go out and find someone other than SMAST to complete the project.

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

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