

**MASSACHUSETTS WATER RESOURCES AUTHORITY**

Meeting of the Board of Directors

October 18, 2023

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A meeting of the Massachusetts Water Resources Authority (“MWRA”) Board of Directors was held on October 18, 2023 at MWRA’s headquarters at Deer Island in Boston, and also via remote participation.

Chair Tepper presided from MWRA headquarters. Board Members Foti, Peña, Taverna, Jack Walsh, Patrick Walsh and White-Hammond also participated from MWRA headquarters. Board Members Pappastergion, Vitale and Wolowicz participated remotely. Board Member Flanagan was absent.

MWRA Executive Director Frederick Laskey; General Counsel Carolyn Francisco Murphy; Chief Operating Officer David Coppes; Deputy Chief Operating Officer Rebecca Weidman; Director of Finance Thomas Durkin; Director of Administration Michele Gillen; Special Assistant for Affirmative Action Patterson Riley; Senior Program Manager for Engineering and Construction Ester Lwebuga; Director of Construction Martin McGowan; Human Resources Director Wendy Chu; Procurement Director Douglas Rice; Director of Internal Audit Claude Cormier; Deputy Finance Director and Treasurer Matthew Horan; ENQUAL Director Betsy Reilley; ENQUAL Senior Program Manager David Wu; TRAC Director Matthew Dam; Engineering Services Manager Richard Adams; Steve Estes-Smargiassi Director of Planning and Sustainability; Chief of Staff Katie Ronan; Associate General Counsels Angela Atchue and Kristen Schuler Scammon; and, Assistant Secretary Kristin MacDougall participated at MWRA headquarters.

Moussa Albert Siri, WSCAC, participated in the meeting from MWRA Headquarters. Vandana Rao, EEA, and Matthew Romero, MWRA Advisory Board, participated remotely.

Chair Tepper called the meeting to order at 1:00pm.

**ROLL CALL**

MWRA General Counsel Francisco Murphy took roll call of Board Members in attendance and announced that Chair Tepper and Board Members Pappastergion, Vitale and Wolowicz were participating remotely. The Chair announced that the meeting was being held at MWRA’s headquarters at Deer Island and virtually, via a link posted on MWRA’s website. She added that the meeting would be recorded, and that the agenda and meeting materials were available on MWRA’s website. She also announced that individual roll call votes would be conducted after each motion was made and given an opportunity for discussion.

**APPROVAL OF SEPTEMBER 13, 2023 MINUTES**

**A motion was duly made and seconded to approve the minutes of the Board of Directors’ meeting of September 13, 2023.**

Chair Tepper asked if there was any discussion or questions from the Board. Hearing none, she requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
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Foti

Pappastergion

Peña

Taverna

Vitale

J. Walsh

P. Walsh

Wolowicz

(ref. I)

REPORT OF THE CHAIR

Chair Tepper discussed the Healey-Driscoll Administration's 2023 ResilienceMass Plan ("Resilience Plan"). She explained that the Resilience Plan was prepared under federal mandate to maintain pre- and post-disaster funding eligibility. She noted that the Resilience Plan includes information on risks that the Commonwealth may incur from climate change, and sets forth actions to address those risks. The Chair advised that the greatest risks for Massachusetts include inland flooding, tidal rise, and extreme heat, and noted that the Plan specifies individual and collective actions for state agencies to increase resilience. She noted that the Resilience Plan will be administered by an inter-agency group, and that the Plan's actions will be publicly tracked online at <https://resilient.mass.gov/home.html>. The Chair then described some key actions of the Resilience Plan, such as the establishment of an Office of Climate Science, and actions related to the state building code and MBTA design standards. She explained that the Resilience Plan is designed to help state agencies prepare for extreme weather events, and described the increased frequency of such events in Massachusetts and their impacts to residents. Finally, Chair Tepper noted that the Resilience Plan incorporates science and findings of previous climate assessments, and was developed with input from key stakeholders. (ref. II)

REPORT OF THE EXECUTIVE DIRECTOR

On behalf of MWRA staff, Fred Laskey, MWRA Executive Director, offered remarks in tribute to the late James Guidod, MWRA Advisory Board Finance Director. Next, Mr. Laskey introduced and welcomed Moussa Albert Siri, the new Executive Director of the Water Supply Citizens Advisory Committee (WSCAC). He then briefly reported on land acquisition grant funding, and ongoing efforts for a proposed 100-acre Quabbin Watershed land acquisition. He presented a map of the planned acquisition area and noted that the effort was being conducted in collaboration with the DCR, Mass Audubon and Mount Grace Land Trust. Next, Mr. Laskey updated Board Members on the Quinapoxet Dam Removal project and the MWRA's participation in the Healey-Driscoll Administration's *Forests as Climate Solutions* initiative. He then advised that a number of MWRA water service communities had exceeded lead thresholds, and that MWRA was providing support. Mr. Laskey then briefly updated Board Members on MWRA's Audited Financial Statements, and an upcoming Veterans Day Ceremony and Luncheon. Next, Mr. Laskey invited Board Members to an event to celebrate the 175th Anniversary of the Cochituate Aqueduct at the Metropolitan Water Works Museum on October 25, 2023. Finally, Mr. Laskey reported that MWRA is submitting testimony on legislation related to combined sewer overflow (CSO) control

and the elimination of so-called “flushable” wipes, which clog sewer pipes and machinery. (ref. III)

#### EXECUTIVE SESSION

Chair Tepper requested that the Board move into Executive Session to discuss Real Estate and Litigation, since discussing such in Open Session could have a detrimental effect on the negotiating and litigating positions of the Authority. She announced the planned topics for discussion in Executive Session was a watershed land acquisition and the PFAS class action settlements. She announced that the Board would return to Open Session after the conclusion of Executive Session.

#### **A motion was duly made and seconded to enter Executive Session for these purposes, and to resume Open Session after Executive Session adjournment.**

General Counsel Francisco Murphy reminded Board members that under the Open Meeting Law members who were participating remotely in Executive Session must state that no other person is present or able to hear the discussion at their remote location. A response of “yes” to the Roll Call to enter Executive Session when their name was called would also be deemed their statement that no other person was present or able to hear the Executive Session discussion.

Upon a motion duly made and seconded, a roll call vote was taken in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		
Foti		
Pappastergion		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
Wolowicz		

#### **Voted: to enter Executive Session, and to resume Open Session after Executive Session adjournment.**

\*\*\* EXECUTIVE SESSION \*\*\*

The meeting entered Executive Session at 1:13pm and adjourned at 2:01pm.

(Board Member White-Hammond joined the meeting at 1:25pm during Executive Session.)

\*\*\* CONTINUATION OF OPEN SESSION \*\*\*

WATER POLICY AND OVERSIGHT

Information

Update on Water System Expansion Activities

Rebecca Weidman, MWRA Deputy Chief Operating Officer, presented an update on MWRA's water system expansion efforts. The presentation began with an overview of reservoir withdrawals from 1980 through 2022, and MWRA's Demand Management Program, which has resulted in a significant reduction of system water use. She noted that MWRA's daily system withdrawals are currently at approximately 200 million gallons per day (MGD), which is well below the Safe Yield of the reservoir system. She explained that the MWRA system has ample water to supply its current service communities and to add new service communities. She noted that MWRA has seen an uptick in inquiries about joining the water system. Ms. Weidman then described three recently completed Water System Expansion Studies conducted for the Ipswich River Basin, the South Shore, and MetroWest. She added that new PFAS regulations, and MWRA's Entrance Fee Waiver Program ("Waiver Program") are factors in communities' increased interest in joining the MWRA water system.

Next, Ms. Weidman advised that staff were considering a new Water System Expansion Evaluation ("Evaluation") for communities in the Quabbin Watershed.

Mr. Laskey explained that the Evaluation would take place in response to feedback received from Quabbin-area communities that are experiencing water quality and supply concerns. Mr. Laskey gave examples of the water quality and supply issues reported by the communities. He briefly described the logistics of the proposed Evaluation, which would be conducted similarly to the three prior studies. Finally, he asked Board Members if they recommended a vote to approve MWRA's Quabbin Evaluation.

(Rev. White-Hammond briefly exited and returned to the meeting during the discussion.)

Chair Tepper expressed support for the Evaluation. She discussed the history of towns that were disincorporated and flooded to build the Quabbin Reservoir, and advised that the Evaluation should be conducted out of fairness for the communities surrounding the Quabbin. Rev. White-Hammond echoed the Chair's remarks, and suggested that the Board take a vote in support for the Evaluation in recognition of this ongoing Environmental Justice issue. Chair Tepper agreed and advised that the Evaluation would be a worthwhile investment and requested a motion. There was brief discussion about the motion.

**A motion was duly made and seconded to support a MWRA Water System Expansion Evaluation for ten towns in the Quabbin Reservoir watershed (Barre, Belchertown, Hardwick, New Salem, Orange, Pelham, Petersham, Shutesbury, Ware and Wendell).**

Chair Tepper asked if there was further discussion or questions from the Board. Hearing none, she requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Foti		
Pappastergion		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		
Wolowicz		

Next, Ms. Weidman briefly presented an update on the status of recent water system expansion inquiries. She reported that two partially-supplied communities were considering increases to their MWRA water supplies; that four communities have received approval to pursue admission from their governing bodies; and, that additional communities were at various stages of the decision-making process. Finally, Ms. Weidman described next steps of the water system expansion process, including an evaluation of connection options for added service communities, such as a new connection point at Shaft L for the MetroWest area.

Chair Tepper requested an update on the Waiver Program. Ms. Weidman reported that the program extends through December 31, 2027, with a 20 MGD limit for new communities. She explained that the waiver includes a stipulation that communities must demonstrate water quality, quantity and supply issues due to economic development. She noted that none of communities that have recently expressed interest in joining the MWRA water system are at a point in the admission process when they would request a waiver, and that requests for waivers were expected in the future.

Board Member Jack Walsh asked which entities would be financially responsible for new water connections under the Expansion Program. Mr. Laskey explained that the financial responsibilities would vary by case, depending on such factors as the location, complexity and size of each connection. There was brief, general discussion about costs related to MWRA's Entrance Fee Waivers, and the purpose of the potential new connection point at Shaft L. Mr. Walsh requested more information about costs associated with new connections within the three completed Study areas. Ms. Weidman described existing and potential new connection points for each area. Board Member Peña requested more information about MWRA's policy for new connection inquiries from communities that are not within the established Study areas. Ms. Weidman explained that staff engage with any community that makes an inquiry, and that the completed studies would not be reopened.

Hearing no further discussion or questions from the Board, Committee Chair Vitale moved to Contract Awards. (ref. V A.1)

Contract Awards

Update on Contract 6955 with CDM Smith Inc., Design and Engineering Services During Construction and Memorandum of Agreement between MWRA and the City of Newton Intermediate High Pipeline Improvements, Section 75A and Section 47 - Belmont, Boston, Newton and Watertown Contract 7484

**A motion was duly made and seconded to authorize the Executive Director, on behalf of the Authority, to execute a Memorandum of Agreement between MWRA and the City of Newton, substantially in the form attached to the October 18, 2023 staff summary, related to reimbursement to MWRA for construction costs associated with the replacement of a City of Newton 20-inch diameter water main and drainage improvements under MWRA Construction Contract 7484.**

Ester Lwebuga, MWRA Senior Program Manager, Engineering and Construction, presented an update on the Intermediate High Pipeline Improvement Project (“Intermediate High Project”) and work to be performed under a proposed Memorandum of Agreement (MOA) with the City of Newton. She presented a project overview and progress update, and the scope and schedules for the project’s three Construction Packages (CP-1, CP-2, and CP-3). She advised that staff recommend the postponement of certain CP-3 design work related to the isolation of pipeline Sections 59 and 60 pending further conditions assessment. Next, Ms. Lwebuga explained that staff sought Board approval to execute a MOA with the City of Newton related to costs associated with the replacement of a City-owned water main and drainage improvements to be performed under the CP-1. Finally, Ms. Lwebuga provided further details about the location, scope, schedule and costs of the work to be performed under the proposed MOA.

Chair Tepper complimented Ms. Lwebuga for preparing a helpful report. Rev. White-Hammond asked if work on Sections 59 and 60 were expected to resume after further assessments are complete. Ms. Lwebuga responded in the affirmative.

Chair Tepper asked if there was further discussion or questions from the Board. Hearing none, she requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		
Foti		
Pappastergion		
Peña		
		Taverna
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		
Wolowicz		

(ref. V B.1)

Contract Amendments/Change OrdersSouthborough Headquarters Electrical System Upgrades: Dagle Electrical Construction Corp., Contract 7425, Change Order 4

**A motion was duly made and seconded to authorize the Executive Director, on behalf of the Authority, to approve Change Order 4 to Contract 7425, Southborough Headquarters Electrical Systems Upgrades, with Dagle Electrical Construction Corp. to extend the contract term by 126 calendar days from October 27, 2023 to March 1, 2024, with no increase in contract amount.**

**Further, a motion was duly made and seconded to authorize the Executive Director to approve additional change orders as may be needed to Contract 7425 for up to 180 days, in accordance with the Management Policies and Procedures of the Board of Directors.**

Marty McGowan, MWRA Director of Construction, summarized the reasons for a proposed Change Order for the Southborough Headquarters Electrical System Upgrade contract. He explained that the requested 126-day contract term extension was needed due to electrical equipment supply chain delays for critical breakers.

Mr. Jack Walsh requested a brief overview of the scope of the contract. Mr. McGowan explained that the contract is for electrical distribution system upgrades at MWRA's Southborough facilities. There was brief, general discussion about the electrical work. Mr. Laskey added that the scope included the reconfiguration of the facility's generators. Board Member Foti requested clarification on whether contract cost increases related to this change order were expected in the future. Mr. McGowan advised the terms of the contract do not allow for additional costs associated with supply chain delays.

Chair Tepper asked if there was further discussion or questions from the Board. Hearing none, she requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		
Foti		
Pappastergion		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		
Wolowicz		

(ref. V C.1)

PERSONNEL AND COMPENATIONApprovalsPCR Amendments – October 2023

Wendy Chu, MWRA Human Resources Director, described three proposed PCR amendments, including

two salary adjustments related to recruitment and retention efforts, and one title and grade change to better meet staffing needs.

**A motion was duly made and seconded to approve amendments to the Position Control Register (PCR) as presented and filed with the records of this meeting.**

Chair Tepper asked if there was further discussion or questions from the Board. Hearing none, she requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		
Foti		
Pappastergion		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		
Wolowicz		

(ref. VI A.1)

#### ADMINISTRATION, FINANCE AND AUDIT

##### Information

##### Delegated Authority Report – September 2023

Michele Gillen, MWRA Director of Administration, invited Board Members' questions on the report.

Mr. Jack Walsh requested more information about Report Item C-6: *Braintree-Weymouth Pump Station Improvements, Design/ESDC Services*. David Coppes, MWRA Chief Operating Officer, explained that work under item C-6 included the review of additional submittals. Mr. Walsh asked if item C-6 represented a Change Order. Mr. Coppes explained that item C-6 represented an Amendment to a design contract, to compensate the design contractor for the review of items added during construction. Mr. Walsh asked why Report Item P-2, *One-Year Purchase Order Contract for Microsoft Unified Enterprise Support* was awarded to Dell Marketing LP. Douglas Rice, MWRA Procurement Director, explained that the procurement was advertised through a statewide contract, and that Dell was a qualified vendor under that contract. Mr. Walsh asked if Dell was the lowest bidder. Mr. Rice responded in the affirmative. Mr. Walsh asked if the contractor for Report Item P-10: *One-Year Purchase Order for Plumbing Services for the Clinton Wastewater Treatment Plant* was selected through a bidding process. Mr. Rice responded in the affirmative.

Board Member Vitale asked staff to clarify the term "Sole Source Contractor." Mr. Rice explained that MWRA's policy for sole source procurements requires the submittal and review of a justification memo. He advised that requests for sole source procurements are only approved if they meet thresholds for factors such as competition, and that only upon approval may a single vendor be solicited. Mr. Rice then



noted that MWRA's sole source contracts are often awarded to manufacturers of proprietary goods, such as Muffin Monsters, and that staff are required to periodically renew any recurring sole source requests. Ms. Gillen added that staff test the market to confirm that goods and services continue to be available on a proprietary basis only.

Hearing no further discussion or questions from the Board, Committee Chair Foti moved to the next Information item. (ref. VII A.1)

#### Internal Audit Department Activities Report – FY2023

Claude Cormier, MWRA Director of Internal Audit, updated Board Members on Internal Audit Department activities for FY2023. He provided a brief overview of Internal Audit's roles and responsibilities within the MWRA organization. He then noted that the purpose of the Internal Audit Department Activities Report is to provide an annual review of the Department's activities, findings, recommendations and associated cost savings. Next, he reported that Internal Audit staff had identified a total of \$2.3 million in cost savings and recoveries in FY2023. Finally, Mr. Cormier described the Internal Audit Department's mission and goals: to assess internal controls designed to reduce financial, operational and compliance risks; to review contracts and supporting documentation to ensure payments made to third party vendors and construction firms are reasonable, allowable, and allocable, and to review MWRA's policies, procedures and operational management methods to ensure employee safety, and reduce operational waste (fraud, waste and abuse).

Mr. Laskey asked Mr. Cormier to discuss Internal Audit's FY2023 activities with regards to the Harbor Electric Energy Company ("HEEC") cable. Mr. Cormier explained that Internal Audit's review of HEEC's billings and costs resulted in approximately \$700,000 in savings for MWRA in FY2023, and briefly described the HEEC review process.

Mr. Vitale asked which vendor provides MWRA's Confined Space Entry training, and if MWRA receives any assistance to conduct the training. Mr. Laskey explained that the training is conducted only by MWRA staff. Mr. Foti noted that he has participated in the training and found it to be useful and well-done.

Hearing no further discussion or questions from the Board, Mr. Foti moved to the next Information item. (ref. VII A.2)

#### FY2024 Financial Update and Summary through September 2023

Thomas Durkin, MWRA Finance Director, summarized FY2024 financial highlights through September 2023. He reported that the budget is progressing well, noting that inflation seems to have moderated, and that staff's budgetary assumptions for chemicals and energy costs are currently holding steady. Mr. Durkin then advised that staff were carefully monitoring current geopolitical events for any potential impacts to energy prices or other costs. Next, he explained that the expense variances reported in the Staff Summary reflect the typical patterns of a fiscal year and are not a cause for concern. Mr. Durkin then advised that the ongoing volatility of short-term interest rates continues to impact the budget, and that staff continue to watch interest rates. He further advised that MWRA's revenue has risen through September, attributable to higher than budgeted interest rates on investment income. Finally, Mr.

Durkin reported that revenue was \$1.4 million (+0.7%) over budget.

Hearing no discussion or questions from the Board, Mr. Foti moved to approvals. (ref. VII A.3)

### Approvals

#### Termination of Interest Rate Hedge Agreements

**A motion was duly made and seconded to authorize the Executive Director or his designee, on behalf of the Authority, to terminate all or a portion of the Authority's existing interest rate hedge agreements with Citigroup Financial Products Inc., Morgan Stanley Capital Services Inc., Barclays Bank PLC, and Wells Fargo, NA, including any termination payments due in connection with the termination thereof as calculated pursuant to the applicable International Swap and Derivatives Association Agreements.**

MWRA staff presented the reasons for the recommendation to terminate six derivative swap hedge contracts, which are contracts through which two parties exchange interest payments from two different financial instruments, such as a loan or a bond. Mr. Durkin began the presentation by describing various types of interest rate structures. He advised that current interest rates along with MWRA's overall decrease in variable rate debt present an opportunity for MWRA to achieve overall debt service savings by terminating its swap agreements for future debt service savings. Mr. Durkin then discussed factors considered in developing the recommended swap termination strategy, including cost savings, increased returns, and the reduction of risk. He provided a brief walkthrough of the mechanics of typical derivative swap transactions.

Next, Matthew Horan, MWRA Deputy Finance Director and Treasurer, presented an overview of six MWRA swap transactions from 1998 through 2001, and briefly described their benefits and risks. He advised that MWRA currently has five swap agreements outstanding, with a total outstanding value of approximately \$166 million, and a total termination value of \$27.5 million. He highlighted the high interest rates of MWRA's outstanding swap agreements. Next, Mr. Horan advised that MWRA's current budgetary position and the general economic climate favor the termination of these agreements. He discussed the reasons for MWRA's proposed swap termination, including a drop in termination values, and the benefits, such as reduced variable rate interest exposure, the elimination of swap counterparty risk, reduced auditing requirements, increased portfolio flexibility, and significant cost savings. He then briefly described the post-swap termination structure and the debt service impacts of the termination. Mr. Horan then advised that the proposed swap terminations could provide gross savings of approximately \$4.3 million to \$14.5 million, depending on future interest rates. Finally, he provided examples of similar transactions at other state agencies, and described the next steps of MWRA's swap termination if approved by the Board.

Mr. Peña requested clarification on the potential impacts of high interest rates on staff's recommended swap terminations. Mr. Horan explained that staff's recommendation was developed in consultation with its financial advisors, noting that interest rates have stabilized since August 2023, and that MWRA has the available funds. Mr. Peña then asked how MWRA would fund the swap termination. Mr. Horan explained that the transaction would be partly funded by a portion of MWRA's FY2023 favorable budget

variance, and any remaining funds would be used for a proposed defeasance, planned for December 2023. There was brief, general discussion about MWRA's interest rate strategy.

Mr. Jack Walsh requested clarification of the swap termination's potential impacts on MWRA's financial position with respect to variable rate interest. Mr. Durkin advised that the swap transactions would benefit MWRA's financial position. Mr. Walsh then asked how the termination would benefit the counterparties. Mr. Durkin explained that MWRA's swap counterparties benefit via a "balanced book" (a similar, but reverse transaction with a third party.) There was brief, general discussion about the benefits of the swap, interest rates and the terms of the swap agreements and terminations.

Mr. Vitale complimented staff for presenting this complex topic clearly, and expressed his support. He advised that in his view, the proposed swap termination is the correct, and most conservative course of action. There was brief, general discussion about the complexity of counterparty agreements. Mr. Laskey congratulated all involved in the proposed swap termination, and reiterated its benefits to MWRA and its ratepayers. Mr. Foti agreed with Mr. Vitale, and complimented staff for their work on the swap termination and for developing an effective presentation.

(Mr. Pappastergion and Ms. Wolowicz left the meeting during the discussion.)

Chair Tepper asked if there was further discussion or questions from the Board. Hearing none, she requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		
Foti		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		

(ref. VII B.1)

## WASTEWATER POLICY AND OVERSIGHT

### Information

#### 2022 Deer Island Outfall Monitoring Overview

Staff presented a review of MWRA's Deer Island Outfall Monitoring Program ("Outfall Monitoring Program") results for 2022. Betsy Reilley, MWRA ENQUAL Director, advised that the results demonstrate that the outfall is not adversely impacting Massachusetts Bay ("Mass Bay"). She discussed the Outfall Monitoring Program's federal regulatory requirements and the program's goals, which include tracking the impacts of MWRA's Deer Island Treatment Plant ("DITP") on Mass Bay and Boston Harbor, and ensuring that MWRA's wastewater system improvements do not benefit Boston Harbor at the expense of Mass Bay. Next, Ms. Reilley briefly described the role of the Outfall Monitoring Science Advisory Panel (OMSAP), which reviews Outfall Monitoring Program results and makes any necessary

recommendations. Finally, she reported that in 2022, DITP met permit requirements for effluent quality for the 16<sup>th</sup> consecutive year, and that the treatment plant met contingency threshold limits for all parameters except dissolved oxygen and the plankton *Alexandrium*.

Next, David Wu, MWRA Senior Program Manager, ENQUAL, presented key highlights of the Outfall Monitoring Program results for 2022, including continued low levels of solids and metals discharges, and improved flounder health. He then discussed the Outfall Monitoring Program's Contingency Plan 2022 threshold exceedances for dissolved oxygen and *Alexandrium*. He noted that the thresholds are designed to signal changes from pre-outfall conditions and that exceedances are not necessarily indicative of any environmental harm. Next, Mr. Wu reported that dissolved oxygen exceedances occurred at Stellwagen Bank in August, September and October, 2022, and in July and September 2023. He noted that in 2021 dissolved oxygen exceedances were detected for the first time since the outfall came on-line, and added that the dissolved oxygen exceedance levels may be related to long-term, ongoing regional temperature increases. He presented data on ocean temperature increases in the Gulf of Maine, and for ocean and air temperature changes in Mass Bay, noting a correlation between higher temperatures and decreased dissolved oxygen levels. He advised that it is not likely that the *Alexandrium* exceedances are linked to the outfall.

Next, Mr. Wu discussed recent changes in the draft federal NPDES permit. He explained that the revised Draft Permit includes the addition of thresholds for harmful and nuisance algae, the deletion of benthic, fish and shellfish monitoring, and the removal of the Outfall Contingency Plan and its associated thresholds, including dissolved oxygen. He advised that MWRA will continue to monitor dissolved oxygen levels even though the threshold was removed from the Draft Permit.

Rev. White-Hammond asked why the thresholds were removed from the revised Draft Permit. Mr. Wu explained that they were likely removed because sufficient data had been gathered.

Mr. Wu then briefly described next the next steps for the Draft Permit. He noted that the public comment period will end November 28, 2023, after which time the permit will be revised, reviewed and finalized. Finally, he presented a 2020 video of diverse, healthy marine life near the Deer Island outfall's second diffuser cap.

Mr. Taverna asked if Contingency Plan threshold exceedances trigger any required actions. Mr. Wu explained that to date, MWRA's exceedances have not triggered any required actions other than the issuance of notifications; however, state and federal regulators reserve the right to request changes or additional reviews. Mr. Coppes added that that follow-up sampling is currently required if *Alexandrium* Contingency Plan thresholds are exceeded. Rev. White-Hammond asked if ocean warming trends could prompt further changes to the NPDES permit, and requested more information about the jurisdictional responsibilities for taking action on the impacts of climate change on the marine environment. Mr. Wu explained that the impacts of climate change are reflected in EPA's Draft Permit. There was brief, general discussion about the potential impacts of climate change on fish and shellfish. Ms. Reilley advised that the effects of climate change on Mass Bay have not been shown to be associated with the MWRA Outfall. There was brief, general discussion about methods for monitoring the impacts of climate change on fish and shellfish, and rising ocean temperatures.

Hearing no further discussion or questions from the Board, Committee Chair Jack Walsh moved to the next Information item. (ref. VIII A.1)

MWRA Industrial Waste Report #39: Industrial Pretreatment Program Annual Report to EPA for FY23

Matthew Dam, Director, TRAC, presented an update on the MWRA Industrial Pretreatment Program ("Pretreatment Program). He explained that the Pretreatment Program is required by the federal NPDES permit, and explained that the program is committed to controlling the level of toxic substances discharged into the sanitary sewer system from commercial and industrial sources through permits, inspections, sampling and enforcement. He noted that the Pretreatment Program protects worker health and safety and municipal and MWRA infrastructure; prevents the pass-through of pollutants from entering receiving waters, and enables MWRA to beneficially reuse its sewer residuals for the production of fertilizer. He further noted that the FY2023 Report includes highlights of the program, and presented some key metrics. Mr. Dam then discussed Conservation Law Foundation's April 2022 filing of a complaint for claims alleging that MWRA violated the Clean Water Act by failing to take adequate enforcement action under its Industrial Pretreatment Program. He advised that MWRA had stood by its record of enforcement, and that in February 2023 the district court entered judgement for the Authority, allowing MWRA's motion to dismiss the case. Mr. Dam noted that MWRA continues to prioritize enforcement and bringing industries into compliance with their permits. He described 271 enforcement actions issued in FY2023, including 201 notices of violation, 66 notices of noncompliance, two administrative orders, and two penalty assessment notices.

Board Member Jack Walsh requested more information about trends related to high level enforcement actions. Mr. Dam explained that the frequency of high level enforcement actions has shown to be variable over time, and confirmed that fewer high level enforcement actions (201) took place in FY2023 than in FY2022 (224). He added that escalated enforcement actions were not taken during the height of Covid (FY2021). Mr. Walsh asked if the Program's FY2024 permitting and monitoring charges increase rate of 3.0% is adequate. Mr. Dam explained that the annual increase is set in accordance with Toxic Reduction and Control (TRAC) regulations, which are due to be updated for 2025. There was brief, general discussion about the potential for raising the permitting and monitoring charges, and the cost of the Pretreatment Program.

Hearing no further discussion or questions from the Board, Committee Chair Jack Walsh moved to Contract Awards. (ref. VIII A.2)

Technical Assistance Consulting Services – Deer Island Treatment Plant: AECOM Technical Services, Inc. - Contract 7981; CDM Smith Inc. - Contract 7982; and Hazen and Sawyer, P.C. - Contract 8018

**A motion was duly made and seconded to approve the recommendation of the Consultant Selection Committee to award separate contracts to AECOM Technical Services, Inc., CDM Smith Inc. and Hazen and Sawyer, P.C., for the provision of as-needed technical assistance consulting services for the Deer Island Treatment Plant and to authorize the Executive Director, on behalf of the Authority, to execute Contract 7981 with AECOM Technical Services, Inc., Contract 7982 with CDM Smith Inc. and Contract 8018 with Hazen and Sawyer, P.C., each in an amount not to exceed \$2,400,000 for a contract term of**

**three years from the Notice to Proceed.**

Richard Adams, MWRA Engineering Services Manager, briefly summarized the scope, duration and costs of three, separate proposed contracts to provide as-needed technical assistance for DITP and other wastewater facilities.

Mr. Taverna requested more information about the financial terms (e.g. lump sum for the task required to be performed or time and material) of the task order contracts. Mr. Adams explained that each task order is for a lump sum for a defined scope of services.

Mr. Jack Walsh asked if the scope of the contracts was limited to work at the DITP. Mr. Adams explained that the technical assistance contracts include work at DITP, the Clinton Wastewater Treatment Plant and MWRA's biosolids processing facility. Mr. Coppes added that MWRA holds a series of similar technical assistance contracts for work at facilities across the MWRA system. Mr. Walsh asked staff to provide more information about the selection, qualifications and payment processes for task order contracts. Mr. Adams explained that MWRA staff approach the consulting firms with a defined scope of services, and award the work to the most qualified firm with the lowest costs. There was brief, general discussion about the administration of task order contracts. Upon a question from Mr. Jack Walsh, Mr. Adams and Mr. Laskey confirmed there are no up-front or advance payments, nor guaranteed money paid, to firms. Mr. Foti also responded that firms are pre-qualified and paid for specific tasks performed. Further, Mr. Coppes confirmed the contracts allow for a mechanism to pay the consultants for work performed.

Chair Tepper asked if there was any further discussion or questions from the Board. Hearing none, she requested a roll call vote in which the members were recorded as follows:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		
Foti		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		

(ref. VIII B.1)

CORRESPONDENCE TO THE BOARD

Chair Tepper announced that the Board of Directors had received correspondence from the Wastewater Supply Citizens Advisory Committee dated October 12, 2023, and asked if there was any discussion or questions from the Board. Hearing none, she moved to Other Business. (ref. IX)

OTHER BUSINESS

There was no other business. (ref. X)

ADJOURNMENT

**A motion was duly made and seconded to adjourn the meeting.**

A roll call vote was taken in which the members were recorded as follows:


<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Tepper		
Foti		
Peña		
Taverna		
Vitale		
J. Walsh		
P. Walsh		
White-Hammond		

(ref. XI)

The meeting adjourned at 3:26pm.

Approved: November 15, 2023

Attest:

 for  
\_\_\_\_\_  
Brian Peña, Secretary