



*Summary of:*

## **MWRA BOARD OF DIRECTORS' MEETING**

**January 15, 2003**

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A meeting of the Board of Directors of the MWRA was held on **January 15, 2003** at the Charlestown Navy Yard. **Present:** John Carroll, Andrew Pappastergion and Joseph Foti, Advisory Board Representatives; Chair Ellen Roy Herzfelder, Lucile Hicks and Donald Mitchell, Gubernatorial Representatives; Kevin Cotter, Vincent Mannering and Antonia Pollak, City of Boston Representatives; Marie Turner, Town of Winthrop Representative; Joseph MacRitchie, City of Quincy Representative.

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### **AGENDA**

#### **Report of the Chair**

Ellen Roy Herzfelder, as the newly appointed Secretary of the Executive Office of Environmental Affairs, introduced herself and expressed enthusiasm for her role as the MWRA Board Chair. Ms. Roy Herzfelder's years of working in the electric utility industry formed her understanding of construction, operations and maintenance issues such as the Authority faces. She added that Governor Romney and Douglas Foy, Chief of Commonwealth Development, wish to blend environmental solutions with business and economic realities.

#### **Report of the Executive Director**

Fred Laskey, MWRA Executive Director, welcomed Ms. Roy Herzfelder as the new Board Chair.

This week two accidents took place at the Deer Island Treatment Plant (DITP), one of which resulted in two contractor's employees being burned on the face and hands. Boston and Winthrop police, as well as OSHA are investigating the incident. One of the employees lit a cigarette while working on a digester. Smoking is not allowed at the DITP and signs are posted throughout.

The University of Massachusetts is interested in conducting a wind power study at Deer Island. With no associated costs MWRA would be provided with valuable information on energy alternatives. Mr. Laskey expressed support for participating, but noted that doing so should not be interpreted as MWRA endorsing the controversial windmill projects being considered for the Massachusetts coastline.

The Board's recent decision not to renew the lease of property at the Fore River Shipyard that is home to the USS Salem has been receiving negative press. MWRA has been accused of evicting the tenant, though in truth the Authority's mission does not include acting as a landlord. Ten years ago MWRA agreed to lease the waterfront property for \$1,000 per month. Since that time the tenant has had numerous rent and insurance policy defaults, which

staff estimates have resulted in an \$89,000 outstanding debt to MWRA.

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## APPROVALS

### Capital Project Review

The Board voted to authorize staff to take the necessary steps to implement the deferral of selected capital projects, including obtaining any necessary regulatory approvals, in order to defer over \$63 million of capital spending from the FY03-05 timeframe to FY06 and beyond. Additionally, the Board directed staff to continue to work with the Capital Improvement Program (CIP) Review Committee and the Advisory Board to identify other deferral opportunities as part of the review and approval process for the Proposed FY04-06 CIP.

The capital budget will be capped at no more than \$263.5 million in FY04 and \$225.5 million in FY05 (reflecting \$63 million in reduced, deferred capital expenditures). In multi-year, ongoing or unawarded contracts, underspent budgeted dollars would be rolled over. In the case of newly awarded contracts, if the award were lower than the budgeted amount, the difference would further reduce the capital budget and the ten-year spending cap.

The Board further directed staff to meet with Court parties as soon as possible to discuss and negotiate revisions to the combined sewer overflow (CSO) project scopes and schedules. The CSO program represents approximately 40% of total capital spending scheduled from FY06-09. Changing the program schedule could have a substantial impact on future rate increases. Staff will report back to the Board in February 2003.

Most of the contracts scheduled for the FY03-08 timeframe entail significant spending on CSOs. While staff does not recommend a moratorium on projects, \$18 million less in rate revenue would be required if deferments were implemented. However, this plan could negatively impact rates beyond FY08.

Staff has worked through differences with the Advisory Board, which did not agree that MWRA's initial deferral plan went far enough. MWRA has agreed to adopt the Advisory Board's recommendations to roll over unspent funds and reduce the cap by the cost differential between original estimates and lower than anticipated contract awards.

Mr. MacRitchie stated that, given that during a weak economy original estimates are often lower than contract awards, it could prove more costly in the long run to defer projects now. Mr. Mannering noted that the Board is delaying projects at a time of low interest rates and contract costs. While MWRA does not want to further burden communities, it has to consider the long-term advantages of reduced costs. Mr. Carroll responded with support for delays.

Ms. Turner stated that the Big Dig is supposed to be complete in 2005. Given how weak the economy is, it is possible construction costs could remain low for some time. Staff added that the start-up of the Boston Harbor Project (BHP) predated the Big Dig, which proved advantageous to MWRA on bid costs.

Ms. Hicks asked staff to clarify its approach to seeking relief from the courts and regulatory agencies on mandated projects. Mr. Laskey responded that he met last week with officials from the federal Environmental Protection Agency and they expressed openness to further discussions. Nancy Kurtz, MWRA Chief Legal Counsel, added that it has been the Authority's practice to develop consensus among parties before approaching the courts. MWRA has rarely sought relief unilaterally.

Mr. Laskey stated that if relief is achieved on the CSO projects and debt service assistance were reinstated in the future, he would advocate placing deferred projects back on schedule. Mr. MacRitchie expressed concern that the Board will look back to this time and regret delaying projects.

Joseph Favaloro, Executive Director of the MWRA Advisory Board, stated that there is no single solution to MWRA's fiscal crisis. There is no joy in implementing layoffs nor imposing rate increases on communities, but steps must be taken now to reduce costs. We are not tearing apart the capital budget but simply tweaking it.

**Payment to the Town of Braintree Regarding MWRA's Past Use of Howard Street Pump Station**

The Board voted to authorize the Executive Director, on behalf of the Authority, to pay the Town of Braintree an amount not to exceed \$183,603.45 for MWRA's use of the Howard Street Pump Station from FY93-02, pursuant to a March 19, 1990 agreement. The cost to reimburse Braintree for these expenses was not included in the approved FY03 Current Expense Budget (CEB). It will be absorbed into the overall FY03 CEB and will be paid in two installments: 50% in FY03 and 50% at the start of FY04.

Mr. Favaloro asked why ratepayers are funding the City of Quincy's flow through Braintree's system. Mr. MacRitchie stated that Quincy pays a conveyance charge for its flow. Mr. Favaloro responded that ratepayers should be held harmless and all costs should be borne by Quincy.

**Delegation of Authority to Bring Litigation to Enforce MWRA's Regulations, Permits, Penalties and Administrative Orders**

The Board voted to delegate to the Executive Director the authority to initiate and pursue litigation to enforce MWRA's regulations, permits, penalties and administrative orders for its industrial pretreatment program. The Board's vote will allow Mr. Laskey to expeditiously initiate litigation. Staff will update the Board on a regular basis.

**Proposed Amendments to MWRA Enforcement and Administrative Penalties and Sewer Use Regulations**

The Board voted to authorize staff to publish notice of proposed amendments to MWRA's Enforcement and Administrative Penalty Regulations and Sewer Use Regulations in the Massachusetts Register and newspapers for public comment. Staff will subsequently submit an Environmental Notification Form for the applicable amendments to the Massachusetts Environmental Policy Act office. The Board further voted to authorize staff to adopt amendments to the Regulations by publication in the Code of Massachusetts Regulations if staff receives no substantive negative comments about the amendments during the public comment period.

The amendments include changes to the local limits for both the Boston Metropolitan and Clinton sewerage service areas; increases to the annual charges paid by permit holders; adoption of a fee for direct connection permits; and streamlining of the permitting process. If adopted, the amendments will increase annual revenue collected from the charges program by approximately \$100,000.

**Approval of Calendar Year 2003 Affirmative Action Plan**

Vote postponed until the February 12, 2003 Board meeting.

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**CONTRACT AWARDS****NPDES Compliance Program - Aquatic Toxicity Testing: EnviroSystems, Inc., Contract OP-7**

The Board voted to approve the award of Contract OP-7, NPDES Compliance Program - Aquatic Toxicity Testing, to the lowest responsive bidder, EnviroSystems, Inc. The Board further voted to authorize the Executive Director, on behalf of the Authority, to execute and deliver said Contract in the bid amount of \$57,200 for a term of 730 calendar days from the Notice to Proceed.

Funds have been included in the FY03 CEB for this Contract. Funds will also be included in the Proposed FY04 CEB.

**Technical Assistance Consulting Services - Deer Island Treatment Plant: Metcalf & Eddy, Inc. and Fay, Spofford & Thorndike, Inc., Contracts 6701 and 6874**

The Board voted to approve the recommendation of the Consultant Selection Committee to select Metcalf & Eddy,

Inc. and Fay, Spofford & Thorndike, Inc. to provide as-needed technical assistance consulting services for the DITP. The Board further voted to authorize the Executive Director, on behalf of the Authority, to execute Contract 6701 with Metcalf & Eddy, Inc. and Contract 6874 with Fay, Spofford & Thorndike, Inc., for not-to-exceed amounts of \$375,000 and for one year terms from the Notices to Proceed. Additionally, the Board voted to authorize the Executive Director to issue separate Notices to Proceed for second one-year terms for each Contract, if recommended by staff, for not-to-exceed amounts of \$375,000. The FY03-05 CIP includes \$750,000 for the two Contracts.

**Rehabilitation of Weston Aqueduct Supply Mains 1 & 2: P. Caliacco Corp., Contract 6281**

The Board voted to approve the award of Contract 6281, Rehabilitation of Weston Aqueduct Supply Mains (WASM) 1 & 2, to the lowest responsive bidder, P. Caliacco Corp., and to authorize the Executive Director, on behalf of the Authority, to execute said Contract in the bid amount of \$7,333,511, with a term of 880 calendar days from the Notice to Proceed.

Contract 6281 includes rehabilitation of sections of WASMs 1 & 2, which are located in easements through the Newton Commonwealth Golf Course. It also includes rehabilitation of a section that is located at the intersection of Commonwealth Avenue and Lake Street in Boston. The FY03-05 CIP includes \$10,371,000 for Contract 6281, a golf course restoration allowance of \$235,000 for the City of Newton, and a final paving allowance of \$46,000 for the City of Boston.

**Provision and Maintenance of Temporary Disinfection Facilities at Wachusett and Norumbega Reservoirs: R.H. White Construction Co., Inc., Bid WRA-2211**

*[A piping connection between the new Walnut Hill Water Treatment Plant (WHWTP) and Shaft C of the Cosgrove Tunnel, Wachusett Aqueduct, MetroWest Water Supply Tunnel (MWWST) and Norumbega Covered Storage Tanks will be required to supply MWRA's water system. During the time the connection is being made, temporary disinfection facilities will be needed to provide the required level of disinfection. A temporary chlorination facility will be established at the upstream end of the Wachusett Aqueduct and a temporary chloramination facility will be established at the Norumbega Tanks.]*

The Board voted to approve the award of a purchase order to provide and maintain temporary disinfection facilities at the Wachusett and Norumbega Reservoirs to the lowest responsive bidder, R.H. White Construction Co., Inc. The Board further voted to authorize the Executive Director, on behalf of the Authority, to execute said purchase order in the amount of \$1,439,800, with a contract term of twenty-seven months from the Notice to Proceed.

The FY03-05 CIP includes \$612,000 for this purchase order, resulting in an \$827,000 shortfall. Bids came in significantly higher than the original engineer's estimate. After staff identified some techniques to cut project costs, it was re-released for bid. Limited interest was generated due to the unique and specialized nature of the work. It consists of providing, maintaining and removing equipment and materials necessary for the facilities. Staff states in its summary that if this additional amount causes the CIP budget to exceed the ten-year spending cap or the cap for any of the first three years, reductions will be made elsewhere.

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**CONTRACT AMENDMENTS/CHANGE ORDERS**

**Chelsea Interceptor Relief Project: Bryant Associates, Contract 6198, Amendment 3**

The Board voted to authorize the Executive Director, on behalf of the Authority, to approve Amendment 3 to Contract 6198, Chelsea Interceptor Relief Project, with Bryant Associates, Inc., extending the term for an additional 243 days to August 31, 2003. Amendment 3 will provide six additional months for construction and two additional months for completion of the first year certification reports by the Consultant.

**Quincy Pumping Station: Gioioso & Sons, Inc., Contract 5407, Change Order 8**

The Board voted to authorize the Executive Director, on behalf of the Authority, to approve Change Order 8 to Contract 5407, Quincy Pumping Station, with P. Gioioso & Sons, Inc., in the amount of \$105,508. The Board further voted to authorize the Executive Director to approve additional change orders as may be needed to Contract 5407 in amounts not to exceed the aggregate of \$250,000.

Change Order 8 includes the estimated quantities of certain unit price bid items and rental of a paint-stripping machine to remove lead paint. Materials containing lead and asbestos were identified in a survey performed for MWRA in 1990. Recent testing revealed lead paint and asbestos in areas the survey had missed.

Change Order 8 increases the cumulative change order total to \$290,728.79, added to the original contract amount of \$6,538,642, for a revised contract total of \$6,829,370.79. The FY03-05 CIP includes \$6,920,000 for Contract 5407.

**Walnut Hill Water Treatment Plant, Cosgrove and Wachusett Intakes: J.F. White Contracting Company, Contract 6207, Change Order 35**

*[A piping connection between the new WHWTP and Shaft C of the Cosgrove Tunnel, Wachusett Aqueduct, MWWST and Norumbega Covered Storage Tanks will be required to supply MWRA's water system. During the time the connection is being made, temporary disinfection facilities will be needed to provide the required level of disinfection. A temporary chlorination facility will be established at the upstream end of the Wachusett Aqueduct and a temporary chloramination facility will be established at the Norumbega Tanks.]*

The Board voted to authorize the Executive Director, on behalf of the Authority, to approve Change Order 35 to increase Contract 6207, WHWTP, Cosgrove and Wachusett Intakes, with J.F. White Contracting Company, in an amount not to exceed \$600,000 and to extend the time for completion by eighty-seven calendar days to May 12, 2003. The Board further voted to authorize the Executive Director to approve additional change orders as may be needed to Contract 6207 in amounts not to exceed the aggregate of \$250,000.

Change Order 35 includes such items as mechanical piping, instrumentation, electrical equipment, grading and paving to support the temporary chloramination station at Wachusett. The Contractor received the design at the end of October 2002 and is still in the process of submitting a cost proposal and schedule. Upon submittal, the final cost of Change Order 35 will be negotiated; however, the critical nature of the disinfection facility has required work to begin in the meantime.

Change Order 35 increases the cumulative change order total to \$4,183,573, added to the original contract amount of \$10,930,100, for a revised contract total of \$15,113,673. The FY03-05 CIP contains \$14,325,000 for Contract 6207, resulting in a \$788,673 shortfall. Staff states in its summary that if this additional amount causes the CIP to exceed the ten-year spending cap or the cap for any of the first three years, reductions will be made elsewhere.

Ms. Hicks asked staff whether the Board should continue to expect large change orders. Staff responded that Change Order 35 should be larger than future change orders, but cautioned that unforeseen circumstances could arise.

**Norumbega Reservoir Covered Storage Design/Build Project: Norumbega Constructors - J.F. White Contracting Co./Slattery Skanska, Inc., Contract 6213, Change Order 10**

*[A piping connection between the new WHWTP and Shaft C of the Cosgrove Tunnel, Wachusett Aqueduct, MWWST and Norumbega Covered Storage Tanks will be required to supply MWRA's water system. During the time the connection is being made, temporary disinfection facilities will be needed to provide the required level of disinfection. A temporary chlorination facility will be established at the upstream end of the Wachusett Aqueduct and a temporary chloramination facility will be established at the Norumbega Tanks.]*

The Board voted to authorize the Executive Director, on behalf of the Authority, to approve Change Order 10 to Contract 6213, Norumbega Reservoir Covered Storage Design/Build Project, with Norumbega Constructors - J.F. White Contracting Co./Slattery Skanska, Inc., in an amount not to exceed \$618,000. The Board further voted to authorize the Executive Director to approve additional change orders as may be needed to Contract 6213 in amounts

not to exceed the aggregate of \$250,000.

Change Order 10 addresses construction needs for the temporary chloramination area and backfilling at Shaft N. It increases the cumulative change order total to \$3,619,373.54, added to the original contract amount of \$89,400,000, for a revised contract total of \$93,019,373.54. The FY03-05 CIP includes \$92,427,000 for Contract 6213, resulting in a \$592,374 shortfall. Staff states in its summary that if this additional amount should cause the CIP budget to exceed the ten-year spending cap or the cap for any of the first three years, reductions will be made elsewhere within the CIP.

**Rehabilitation of Weston Aqueduct Supply Mains 1 & 2: Camp, Dresser & McKee, Inc., Contract 6142, Amendment 4**

The Board voted to authorize the Executive Director, on behalf of the Authority, to approve Amendment 4 to Contract 6142, Rehabilitation of Weston Aqueduct Supply Mains 1 & 2, with Camp Dresser and McKee, Inc., to extend the time for completion by 580 calendar days to July 2, 2006.

**Northern High Service - Connecting Mains from Section 91: SEA Consultants, Inc., Contract 5165, Amendment 2**

The Board voted to authorize the Executive Director, on behalf of the Authority, to approve Amendment 2 to Contract 5165, Northern High Service - Connecting Mains from Section 91, with SEA Consultants, Inc., to extend the time for completion by 456 days to August 30, 2003. The purpose of Amendment 2 is to retain the services of SEA until completion of the warranty period.

**Walnut Hill Water Treatment Plant, Ozonation Treatment Facilities: Barletta-Shea, Joint Venture, Contract 6489, Change Order 33**

The Board voted to authorize the Executive Director, on behalf of the Authority, to approve Change Order 33 to Contract 6489, WHWTP, Ozonation Treatment Facilities, with Barletta-Shea, Joint Venture, in the amount of \$429,570. The Board further voted to authorize the Executive Director to approve additional change orders as may be needed to Contract 6489 in amounts not to exceed the aggregate of \$250,000.

Change Order 33 increases the cumulative change order total to \$7,819,159, added to the original contract amount of \$116,844,000, for a revised contract total of \$124,663,159. The FY03-05 CIP contains \$122,718,000 for Contract 6489, resulting in a \$1,945,159 shortfall. Staff states in its summary that if this additional amount causes the CIP budget to exceed the ten-year spending cap or the cap for any of the first three years, reductions will be made elsewhere.

Ms. Hicks stated that this project is not even halfway complete, yet change orders are already numbering in the thirties. Staff responded that the largest change order thus far has been for security upgrades.

Ms. Hicks asked staff whether the Board should expect more costly change orders. Staff stated that significant building design changes could be necessary to conform to occupational safety requirements. Ms. Pollak asked why the original design plans did not contemplate the safety issues. Staff responded that MWRA is "feeling its way" through this contract as no comparable project has been undertaken in the U.S.

**Spot Pond Supply Mains, Sections 4, 5, 6, 7, 11, 12, 16W, 57 & 67: P. Gioioso & Sons, Inc., Contract 6381, Change Order 1**

The Board voted to authorize the Executive Director, on behalf of the Authority, to approve Change Order 1 to Contract 6381, Spot Pond Supply Mains, Section 4, 5, 6, 7, 11, 12, 16W, 57 & 67, with P. Gioioso & Sons, Inc., in the amount of \$255,677. The Board further voted to authorize the Executive Director to approve additional change orders as may be needed to Contract 6381 in amounts not to exceed the aggregate of \$250,000.

The purpose of Change Order 1 is to provide a second coating of cement mortar lining of an area of pipeline located in Somerville and constructed approximately fifty years ago. After Contract 6381 was awarded, the Contractor discovered the pipe was lined with coal tar epoxy, which contains a volatile organic compound.

Change Order 1 increases the original contract amount from \$19,483,200 to \$19,738,867. The FY03-05 CIP contains \$19,483,000 for Contract 6381, resulting in a \$255,667 shortfall. Staff states in its summary that if this additional amount causes the CIP budget to exceed the ten-year spending cap or the cap for any of the first three years, reductions will be made elsewhere.

***Southern Extra High, Sections 41/42 & 74 Water Main Replacement: Paolini Corp., Contract 6300, Change Order 5***

The Board voted to authorize the Executive Director, on behalf of the Authority, to approve Change Order 5 to Contract 6300, Southern Extra High, Sections 41/42 & 74 Water Main Replacement, with Paolini Corporation, extending the term for an additional 239 calendar days to August 16, 2003. The purposes of Change Order 5 are to extend the contract beyond a winter moratorium imposed by the City of Boston and to complete construction and disinfection of new pipelines.

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## INFORMATION

***The State of the Harbor Report: Mapping the Harbor's Recovery and the Outfall Monitoring Overview 2001***

Staff outlined two reports for the Board. The *State of the Harbor* documents a timeline of the BHP, highlighting construction milestones, treatment improvements and changes to the quality of MWRA discharges. It also examines changes in the Harbor during the ten years preceding the start-up of the Outfall Tunnel. The report briefly describes the minimal impacts the Outfall has had on the Harbor and Massachusetts Bay. It will be widely distributed to regulatory agencies, public officials, environmental groups and other interested parties.

In November 2002 the *Outfall Monitoring Overview 2001* was submitted to regulatory agencies as required by MWRA's NPDES permit. It documents the first full year of monitoring results in the Bay since the Outfall began operating in the fall of 2000.

Improved treatment and pretreatment dramatically reduced pollutant discharges. Bacteria levels lessened as well, although some problems do remain in the Neponset River. However, much of the Harbor meets the most stringent water quality requirements.

Bio-diversity has doubled since 1991, when a typical sea floor grab would catch eighteen species. The current average is thirty species. Photographs comparing 1990 and 1998 indicate that in the former year no life existed within the Harbor's sediments; in the latter year a variety of species are identifiable. Staff attributes this change to an increase of oxygen in the sediments from ending sludge discharges.

Professional services in support of the permit-required monitoring cost approximately \$4 million annually. Staff is working to reduce costs by using collected data to support the design of a more efficient monitoring program. There is a provision within MWRA's NPDES permit that allows for changes, provided they meet public notification and regulatory requirements. In November 2002, staff proposed some minor changes for 2003. If they are adopted, MWRA will save \$55,000 annually.

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*This summary does not include every item discussed by the Board, nor the full extent of the discussions. Please contact Nathalie Dailida at the Advisory Board office with questions, comments and requests for additional information.*