FY 2024 Comments and Recommendations

on the MWRA's Proposed
Capital Improvement Program & Current Expense Budget

MWRA
Advisory Board

MAY 2023

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The MWRA Advisory Board...

was established by the State Legislature to represent 60 communities in the MWRA service area. Through annual comments and recommendations on the Authority's proposed capital and current expense budgets and rates, the Advisory Board provides a ratepayer perspective on the MWRA's plans and policies to improve the region's water and sewer systems.

Introduction

Five years ago, the Advisory Board presented a follow-up challenge to the MWRA's previous "Four No More" challenge: "2.4% by '24". This meant that the MWRA needed to achieve a combined community assessment increase of 2.4% by fiscal year 24. Initially, the MWRA was skeptical about achieving this goal, but in recent years, especially during the height of the COVID-19 pandemic, the Authority has shown that it can set community assessment increases that are not only sustainable and predictable, but also adaptable.

In FY21, the MWRA provided much-needed rate relief for communities by setting the combined assessment increase at 1%. Since then, the MWRA has managed to keep increases below 3% each year. This year, the Advisory Board is proud to recommend a combined assessment increase of 2.4%, which is a 29.8% reduction from the MWRA's proposed 3.42% increase.

While this goal is achievable, it is not necessarily easy, and the MWRA is still facing ongoing challenges.

Like many public agencies, the MWRA struggles to find and retain employees as many long-serving employees retire. Furthermore, changes in workplace trends since the Great Resignation may mean that the era of lifelong employees at the MWRA is over, which could pose significant challenges in preserving institutional knowledge.

The MWRA's pension system remains a major concern for the Advisory Board. Last year, the Retirement Board did not follow the Advisory Board's recommendations to tackle the challenge of achieving full funding, and as a result, the deadline remains set for 2030, despite the challenges having worsened considerably. The most recent valuation of the retirement fund reveals significant losses in 2022, prompting the MWRA to redirect $1.9 million from anticipated OPEB contributions to the retirement fund. The expected impact on future years, as outlined in the valuation, predicts significant impacts in future years - particularly in later years - unless the funding schedule is changed.

The MWRA also faces continuing challenges in addressing combined sewer overflows (CSOs). While significant progress has been made on the MWRA's Long-Term Control Plan (LTCP), there are 14 CSO outfalls that have not met their goals. The MWRA has obtained a three-year extension to further investigate and improve these sites, with 8 projects already underway. Additionally, there is proposed legislation calling for stricter regulations, and calls from advocacy groups for the complete elimination of CSOs, both of which would entail staggering costs for the MWRA and its ratepayers.

The MWRA is still grappling with record-high inflation on crucial costs such as utilities and chemicals. This is exerting added pressure on its Current Expense Budget (CEB) and forcing the MWRA to revise how it handles and approaches its Capital Improvement Program (CIP).

As of this writing, the Federal Reserve has greenlit its 10th interest rate hike over the last year or so, driving the fed fund rate to 5.25% - the most substantial it has been since August 2007. Although the Federal Reserve suggested that future hikes may not happen, the rapid rise in rates in such a short timeframe is already putting a strain on the MWRA's budget and may restrict some of its current approaches and strategies to regulate rates going forward.

These are some of the challenges and pressures that the MWRA is currently facing, and they provide context for the Advisory Board's review of the MWRA's Proposed FY24 CIP and CEB.

FY 2024 CEB OVERVIEW

MWRA Current Expense Budget ($ millions)	FY23 Budget	FY24 Proposed	$ Change	% Change
Expenses				
Direct Expenses	273.7	310.0	36.3	13.25%
Indirect Expenses	60.5	68.5	8.0	13.28%
Capital Financing	506.0	501.3	-4.6	-0.92%
Subtotal Expenses	***$840.2***	***$879.8***	***$39.7***	***4.72%***
Offsets				
Bond Redemption	0.0	0.0	0.0	-
Debt Service Assistance	(0.1)	0.0	0.1	-100.0%
Subtotal Offsets	***-$0.1***	***$0.0***	***$0.1***	***-100.0%***
Net Expenses	**$840.1**	**$879.8**	**$39.8**	**4.7%**
Revenues				
Other User Charges	3.2	10.2	7.0	219.0%
Other Revenue	9.4	16.1	6.8	72.2%
Rate Stabilization	1.0	0.3	-0.7	-68.8%
Investment Income	8.6	20.9	12.3	143.3%
Subtotal Non-Rate Revenue	***$22.1***	***$47.5***	***$25.4***	***114.9%***
Rate Revenue	***$814.6***	***$842.5***	***$27.9***	***3.42%***
Total Revenue and Income	**$836.8**	**$890.1**	**$53.3**	**6.4%**

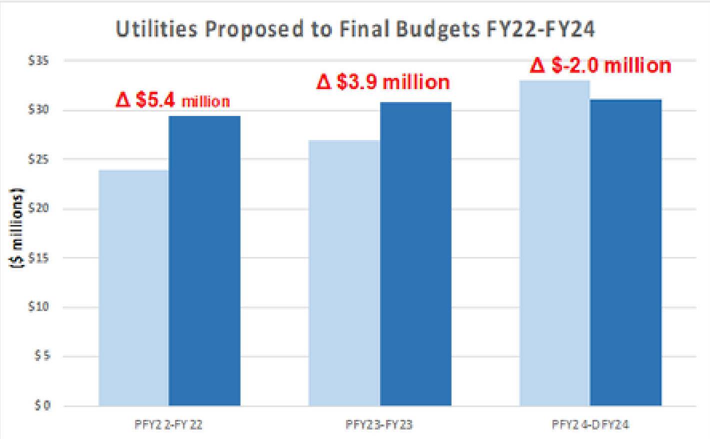
$8.36 million ≈ 1% of FY23 rate revenue

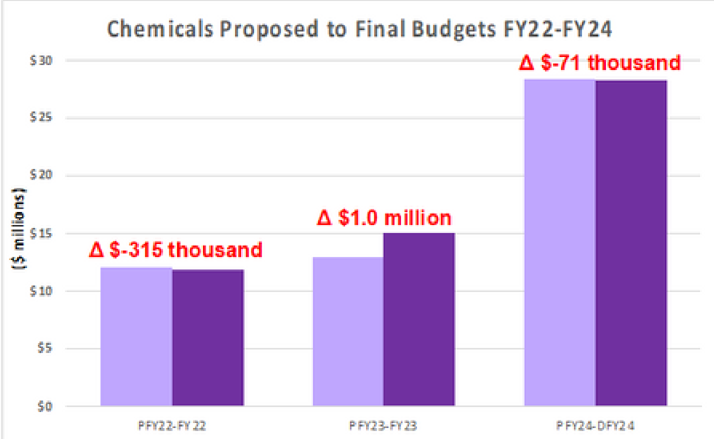
Recommendation: The Advisory Board recommends reducing the FY24 Rate Revenue Requirement by $8,188,819 resulting in a combined wholesale assessment increase of 2.42%

Impacts of Inflation

Inconsistency has been the only consistency in the economic factors driving the Current Expense Budget over the last few years. Inflation and supply shortages linger on while turmoil like the looming debt ceiling deadline and ongoing conflict in Europe suggest a continuation of economic uncertainty. MWRA staff have shown resiliency in their adjusting to the times and planning accordingly.

These charts depict the sum of the fluctuations in budgeting over the last few years. Energy and Utilities have landed in different spots between their proposed figures and actual/approved/draft final numbers. Chemicals have been more consistent between proposed and actual/approved/draft final numbers but have shown a dramatic price increase, nearly 90% in just one year.





While the MWRA has been successful in adapting to the array of economic shifts, a major side effect of the shifts has been the spring revisit numbers. These numbers are a normal part of the budgeting process, reflecting necessary adjustments as the budgeting process comes to an end. In step with the previously mentioned market inconsistency, over the last few years, the spring revisits have greatly shifted the proposed budget numbers.

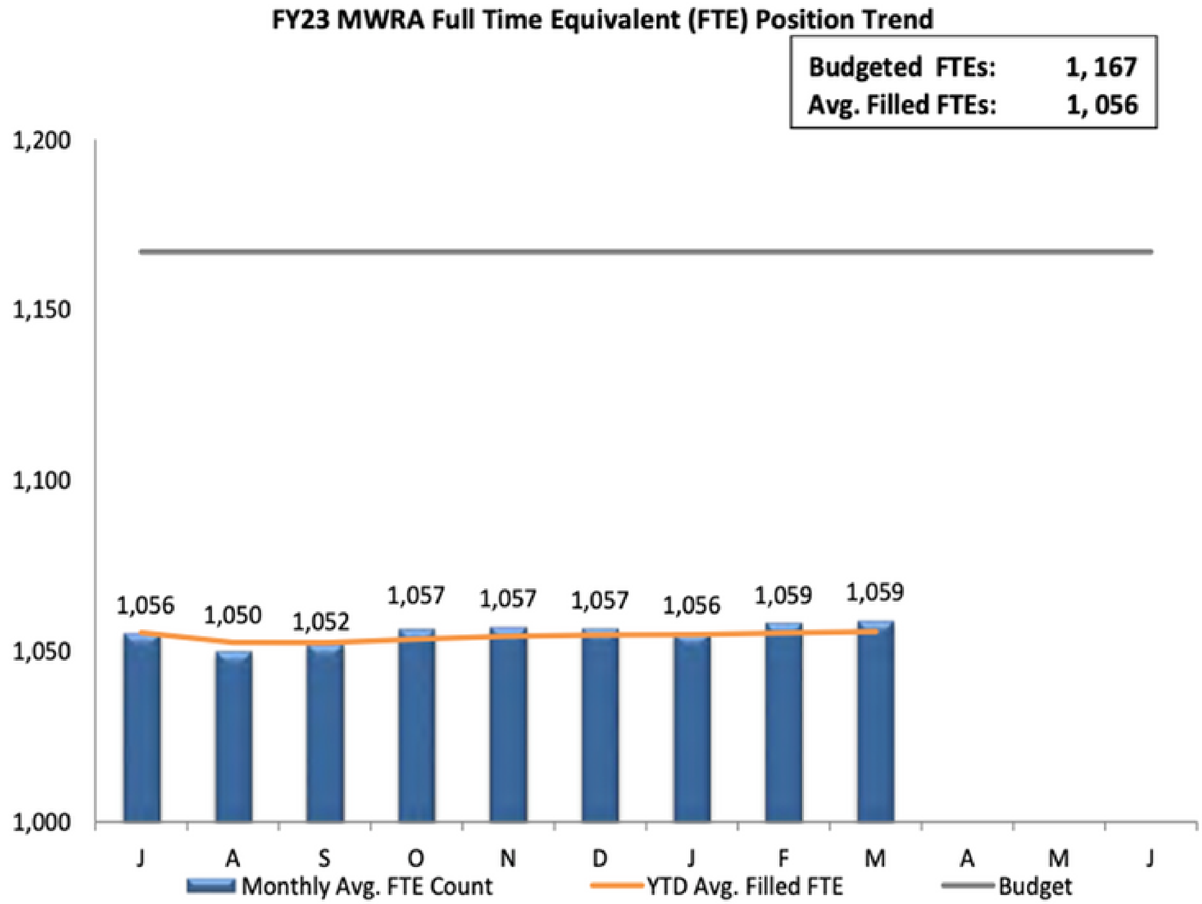
Comment: The Advisory Board anticipates spring revisit item totals of $3,613,906 on the water utility and -$5,040,340 on the sewer utility. (Totals exclude Debt Service Assistance and adjustments to Operating Reserve)

Water		
Wages & Salaries	$	1,964,098
Senior Debt	$	1,433,709
Maintenance	$	1,373,324
Watershed	$	1,172,733
Subordinate Debt	$	792,864
Fringe Benefits	$	167,663
Chemicals	$	146,410
Overtime	$	52,701
Professional Services	$	21,644
Other Services	$	9,817
Other Materials	$	(30,152)
Optional Debt Prepayment	$	(39,758)
Insurance	$	(68,242)
Utilities	$	(1,221,539)
SRF	$	(2,161,366)
Subtotal of Changes	**$**	**3,613,906**

Sewer		
Wages & Salaries	$	3,018,719
Maintenance	$	679,845
Other Services	$	583,852
Subordinate Debt	$	374,616
Fringe Benefits	$	289,874
Professional Services	$	236,005
Overtime	$	99,304
HEEC	$	55,209
Other Materials	$	(112,141)
Insurance	$	(131,758)
Chemicals	$	(217,693)
Utilities	$	(812,262)
Optional Debt Prepayment	$	(1,960,242)
SRF	$	(2,161,367)
Senior Debt	$	(4,982,301)
Subtotal of Changes	**$**	**(5,040,340)**

Personnel

The MWRA continues to face challenges in filling vacancies within its organization. As of March 2023, the MWRA had 111 fewer full-time equivalent (FTE) positions compared to the previous period, with a total of 1,056 FTEs instead of the budgeted 1,167.



The Authority finds itself in the midst of a complex and evolving hiring landscape, encountering additional challenges in filling the vacancies within its organization. The water and sewer industry, like many other sectors, has been significantly impacted by the Great Resignation and ongoing changes to workforce dynamics in the aftermath of the pandemic.

In recent years, the water and sewer industry has faced a scarcity of qualified candidates. Skilled workers in this field are highly sought after, and competition for talent has intensified. The Great Resignation phenomenon, which gained momentum during the pandemic, has further complicated the hiring process for the MWRA. Many individuals are reassessing their career paths and seeking new opportunities, leading to a surge in voluntary resignations across various industries, including the water and sewer sector. Consequently, the MWRA has been grappling with a shrinking pool of experienced professionals from which to recruit.

Moreover, the workforce dynamics in the wake of the pandemic have introduced new considerations for both job seekers and employers. Remote work arrangements, flexible schedules, and alternative employment options have become increasingly prevalent, altering the expectations and priorities of potential candidates. The MWRA must adapt to these evolving demands and provide attractive incentives to entice qualified individuals to join their workforce. In response to the unique difficulties faced in the water and sewer industry, the MWRA is exploring innovative strategies to attract and retain talent including the staffing study recommended by the Advisory Board as part of last year's Comments & Recommendations as well as new career ladder options developed by MWRA's Human Resources team. These initiatives are designed to make the MWRA an appealing employer of choice and an environment that encourages both professional growth and stability.

To compound the challenges, the MWRA's vacancies are not isolated incidents but are part of a broader trend. The MWRA has been grappling with the trend of long-serving employees retiring, which has been observed in recent years and shows no signs of abating. As of February 2023, the MWRA had already experienced 62 terminations, out of which 37 were retirements. This trend of retirements not only exacerbates the existing vacancy situation but also creates a need for additional positions to be filled.

The retirement of long-serving employees presents a unique challenge for the MWRA. These employees often possess a wealth of institutional knowledge and expertise that is difficult to replace. Their departure creates a void within the organization that necessitates the recruitment and training of new staff members to ensure continuity and maintain the high standards of service provided by the MWRA.

To address this ongoing issue, the MWRA recognizes the importance of attracting and retaining new and additional employees. The impending staffing study proposed by the Advisory Board in the previous year's review is a crucial step toward understanding and addressing the organization's workforce needs. By identifying strategies to attract and retain talent, the MWRA aims to mitigate the pressure caused by retirements and create a robust workforce capable of meeting future demands.

Efforts to fill vacancies and address the impact of retirements will require a multi-faceted approach and may suggest a need to expand the scope of the staffing study. The MWRA may need to explore innovative recruitment strategies, such as partnering with educational institutions, offering competitive compensation packages, and implementing targeted outreach programs to attract qualified candidates. Additionally, investing in employee development programs and knowledge transfer initiatives can help bridge the gap left by retiring employees, ensuring a smooth transition and the preservation of critical institutional knowledge.

By recognizing the challenges posed by retirements and taking proactive measures to address them, the MWRA aims to navigate the current vacancies while building a resilient workforce for the future. The organization remains committed to providing efficient and reliable water and sewer services to the communities it serves, and addressing the staffing challenges is crucial for achieving that objective.

To account for the trend of unfilled positions experienced this fiscal year, the Proposed Fiscal Year 2024 CEB was funded with the assumption of a $2.7 million vacancy rate. However, during the spring revisits, the MWRA assumes an even higher vacancy rate, amounting to $3.7 million for the Draft Final FY24 CEB. This adjustment would reduce the Wages and Salaries line item. That said, the spring revisits also include an increase to the Cost of Living Adjustment (COLA) in line with Governor Healey's proposal for state employees, necessitated by current inflation conditions. Consequently, the MWRA projects a series of spring revisit adjustments that would raise the Wages and Salaries line item by nearly $5 million, far offsetting the upward vacancy rate adjustment.

The Advisory Board had initially shown interest in higher vacancy rate adjustments. However, due to the MWRA's increase in the vacancy rate assumption as part of its spring revisits and the forward movement of the Advisory Board's proposal for a staffing study, put forward in last year's review and its expected contribution to the attraction and retention of new employees, the Advisory Board has modified its recommendations.

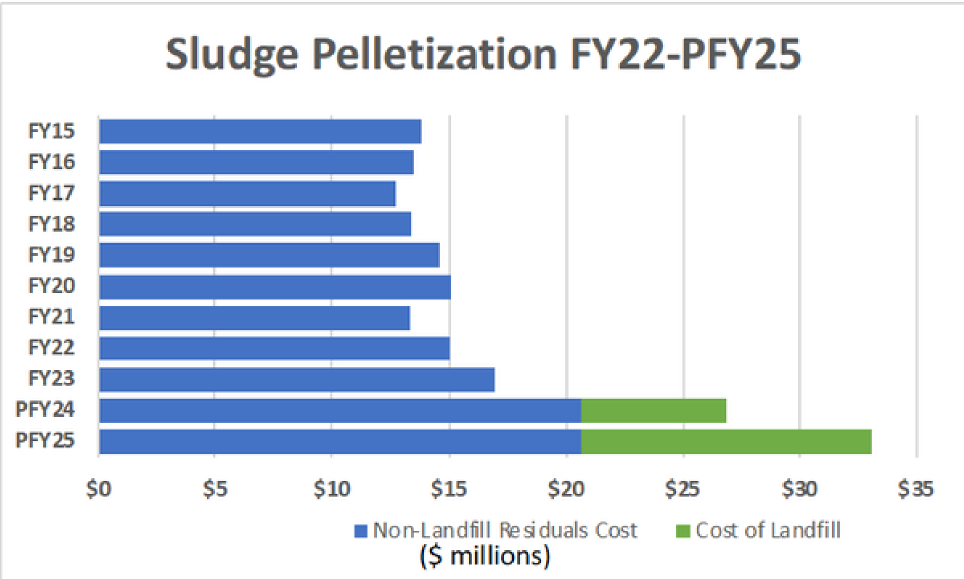
Recommendation: Considering the proposed increase and vacancy rate adjustment, coupled with the impending staffing study, the Advisory Board recommends a reduction of $1,250,000 in the Wages and Salaries line item. This reduction would entail $750,000 for the water utility and $500,000 for the sewer utility.

Sludge Pelletization

Since 1991, the MWRA has sent the solids and scum removed during sewage treatment material to the Fore River Shipyard in Quincy where the material is then de-watered with centrifuges, thermal-dried, and produced into Class A fertilizer. Since the establishment of the sludge pelletization process, the plant has been operated by New England Fertilizer Company (NEFCo). The fertilizer pellets are marketed under New England Fertilizer Company for bulk purchases and the smaller Bay State Fertilizer for retail purchases.

The introduction of the sludge pelletization process was a monumental step in environmentalism as before it existed, the solids and scum removed during sewage treatment was digested and re-combined with chlorinated effluent and discharged into the harbor on the outgoing tide. The fertilizer pellets additionally add organic matter to the soil, helping to improve its texture and moisture-holding capacity. Despite all these environmental advantages, the future of the sludge pelletization program faces a significant challenge going forward.

The program has faced challenges before, particularly when Massachusetts policy restricted biosolid levels of molybdenum and phosphorus. Thanks, in part, to the efforts of the Advisory Board's work and partnership with other organizations such as NEBRA (North East Biosolids and Residuals Association), these regulatory hurdles were modified to allow for the continued beneficial reuse of pellets in most instances. The newest challenge, however, stems from the "forever chemical," PFAS, which continues to shape wastewater and water policies across the United States. A ban against the application of biosolids has already taken place in Maine over fears of PFAS being present in the biosolids material. This particularly impacts the MWRA because the majority of beneficial reuse pellets had been previously distributed to Maine. Similar concerns are circulating in other state legislatures. If the MWRA was not able to distribute the residuals of sludge pelletization as bulk fertilizer, it would be forced to landfill the materials.



This chart shows the impacts landfilling the pellets would have on the MWRA operating budget. A half year of landfilling was added to the proposed FY24 budget and an entire year is projected for FY25.

While the Advisory Board believes PFAS related challenges are a real threat to the sludge pelletization program, it appears premature to fully respond to a policy, which at the time of writing does not exist. Reductions to the budgeting for landfill should be made for FY24.

Recommendation: With no new bans on the application in biosolids in effect yet, the Advisory Board recommends a reduction of $1,550,000 to the Sludge Pelletization line item.

Pension

The MWRA retirement system, as with so many other MWRA components stands out as an outlier in comparisons to its counterparts across the state. The care and maintenance of the system should likely stand out as well. Last year, the Advisory Board highlighted the strong standing of the MWRA Retirement System, being in the top 15 public retirement systems in the Commonwealth with a funded ratio of 89.05%. We also emphasized the potential burden at the hands of the ratepayers to fund the remaining 11% of the system by 2030. Following the 2023 valuation, the MWRA Retirement System again ranks high, with a funded ratio of 88.36%, but with an even bigger burden of unfunded liability to pay off in a smaller amount of time. As of the 2023 valuation, the system's unfunded liability grew $6 million.

The pension system is at the "heartbreak hill" of the marathon that is full funding. It is so close to the finish line, but the final stretch is burdensome and painful. The Advisory Board remains committed towards bringing as much relief as possible to ratepayers on the way to full funding. In the FY23 Comments and Recommendations, the Advisory Board proposed a combination of tools aimed at this relief:

1. Recalculation of pension costs with projected favorable actuarial numbers
2. Shift the OPEB contributions in the water utility to the pension line item until "virtual full funding" level is achieved.
3. Shift of optional debt prepayments in the sewer utility into the pension line item until full funding (not virtual) is achieved.
4. One-time use of water rate stabilization funds to the pension calculated to achieve no less than 90% funding on the overall pension unfunded liability, keeping it as a reserve to isolate it from potential negative market impacts.
5. A vote of the Retirement Board to extend the date for full funding of the retirement fund to 2033, and request that PERAC approve a one- year extension in future if certain criteria are met to simulate a rolling 10-year funding schedule up through 2040.
6. That MWRA work with the Advisory Board, and other retirement system stakeholders to secure legislation to amend Chapter 32 to authorize the state actuary to develop a goal of shifting to a rolling date for full funding

The pillars of pension were invitation for the Authority to engage with the retirement board and secure a steady stride to the funding finish line. As of May 10, 2023, however, the Retirement Board voted to move forward without exploring the possibilities of extending out the payoff date by multiple years. The newest pension funding schedule includes an actuarily determined contribution (ADC) from the MWRA increasing at over 14% a year. This is up from last year's funding schedule with an ADC increasing closer to 12% a year. With looming issues for the markets like the US debt ceiling potentially being surpassed, ongoing inflation, and the continuation of conflict in Europe, prospects for the current ADC remaining level in future funding schedules are unfavorable.

Pension Actuarially Determined Contribution (ADC)

Year	2022 Valuation		2023 Valuation	
	ADC	ADC % Increase	ADC	ADC % Increase
2025	15,763,312	12.1%	16,065,776	14.2%
2026	17,662,791	12.0%	18,347,116	14.2%
2027	19,791,157	12.0%	20,952,406	14.2%
2028	22,175,991	12.0%	23,927,648	14.2%
2029	24,848,198	12.1%	27,325,374	14.2%
2030	21,169,116	-14.8%	31,195,022	14.2%

The Advisory Board still desires to work with the Retirement Board to implement solutions that responsibly get the pension system to full funding while maintaining a sustainable and predictable rate revenue requirement for the ratepayers. Until this time, the Advisory Board staff have targeted areas of relief that can be put into place during the FY24 budgeting process.

Other Post-Employment Benefits

Years ago, when GASB45 required public pension systems to begin accounting for and reporting the balance of their unfunded other post-employment benefits (OPEB) liability on their balance sheet, the MWRA began to explore options to begin addressing this unfunded liability. MWRA staff made the argument that both liabilities were "two sides of the same coin," meaning that they each reflected one part of an overall total liability that needed to be addressed. Because there was a date-certain funding deadline for the pension system, but not one for the OPEB liability, the decision was made to "aggressively pay down" the pension liability until "virtual full funding" was achieved. Virtual full funding was defined as the pension's funding ratio to be within the 95%-105% range. MWRA met this goal and began to make payments toward its OPEB liability in 2015.

Recent valuations continue to leave the pension below the "virtual full funding range." Beginning with the proposed FY24 budget, the MWRA has decreased OPEB contributions to more aggressively focus on the pension liability once again. The Advisory Board recognizes the importance of addressing the OPEB liability; however, because the retirement fund's funding level is so far below the 95% threshold that signifies the "virtual full funding" range, we are recommending an adjustment to the OPEB funding strategy. To help aggressively target the pension's unfunded liability, the Advisory Board is recommending that the MWRA redirect all water and sewer utility funds currently budgeted for OPEB to the pension line item and continue to do so until the previously agreed upon "virtual full funding" level is achieved (95%-105%).

Recommendation: Consistent with the "two sides of the same coin" approach endorsed by the MWRA Board of Directors, and in line with previous MWRA policies (including in PFY24), the Authority should shift all water and sewer OPEB contributions in the PFY24 CEB to the pension line item and continue to do so until "virtual full funding" level is achieved (95%-105%).

Extending the Funding Schedule

The Advisory Board has previously engaged the MWRA to explore extending out the pension funding schedule. While it's current agreement with PERAC schedules the pension full funding date for 2030, public retirement systems in Massachusetts are actually mandated for payoff by 2040. Exploring the use of this remaining time could be beneficial for the ratepayers. Extension options beyond one year, or the simulation of a rolling/moving full funding date were not contemplated by the Retirement Board. This unfortunately limits discussion on the pros and cons of such moves.

The Advisory Board still encourages these discussions to take place among the Retirement Board and does not believe the shift of OPEB funds should cease before full funding unless an extension of the retirement funding schedule is implemented, that does not dramatically impact the Rate Revenue Requirement.

Recommendation: The Authority should not move away from the Advisory Board's previous recommendation on shifting all OPEB contributions to the pension fund without extending out the current pension funding schedule provided it doesn't dramatically impact the CEB Rate Revenue Requirement.

Watershed

Watershed Reimbursement

Watershed Reimbursement				
Categories	FY23 Budget	FY24 Proposed Draft	Δ ($s)	Δ (%)
Operating Expenses	$19,987,471	$20,432,594	$445,123	2.2%
Debt Service	0	0	$0	-
Payment in Lieu of Taxes (PILOT)	8,903,291	8,900,000	(3,291)	0.0%
SUBTOTAL (Expenses)	$28,890,762	$29,332,594	$441,832	1.5%
Revenue	1,210,000	1,020,000	-190,000	-15.7%
TOTAL (Revenue Deducted)	$27,680,762	$28,312,594	$631,832	2.3%
Proposed Watershed Capital Budget				
Capital Projects	1,020,000	1,010,000	(10,000)	-1.0%
TOTAL	**$28,700,762**	**$29,322,594**	**$621,832**	**2.2%**

As of March 2023, the Division of Water Supply Protection (DWSP) was underspent by $2.1 million (15.2% of its budget). To help reduce the increase in MWRA water assessments, the Advisory Board recommends a reduction of $500,000 to the Watershed Reimbursement line item.

This reduction not only reflects DWSP's historical underspending and potential surplus but also addresses the need to find additional reductions in the water assessment increases. It is particularly necessary because MWRA staff has proposed spring revisit line items that would add $3.9 million in costs to the water utility. This reduction would help to mitigate the burden of the increased costs on water communities while still providing the DWSP with the resources it needs to execute its mission.

Recommendation: the Advisory Board recommends reducing the Watershed Reimbursement line item by $500,000 to account for the assumption of the carryover of surplus from FY23 to FY24.

Forestry

The Department of Conservation and Recreation (DCR) has been managing the forests in the Quabbin Reservoir watershed for many years. The goal of this management is to protect the water quality of the reservoir, which is a source of drinking water for millions of people. DCR's forestry program is designed and operated specifically to maintain a resilient forest to protect MWRA's source water quality. The forestry program is not a production harvest program, unlike other forms of forestry, and it promotes long-term protection of water quality and forest resilience to disease or natural disaster. The program includes a variety of activities, such as selective harvesting of trees, prescribed burning, and invasive species control. These activities help to maintain a healthy, diverse forest that is resistant to disturbance.

MWRA relies on the protective attributes of the forest as a critical component of its watershed protection efforts and is judged annually by state and federal regulators on the ability of its protection efforts to reliably ensure high-quality source water. The forestry program aims to slowly, over many decades, move the forest toward a multi-species, uneven-aged forest that is less likely to be damaged by invasive species or a natural disaster such as a hurricane, thereby reducing the risk to water quality.

The program's main goal is to maintain a resilient forest that will help protect the water sources. The forested lands are of a relatively uniform age, with large stands of single species, which makes them vulnerable to invasive species or natural disasters. Thus, the program aims to regenerate approximately one percent of the manageable forest on each watershed annually, for deliberate and steady progress at a rate within the range of long-term natural disturbance patterns.

The forestry program has been well documented in DCR's most recent (2017) Land Management Plan, which is updated periodically with an opportunity during that process for public input. The entire watershed forestry program was the subject of an intensive independent scientific review in 2012 by the Science and Technical Advisory Council (STAC) with extensive public comment opportunities. The STAC report laid out the scientific basis for active management of the watershed forest as prudent and required to ensure water quality.
The regeneration activities are carefully designed and implemented, on small appropriately located parcels within the watershed. While DCR had been criticized in the past for some larger multi-acre cuts, their current practice calls for typical average openings of around one acre, which retain trees within their interior for both habitat and seed sources. These are not large-scale clear cutting of forests.

The Advisory Board acknowledges and appreciates the Administration's efforts to utilize natural forests to reduce carbon emissions, which aligns with the Commonwealth's commendable long-term objectives. While the protection of most forests in the Commonwealth may aid in achieving this goal, it is important to note that forestry for the watersheds is distinct from a production harvest program. As the MWRA staff expressed in the March 2023 meeting of the MWRA Board of Directors and we reiterate here, watershed forestry must be treated differently.

The MWRA's watershed management program is a key factor in its status as the second-largest unfiltered water system in the country. If the program fails to meet the strict water quality standards for unfiltered systems, including the vital aspect of DCR''s forestry management, it could lead to the construction of an expensive water filtration system. Such a system would require substantial amounts of non-renewable energy to operate, which would be out of step with the Administration's and the Commonwealth's long-term carbon reduction goals.

Recommendation: The Advisory Board recommends that the MWRA take any and all actions needed to ensure that the Division of Water Supply Protection's active forestry management program is restarted and is exempted from the statewide forestry moratorium.

Defeasance

Defeasance has long been a solid component of the healthy financial status of the MWRA. The MWRA has implemented defeasance as a strategy to provide targeted budget relief in one or more fiscal years, aligning with the Advisory Board's recommendation to use surplus community and ratepayer funds specifically raised for debt repayment to this - and only this purpose. This practice has effectively helped the MWRA navigate potentially burdensome fiscal years outlined in their planning projections.

In the upcoming final FY24 budget, defeasance is expected to play a major role, particularly on the water side. To address the challenges posed by the less flexible and complex nature of projected water rates over the next several years, the MWRA has considered implementing defeasance at the utility level, with a focus on prioritizing one utility over the other if necessary. The strategic use of defeasance targeting the water rate is crucial in ensuring predictability and sustainability in rate structures.

As of March 2023, the MWRA has reported a total CEB budget variance of $8.9 million (or -1.5%). Furthermore, additional revenue generated from extra water usage in Cambridge has created additional funds that could be available for defeasance, contributing to the MWRA's financial surplus on the water side.

When the City of Cambridge exercised its right to purchase MWRA water in lieu of its local sources for a temporary period of time, it resulted in approximately $4.7 million in revenue. Given this additional revenue, combined with the existing challenges in the MWRA's water assessments compared to sewer assessments and the heightened pressure caused by updated projected spring revisits, the Advisory Board strongly advocates for prioritizing defeasance towards water debt service expenses in the upcoming fiscal year (FY24). This targeted approach aims to address these specific financial demands and optimize the MWRA's financial position.

Recommendation: the Advisory Board recommends allocating $2,850,000 towards targeting water defeasance in the final FY2024 operating budget.

This recommendation is made in the context of the projected availability of surplus funds for defeasance, in particular, the unexpected additional water revenue from the City of Cambridge. This recommendation stems from the Advisory Board's recognition of the importance of confining community and ratepayer funds appropriated for debt repayment purposes toward that end goal, the MWRA's recent budgeting policy incorporating defeasance assumptions for future years, and their careful evaluation of defeasance opportunities within the next three fiscal years.

Debt Service Assistance

The MWRA has confirmed receipt of $1,187,297 in Debt Service Assistance in FY23. The Advisory Board remains grateful for the Legislature's support in providing this much needed rate relief for the MWRA ratepayers.

Recommendation: the Advisory Board recommends continuation of the Advisory Board's "Pay it Forward" Principle, applying the FY23 Debt Service Assistance of $1,187,297 towards the FY24 budget.

CIP Spending Cap

Fiscal Year 24 begins a new five-year spending cap for the Capital Improvement Program. The proposed budget estimates that the Authority will spend $1.2 billion through FY28.

The Authority first adopted a capital spending cap in 2001, setting a then ten-year cap each year as part of the approval of the final CIP and annual caps for the first three years of the budget period. In 2003, the Board of Directors adopted a revised capital spending cap policy with a calculation that reflected projected expenditures for a five-year period, plus contingency allowances, and inflation adjustments.

A second provision of the cap allows annual spending within the five-year period to vary within plus or minus 20% of the initial amounts calculated for each of the five years, as long as the five-year total is not exceeded. In the event that an annual cap limit is exceeded, the Authority may request approval by the Board of Directors to exceed the limit for an individual fiscal year. This provision, however, has been unnecessary as CIP spending has continuously come in below the cap.

The $1.2 billion figure for the FY24-28 cap was reached through the implementation of a 25% Spending Rate Adjustment, a feature newly introduced in this cap period. In an acknowledgement of continuous underspending, adjustment was implemented using averages of underspending in previous caps. The Advisory Board is pleased that underspending is being addressed but remains curious as to the effectiveness of this new policy or approach. One possibility is that the trend of underspending continues at the same 25% level; however, moving forward 25% below the new Spend Rate Adjustment rather than the original projected CIP spending level.

The Advisory Board is eager to analyze the trends that result from the Spend Rate Adjustment and further study CIP spending accordingly.

Comment: The Advisory Board remains committed to reducing the levels of CIP underspending and will work with the Authority to analyze, and respond to, trends following the implementation of the 25% Spend Rate Adjustment.

Metropolitan Redundancy Tunnel Program

Another addition to the CIP for FY24 is the segregation of the Metropolitan Redundancy Tunnel Program. As this project begins to increase spending, $1.4 billion through FY28, it will be on display as its own line item. The CIP has historically been driven by wastewater spending, this trend will begin to inverse with the ramping up on the Metropolitan Redundancy Tunnel Program.

Combined Sewer Overflows (CSOs)

The MWRA recently filed its Annual Report on the CSO Long-Term Control Plan (LTCP). In it, the MWRA notes that:

> *This report is the second of three Annual Reports as required by the Court's compliance order which – extends until December 2024 to complete the time for, among other things, identified projects and further – evaluating alternatives to further reduce CSOs at the sixteen outfalls that did not meet the LTCP goals by December 31, 2021. As part of this extension, MWRA is required to provide estimates of combined sewer overflow (CSO) discharges in its service area during calendar year 2022.*

The report provides information on the performance of the Massachusetts Water Resources Authority's (MWRA's) combined sewer overflow (CSO) control program during calendar year 2022. The report includes estimates of CSO discharges, rainfall data, and a comparison of CSO performance to the Long-Term Control Plan (LTCP) levels of control.

The LTCP is a plan that was developed by the MWRA to reduce the number and volume of CSO discharges into the Boston Harbor and its tributaries. The plan was completed in 2015 and included 35 individual projects designed to capture and treat combined flows before discharging into the metropolitan Boston receiving waters or to separate combined systems to substantially reduce stormwater from entering the sewer system. The MWRA began its post-construction performance assessment in 2017, as required, to assess if the program had met the CSO and water quality goals as established by the 2006 second stipulated agreement under the Boston Harbor Case. The Final CSO Post Construction Performance Assessment was submitted in December 2021, which documented MWRA's substantial accomplishments. However 16 of the original 86 CSOs did not meet their goals. MWRA with the agreement from MassDEP and EPA and the court parties, requested and were granted a 3-year extension to further investigate and improve the performance of these remaining 16 sites. This annual report is the 2nd of 3 annual reports required by the court as part of the 3-year extension.

In general, the report finds that the MWRA's CSO control program is performing well overall in comparison with the LTCP Goals. Although not a direct measure of performance, given the year-to-year variation in rainfall, the number and total volume of CSOs discharging in 2022 was significantly lower than those in previous years.

The report reviews the rainfall data collected in 2022 and compares this data to the Typical Year using as the agreed upon measuring stick to determine compliance with the LTCP goals. In summary, 2022 was shown to be a dry year, with much fewer large/intense rain events. Measured and modeled CSO volumes in 2022 were noted to be only a little more than one fourth of those predicted by the model for the typical year.

The report reviews adjustments made to MWRA's hydraulic model to reflect improvements by MWRA and its CSO communities during calendar year 2022, as well as adjustments to reflect new system information acquired during the year. These modeling adjustments showed CSO improvements resulting from planned projects that closes an additional CSO and brought other CSOs into compliance with the LTCP goals. New modeling information also resulted in reductions at several CSOs, bringing them closer to their LTCP goals.

With the updated model, as done for many years, MWRA performed model simulations using the typical year to assess performance against the LTCP goals of activation frequency and volume for the 86 CSOs defined in the second stipulation. Of the 86 CSOs:

- 72 of the CSOs meet or materially meet their LTCP goals (BOS003 & BOS014 now meet in 2022)
- Of these 72 CSOs, 41 are closed or effectively closed (includes 5 South Boston CSOs) (BOS005 closed by BWSC in 2022), 11 more than required in second stipulated agreement.
- 14 CSOs are now shown to fall short of their LTCP activation frequency and/or volume goals (two less than last year with BOS003 and BOS014 now meeting)
- The total CSO discharge is now 8 MG below the LTCP target of 404 MG (2022 Total CSO Volume 396 MG)

Overall, the report finds that the MWRA's CSO control program and continued work, has and is making significant progress towards reducing CSO discharges. The report clearly shows MWRA and the CSO communities' efforts to further reduce CSOs in locations where it fell a little short of the LTCP levels of control. Including projects to advance 8 additional CSOs towards meeting their goals by the end of 2024, when the supplemental report to the court will be made, for the court's consideration. As well as working towards completing the alternative investigation and cost development of six challenging CSOs that will be used to assess the cost/benefit of further CSO abatement projects at these locations to satisfy the LTCP goals.

The MWRA is committed to reducing CSO discharges and protecting the Boston Harbor and its tributaries. The report provides a valuable overview of the MWRA's CSO control efforts and its progress in the past years, as well as improvements expected in the next few years.

Of particular concern to the Advisory Board are recent developments in the Commonwealth's surrounding CSOs. There have been a number of recent discussions with advocacy groups pushing for additional CSO work and commitments to complete elimination of CSOs. Furthermore, House Bill H.886 was recently filed: "**An Act Relative to Combined Sewer Overflows.**"

This proposed legislation would define terms related to combined sewer systems and overflows and prohibit untreated combined sewer overflows during a 25-year 24-hour storm event or smaller storms in the MWRA sewer service areas after January 1, 2035. It also directs the Massachusetts Department of Environmental Protection (MassDEP) to adopt regulations to implement this law within 18 months. This means that the Massachusetts Water Resources Authority will need to take steps to prevent untreated combined sewer overflows from occurring after that date. These regulations would likely require the Massachusetts Water Resources Authority to make substantial improvements to its sewer system, such as making large investments to increase the pumping and treatment capacity of its existing CSO and Deer Island Treatment facility, installing new pipes or upgrading existing conveyance pipes, adding substantial storage facilities, or funding further separation efforts. Given the expected substantial CSO volume in a 25-yr 24-hour storm event (note: the largest storm in the typical year is approximately a 2-yr 24-hour storm), these required modifications would be monumental.

Going even further than the proposed legislation, there have been some advocacy groups that have proposed a complete elimination of CSOs. The MWRA has already spent close to $1 billion on the LTCP. As a result of this spending, the MWRA has achieved a total treated and untreated CSO volume of 396 MG exceeding the LTCP's total volume goal of 404 MG. By the end of 2022, 32 outfalls meet or materially meet the LTCP goals. Projects are underway to meet the LTCP goals at 8 of the remaining 14 outfalls currently not meeting their targets. Investigations continue for the remaining 6 outfalls, with progress towards developing alternatives and costs to assess if further CSO projects are commensurate with the minimal water quality benefits expected. These further improvements by MWRA as well as additional work underway by its member CSO communities (sewer separation in all four communities) in the coming years will substantially further reduce CSO discharges.

The Advisory Board agrees that complete elimination of CSOs is a worthy goal; however, in our role as advocates for the communities and ratepayers, we cannot support such a proposal. The MWRA estimates that achieving area-wide CSO elimination by separating all remaining combined areas (with 80% inflow removal) would cost approximately $24.7 billion. The actual cost of sewer separation work is estimated at $5.4 billion, with the majority of the expenses stemming from the need to expand the system's capacity for transporting and treating larger flow rates during storm events, which amounts to $19.4 billion. It is important to note that the increased flows after sewer separation are attributed to a realistic estimate that only 80% of inflow can be removed. While the complete removal of CSOs would undoubtedly yield environmental benefits, the cost-benefit analysis does not favor such a measure, and the impact on ratepayers would be overwhelming.

Comment: Advisory Board, guided by its long-standing principle of "environmentally sound and ratepayer equitable," cannot endorse a plan that places a significant financial burden on ratepayers despite its environmental advantages – whether in the form of the proposed legislation's terms or the complete elimination of CSOs.

Perhaps the best way to summarize the Advisory Board's arguments is to quote Judge Stearns in the compliance order recently issued by Judge Stearns as it relates to the Annual Report submitted by MWRA for 2022:

> *I recognize, as the MWRA posits, that there may come a point of diminishing return at which spending an additional $100 for a $1 incremental benefit would make no sense from a public policy view. In the words of a distinguished former Justice: "The . . . reason that it matters whether the nation spends too much to buy a little extra safety is that the resources available to combat health risks are not limitless." Stephen Breyer, Breaking the Vicious Circle: Toward Effective Risk Regulation 18 (1993)*
>
> *- The Honorable Richard G. Stearns*

System Expansion

PFAS (per- and polyfluoroalkyl substances) are a group of human-made chemicals that have gained significant attention due to their widespread presence in the environment, including drinking water sources. These persistent and bioaccumulative substances have raised concerns due to their potential adverse health effects on human beings. Exposure to PFAS has been linked to various health impacts. One challenge lies in effectively addressing and mitigating the presence of PFAS in drinking water, as these compounds are highly resistant to degradation and can persist in the environment for a long time. The need for robust measures to monitor, regulate, and remove PFAS from water sources is crucial to safeguard public health and ensure access to safe and clean drinking water for communities - steps which both EPA and MassDEP have begun to take.

Thankfully, the MWRA's water remains largely unaffected by PFAS, partially thanks to its commitment to maintaining high-quality source waters. Furthermore, through its active partnership with DCR, the MWRA implements a comprehensive watershed management program. This collaborative effort plays a crucial role in safeguarding the source waters against contamination, including PFAS. Currently, the MWRA's source waters exhibit only trace amounts of PFAS, which can be attributed to the amounts deposited via the natural environmental cycle of water (i.e. evaporation and precipitation). These minimal levels underscore the MWRA's dedication to and success in delivering clean and safe drinking water to the communities it serves, ensuring public health and wellbeing.

With the emergence of PFAS as a significant concern for communities across the Commonwealth, the MWRA Advisory Board recognized the need to extend support beyond the MWRA service area and embarked on a comprehensive exploration of solutions. Understanding the financial and technical challenges faced by non-MWRA communities dealing with PFAS contamination, the Advisory Board undertook a thorough evaluation. In October 2021, they published an op-ed in the Boston Globe, emphasizing the potential benefits of these affected communities joining the MWRA water system. Recognizing that integrating with the established MWRA infrastructure could provide a more cost-effective and sustainable solution compared to individual PFAS removal efforts, the Advisory Board engaged in in-depth discussions and a meticulous vetting process. Their objective was to alleviate the burdens faced by these communities and ensure their long-term access to clean and safe drinking water while at the same time providing some rate relief for existing member communities.

During this process of evaluation and consideration, the Advisory Board, which had previously advocated for maintaining the entrance fee, recognized the need to explore the possibility of temporarily waiving it to support communities grappling with water-related issues including PFAS. Starting in September 2021, the Executive Committee of the Advisory Board engaged in comprehensive deliberations, carefully weighing the advantages and disadvantages of this potential policy change. Advisory Board staff, in close collaboration with MWRA staff, provided additional information and diligently addressed inquiries raised during these deliberations. The Executive Committee's vote on February 11, 2022, with 11 in favor and 5 opposed, moved the proposal forward for consideration by the full Advisory Board. Deliberations among the full Advisory Board were similarly thoughtful and raised additional inquiries and concerns. Again, Advisory Board staff worked with MWRA staff to answer and address these concerns for members.

The "pros" outlined during these discussions highlighted the significant financial benefits associated with selling additional water. For example, if the MWRA sold an additional 10 million gallons per day, it could potentially reallocate $378.4 million from existing water communities over a 25-year period in the form of reduced water assessments. Unlike previous circumstances, the MWRA's current water supply comfortably exceeds demand, dispelling concerns that providing water to new communities may strain resources. An environmental justice argument also emerged, emphasizing that existing MWRA communities, including ten with poverty rates above 10%, would experience lower increases in their water and sewer bills, thereby benefiting disadvantaged populations.

However, the “cons” presented some valid concerns. Not recovering the entrance fee would entail forfeiting $45.2 million over 25 years, which cities and towns were entitled to under the existing policy. Additionally, other communities have paid the entrance fee, as it has been a long-standing policy of the MDC and, since 1985, the MWRA. Questions were raised about the best approach to address the communities that have already paid over $30 million in entrance fees. These points generated a robust discussion at both the Executive Committee and Advisory Board meetings and likely factored into the final vote tallies.

In response to the Executive Committee's request, the MWRA conducted a thorough analysis of the marginal cost of supplying additional water to new communities, revealing that these costs ranged from 2.5% to 4.1% of the total expenses. Subsequently, during the June 16th Advisory Board meeting, a motion was made to recommend to the MWRA Board of Directors a five-year waiver for the entrance fee under specific conditions. Communities seeking the waiver must demonstrate water quality or public health concerns such as PFAS contamination or the need for restoration/protection of a depleted river basin. Additionally, communities with significant economic development constraints due to their existing water supply may also qualify. It was agreed that any costs associated with connecting to the MWRA's water system should not be funded or covered by the MWRA. The weighted vote conducted by the Advisory Board resulted in 97.14% in favor, 2.013% opposed, and 0.825% abstained, recommending these modifications to the MWRA Board of Directors for their consideration.

On September 14, 2022, the MWRA Board of Directors approved revised language for MWRA Policy OP.10, largely aligning with the Advisory Board's recommendations. While the MWRA Board of Directors similarly included a maximum of 20 million gallons per day under this waiver for non-MWRA members, one notable clarification was that there would be no volume limit for current MWRA system members.

Following this vote, the Legislature took a significant step by allocating $400 thousand to the MWRA for conducting feasibility studies on system expansion. These funds were utilized to assess the Ipswich River Basin and the South Shore communities surrounding Weymouth. Furthermore, a coalition of communities in the MetroWest region came together to explore the possibility of joining the MWRA water system. To support these communities in their decision-making process, the MWRA conducted a third study specifically for them. Ongoing discussions are taking place, with the MWRA and Advisory Board staff offering guidance and assistance as the communities weigh the advantages and disadvantages of joining the system. In fact, on December 5, 2022, the Advisory Board held a workshop at Boston College to provide a forum for communities to learn how their water challenges might benefit from a regional approach.

However, a major hurdle moving forward revolves around funding. The Advisory Board and the MWRA have already demonstrated their commitment by waiving the entrance fee and foregoing that revenue. Nevertheless, the scale of the challenges and associated costs is substantial, necessitating the involvement and contributions of all stakeholders. This includes the federal government, the Commonwealth of Massachusetts, the MWRA itself, and the communities considering joining the system. The resolution of these issues cannot be accomplished through quick fixes or small cash infusions. Instead, they require long-term investments and substantial funding to address effectively.

The Advisory Board eagerly anticipates collaborating with all stakeholders to secure the necessary funds and facilitate a regional solution to the water challenges faced by these communities. It recognizes that the problems at hand demand collective effort and commitment, and the engagement of all parties is vital to achieving a sustainable and comprehensive resolution. By working together and pooling resources, it is hoped that the funding needed to address these generational investments can be secured, paving the way for a regional solution that benefits all involved.

Recommendation: That the MWRA work collaboratively with the Advisory Board to identify additional funding from each of the stakeholders in the system expansion process – the federal government, the Commonwealth of Massachusetts, and the communities seeking to join the MWRA waterworks system.

Deer Island NPDES Permit

The Advisory Board has been monitoring the Deer Island NPDES (National Pollutant Discharge Elimination System) permit for over 15 years, since the original permit expired. The Advisory Board and the MWRA have concerns about potential changes to the permit and their impacts on the MWRA and its communities.

The original Deer Island NPDES permit was issued in 2000 and expired in 2005. The MWRA applied for a renewal, but the Environmental Protection Agency (EPA) administratively continued the permit instead of renewing it. This means that the terms of the original permit remain in effect, and no changes can be made while it is administratively continued.

The Advisory Board's biggest concern is that the MWRA's member communities could be named as co-permittees in the Deer Island NPDES permit. The Advisory Board is concerned about this because it could fundamentally change the carefully calibrated and delicately balanced relationship between the MWRA and its member communities when it comes to enforcement of environmental requirements.

The Advisory Board also has concerns about other issues, including:

- Enterococcus limits
- Nitrogen limits
- Weekly load limits for TSS
- Ambient Monitoring and Contingency Plan
- CSOs
- Blending

Over the years, the Advisory Board has consistently participated in discussions regarding the issuance of a new permit for Deer Island by the EPA. One of the key concerns raised by the Advisory Board has been the inclusion of co-permittee language and its potential effects on the MWRA and its member communities. Despite multiple indications from the EPA about the possibility of a new Deer Island permit, none of these discussions materialized into concrete actions.

However, in January 2022, there was a renewed indication from the EPA that the Deer Island permit was likely to be issued. This signal gained further credibility when a new draft NPDES permit was promulgated for the Clinton Wastewater Treatment Plant. These developments strengthened the belief that the issuance of the Deer Island permit was imminent and underscored the importance of addressing the co-permittee language and its implications for the MWRA and its member communities.

The issuance of the new draft permit for the Clinton Wastewater Treatment Plant took an unusual approach compared to previous permits. Instead of a single permit, the EPA decided to issue a Draft NPDES Medium Wastewater Treatment Facilities (WWTF) General Permit for Massachusetts, which included the eligibility of the Clinton Plant for coverage. This departure from the usual permit structure was notable.

The draft general permit, issued on February 3rd, introduced several key changes that differed from the existing 2017 Clinton NPDES permit. Some of the notable highlights identified by MWRA staff included new limits for ammonia, additional monitoring requirements such as PFAS, certain reductions in monitoring requirements, changes in reporting procedures, and a shortened timeline for completing the local limits study. The inclusion of co-permittee language, which also incorporated new requirements related to alternate power sources, was another significant aspect of the draft permit.

Recognizing the implications of these developments, the Advisory Board actively engaged in the process and submitted comments on April 25th regarding the Draft NPDES Medium WWTF General Permit for Massachusetts. The focus of these comments centered on the EPA's decision to name communities, specifically the towns of Clinton and Lancaster, as co-permittees on the forthcoming NPDES permit for the MWRA. This longstanding concern raised by the Advisory Board extended beyond the Clinton Wastewater Treatment Plant and held particular importance in relation to the anticipated new NPDES permit for the Deer Island Treatment Plant.

Both the MWRA and the Advisory Board expressed their opposition to the inclusion of co-permittee language and provided compelling legal arguments against the EPA's authority to impose such a requirement. These comments were instrumental in preparing for the language anticipated in the Deer Island permit as well.

Recognizing the potential need for legal action in response to the MWRA's Clinton and Deer Island NPDES permits, the Advisory Board took proactive measures. In June 2022, the Advisory Board staff conducted interviews with four environmental law firms to assess their expertise and explore potential legal strategies. After careful consideration of the proposals, the Executive Committee unanimously selected Beveridge & Diamond (B&D), which received further full endorsement from the Advisory Board during its June 16th meeting.

Beveridge & Diamond, the chosen law firm, is nationally recognized and holds a prominent position in environmental and litigation law. With a Boston office in Massachusetts, their lawyers have been representing municipalities in Clean Water Act (CWA) cases since the 1970s. The Advisory Board was impressed by their experience in advocating for public agencies in Clean Water Act permitting and enforcement matters, including their recent involvement in arguing San Francisco's 9th Circuit appeal on its NPDES permit.

At the heart of this issue lies the ongoing concern over the inclusion of language in Region 1 NPDES permits that designates communities as co-permittees. This issue has been a longstanding focus for the Advisory Board due to the potential impacts it may have on member communities. If the anticipated Deer Island NPDES permit incorporates the standard language from other Region 1 permits, as many as 43 communities could be named as co-permittees. The current ambiguous language - as seen in the draft Clinton NPDES permit - also leaves room for future interpretation, raising the possibility of MWRA assuming a regulatory role over its communities. Such a scenario would disrupt the delicate balance that exists in the carefully calibrated relationship between the MWRA and its member communities.

These considerations underscore the significance of the Advisory Board's engagement with environmental law firms and their preparedness to take legal action. The Advisory Board remains committed to safeguarding the interests of the member communities and ensuring that the final language of the NPDES permits does not compromise their well-being or the cooperative partnership between the MWRA and its members.

Since then, the Advisory Board has been actively engaged in addressing the concerns raised by the inclusion of communities as co-permittees in the NPDES permits. Working alongside B&D as the Advisory Board's special counsel, MWRA's legal staff, and Foley Hoag - the MWRA's special counsel - the Advisory Board developed revisions to EPA's language that could mitigate or limit the impacts of such an inclusion. These revisions were submitted as "minor modification" suggestions to EPA for the Clinton NPDES permit and subsequently provided to EPA for consideration in the development of the draft Deer Island NPDES permit.

EPA has conducted several informational sessions on the Deer Island permit, though the level of access varied for different stakeholders. MWRA staff participated in two sessions focused on specific monitoring and treatment requirements expected in the new permit, while Advisory Board staff was not permitted to attend. Another session was held with the Public Interest Advisory Committee (PIAC) to discuss the removal of the OMSAP from the new Deer Island permit and explore potential options for its continuation outside the NPDES permit. Advisory Board staff attended, but MWRA staff was not allowed.

On March 28, 2023, a session was held for the 43 MWRA wastewater communities, outlining the process and expected timeline. EPA staff, however, avoided providing specific answers and instead advised stakeholders to examine the forthcoming draft permits for a better understanding of the language that might be included in the Deer Island permit.

Shortly after, on March 30, 2023, EPA issued Draft NPDES permits for multiple facilities, including the Montague Water Pollution Control Facility, Northampton Wastewater Treatment Plant, Amherst Wastewater Treatment Plant, Palmer Water Pollution Control Facility, and Westfield Water Pollution Control Plant. The Advisory Board's Operations Committee held a meeting on April 13, 2023, where MWRA staff presented their concerns aligning with those of the Advisory Board regarding the language in the new draft permits and its potential implications for MWRA wastewater communities in the forthcoming Deer Island permit.

Key areas of concern discussed included the new requirements related to climate change, such as the development of WWTF and Sewer System Major Storm and Flood Events Plans. These planning obligations, spanning a 100-year time frame, pose challenges for MWRA and the satellite communities, potentially requiring significant long-term planning, investments, and limited flexibility in managing capital budgets. The ambiguities in the draft permit terms and the lack of clarity on project achievability and costs further complicate compliance for the communities.

Recognizing the significance of the upcoming Deer Island draft NPDES permit, the Operations Committee requested a follow-up meeting to address the language once it is issued. The MWRA has already submitted comments on various Region 1 draft NPDES permits, and the Advisory Board is working with its outside counsel to prepare draft comments in case the language in these permits aligns with the Deer Island draft permit.

Currently, the issuance of the Deer Island draft NPDES permit is anticipated by the end of May 2023, followed by a 60-day comment period. Given the unique and extensive nature of the permit, the Advisory Board and MWRA plan to request a 30-day extension. During the comment period, communities, the MWRA Advisory Board, and the MWRA will have the opportunity to submit comments either in writing or verbally. Notably, separate processes and sets of comments will be required for Mass DEP and EPA. EPA is obligated to respond to all comments but has no specific deadline for issuing these responses.

To preserve the right to challenge any provisions in the final permit upon issuance, it is essential for agencies and entities to have submitted comments specifically addressing the provisions being challenged. As of now, the draft Deer Island NPDES permit has not yet been released.

The Advisory Board intends to seek approval from its Executive Committee to allocate a portion of its operating budget surplus from the current fiscal year to its Legal Fund, in anticipation of a potential appeal of the final Deer Island NPDES Permit. It is important to note that appealing the Deer Island permit would first require presenting the case before the EPA's Environmental Appeals Board (EAB). However, past experiences indicate that initial appeals before the EAB, which is comprised of EPA staff, have (perhaps unsurprisingly) had limited success. If the EAB appeal proves unsuccessful, the next course of action would involve appealing to the federal district court.

The Advisory Board remains steadfast in its commitment to minimize the adverse impacts of any language designating MWRA wastewater communities as co-permittees. It aims to prevent any modifications or irreparable harm to the carefully calibrated and delicately balanced relationship between the MWRA and its member communities.

Recommendation: The Advisory Board strongly encourages the MWRA to actively participate in all necessary efforts to safeguard the shared objective of limiting as much as possible the impacts of co-permittee language in the final Deer Island NPDES permit upon the MWRA wastewater communities and, especially, any significant adjustment to the relationship between the MWRA and its member communities.

This year's Comments and Recommendations (C&R) is, in fact, a culmination of the Advisory Board's five-year goal to achieve a 2.4% combined assessment increase for MWRA communities by FY24. The Advisory Board's recommendation not only underscores the achievability of this goal, but also emphasizes the importance of collaboration between the Advisory Board and the MWRA in delivering on this objective. While recognizing that the specific paths to reaching the goal may differ, the Advisory Board encourages the MWRA to recommend a final FY24 combined increase to the MWRA Board of Directors of 2.4%.

The Advisory Board continues to recognize and highlight the challenges facing the Authority including the ongoing challenge the MWRA faces with continual retirements and the challenges of finding, attracting, and retaining new employees.

Moreover, the Advisory Board once again raises concerns about the potential impact of pension costs on future rate increases. The C&R serves as an alert, warning that if market conditions do not improve, the funding schedule is not extended, or proactive measures are not taken to mitigate the challenge, pension costs could have a significant impact on future rate adjustments. By highlighting this issue, the Advisory Board aims to draw attention to the importance of proactively managing pension obligations to prevent undue burden on ratepayers.

The C&R also acknowledges the uncertain future influenced by various market conditions. Factors such as the lingering effects of the COVID-19 pandemic, record inflation, high interest rates, supply chain disruptions, and global instability resulting from conflicts like the ongoing war in Ukraine are recognized as external factors beyond the control of the MWRA. The Advisory Board understands the need to remain vigilant, adaptive, and prepared for potential effects on future expenses, urging the MWRA to continue engaging the Advisory Board as it develops its prudent financial planning and risk management strategies.

Addressing the challenge faced by the MWRA in completing its CSO (Combined Sewer Overflow) Long-Term Control Plan, the C&R warns about the pressures exerted by legislators, advocacy groups, activists, and environmentalists calling for additional spending without fully considering the cost-benefit analysis and the potential impact on ratepayers. The Advisory Board stresses the importance of a balanced approach that carefully evaluates the potential benefits and costs of such initiatives, promoting responsible decision-making that considers the long-term sustainability and affordability of the MWRA's operations.

In closing, the Advisory Board expresses deep appreciation to the MWRA and its dedicated staff for their unwavering commitment to actively engaging with and supporting the Advisory Board and its member communities. This collaboration and support have been instrumental in addressing the numerous issues and challenges faced by MWRA communities. Looking ahead, the Advisory Board expresses a sincere desire to continue this productive partnership, working together with the MWRA to navigate the complexities of the future, to support MWRA's member communities, and to always keep at top of mind the impacts upon those ultimately "paying the bill" - MWRA's ratepayers.

Joseph E. Favaloro

Joseph E. Favaloro
Executive Director

Appendix A

List of Recommendations

1. The Advisory Board recommends reducing the FY24 Rate Revenue Requirement by $8,188,819 resulting in a combined wholesale assessment increase of 2.42%.

2. Advisory Board recommends a reduction of $1,250,000 in the Wages and Salaries line item. This reduction would entail $750,000 for the water utility and $500,000 for the sewer utility.

3. Advisory Board recommends a reduction of $1,550,000 to the Sludge Pelletization line item.

4. Consistent with the "two sides of the same coin" approach endorsed by the MWRA Board of Directors, and in line with previous MWRA policies (including in PFY24), the Authority should shift all water and sewer OPEB contributions PFY24 CEB to the pension line item and continue to do so until "virtual full funding" level is achieved (95%-105%).

5. The Authority should not move away the Advisory Board recommendation on shifting all OPEB contributions to pension without extending out the current pension funding schedule provided it doesn't dramatically impact the CEB Rate Revenue Requirement.

6. Advisory Board recommends reducing the Watershed Reimbursement line item by $500,000 to account for the assumption of the carryover of surplus from FY23 to FY24.

7. The Advisory Board recommends that the MWRA take any and all actions needed to ensure that the Division of Water Supply Protection's active forestry management program is restarted and is exempted from the statewide forestry moratorium.

8. Taking into account the projected availability of surplus funds for defeasance, the Advisory Board recommends allocating $2,850,000 towards targeting water defeasance in the final FY2024 operating budget.

9. The Advisory Board recommends continuation of the Advisory Board's "Pay it Forward" Principle, applying the FY23 Debt Service Assistance of $1,187,297 towards the FY24 budget.

10. The Advisory Board recommends that the MWRA work collaboratively with the Advisory Board to identify additional funding from each of the stakeholders in the system expansion process – the federal government, the Commonwealth of Massachusetts, and the communities seeking to join the MWRA waterworks system.

11. The Advisory Board strongly encourages the MWRA to actively participate in all necessary efforts to safeguard the shared objective of limiting as much as possible the impacts of co-permittee language in the final Deer Island NPDES permit upon the MWRA wastewater communities and, especially, any significant adjustment to the relationship between the MWRA and its member communities.

Appendix B

List of Comments

1. The Advisory Board anticipates spring revisit item totals of $3,613,906 on the water utility and -$5,040,340 on the sewer utility. (Totals exclude Debt Service Assistance and adjustments to Operating Reserve).

2. The Advisory Board remains committed to reducing the levels of CIP underspending and will work with the Authority to analyze, and respond to, trends following the implementation of the 25% Spend Rate Adjustment.

3. Advisory Board, guided by its long-standing principle of "environmentally sound and ratepayer equitable," cannot endorse a plan that places a significant financial burden on ratepayers despite its environmental advantages – whether in the form of the proposed legislation's terms or the complete elimination of CSOs.

Appendix C

The Dunphy Sheet

Combined Water & Sewer Utility

IMPACTS ON RATE REVENUE REQUIREMENT	Water	Sewer	Combined
Final FY2023 RRR	$ 288,305,000	$ 526,343,000	$ 814,648,000
Proposed FY2024 RRR	$ 299,674,000	$ 542,871,000	$ 842,545,600
MWRA Proposed FY24 RRR Increase	**3.94%**	**3.14%**	**3.42%**
AB Recommendations	$ (312,267)	$ (7,876,552)	$ (8,188,819)
FY2024 RRR, less changes	$ 299,361,733	$ 534,994,448	$ 834,356,781
Advisory Board Recommended FY24 RRR Increase	**3.84%**	**1.64%**	**2.42%**

IMPACTS ON EXPENDITURES			
MWRA ADVISORY BOARD RECOMMENDATIONS FOR FY24 CEB			
	Water	**Sewer**	**Combined**
Staffing (vacancy rate assumptions)	$ (750,000)	$ (500,000)	$ (1,250,000)
Watershed	$ (500,000)		$ (500,000)
Targeted Water Utility Defeasance	$ (2,850,000)		$ (2,850,000)
Sludge Pelletization		$ (1,550,000)	$ (1,550,000)
Debt Service Assistance	$ (115,168)	$ (1,072,129)	$ (1,187,297)
Subtotal AB Recommendations	**$ (4,215,168)**	**$ (3,122,129)**	**$ (7,337,297)**
ANTICIPATED ADJUSTMENTS TO PROPOSED FY24 CEB			
	Water	**Sewer**	**Sewer**
Wages & Salaries	$ 1,964,098	$ 3,018,719	$ 4,982,816
Overtime	$ 52,701	$ 99,304	$ 152,005
Fringe Benefits	$ 167,663	$ 289,874	$ 457,537
Chemicals	$ 146,410	$ (217,693)	$ (71,284)
Utilities	$ (1,221,539)	$ (812,262)	$ (2,033,801)
Maintenance	$ 1,373,324	$ 679,845	$ 2,053,170
Professional Services	$ 21,644	$ 236,005	$ 257,650
Other Materials	$ (30,152)	$ (112,141)	$ (142,293)
Other Services	$ 9,817	$ 583,852	$ 593,669
Insurance	$ (68,242)	$ (131,758)	$ (200,000)
Watershed	$ 1,172,733		$ 1,172,733
HEEC		$ 55,209	$ 55,209
Senior Debt	$ 1,433,709	$ (4,982,301)	$ (3,548,592)
Subordinate Debt	$ 792,864	$ 374,616	$ 1,167,480
SRF	$ (2,161,366)	$ (2,161,367)	$ (4,322,733)
Optional Debt Prepayment	$ (39,758)	$ (1,960,242)	$ (2,000,000)
Subtotal of Changes to Operating Costs	**$ 3,613,906**	**$ (5,040,340)**	**$ (1,426,434)**
OPERATING RESERVE REQUIREMENT ADJUSTMENT **Updated based on applicable adjustments; applies only to direct and indirect costs (revenue not included)**			
	Water	**Sewer**	**Combined**
Operating Reserve Requirement	$ 288,994	$ 285,917	$ 574,912
NET CHANGES TO PROPOSED FY24 CEB	**$ (312,267)**	**$ (7,876,552)**	**$ (8,188,819)**