



Minutes

April 4, 2025

Remote

Attendees:

WAC Members: **Kannan Vembu** (Chair), **Dan Winograd** (Vice Chair), **Adriana Cillo** (BWSC), Craig Allen, Wayne Chouinard (Belmont), George Atallah, **Dr. Karen Lachmayr**, Martin Pillsbury (MAPC), **Stephen Greene**, **Taber Keally** (NepRWA), Alfredo Vargas (Newton), **Christine Bennett** (Advisory Board). (Members in attendance in **bold**).

Guests: David Wu (liaison), Jim Coyne, Michael Altieri, Jon Wladkowski, Jeremy Hall, Brian Schwartz, Lisa Wong, Rich Geisler, Matt Dam, Sally Carrol, Michael O'Keefe, Denise Ellis-Hibbett, Joanne Wu, Devon Winkler, Caitlin Hunt, Tracy Survilas, Becky Weidman, Kurtis Bertolami (MWRA), Moussa Siri, (WSCAC), Juliette Simson, Judy Pederson (OMSAP), Charlie Jewell, Emma Page (BWSC), Zhenyu Tian (Northeastern), Felina Silver (Brookline LWV), Kristin Anderson, Ann McDonald, David Stoff, Eugene Benson (Save the Alewife), Felina Silver (LWV MA), Hampton Watkins (Plymouth Wastewater Groundwater Discharge CAC), Erin Flannery-Keith, Alison Newman (EPA), Joe Nerden, Susy King, Cathy Conaris (DEP), Kevin Cassidy, Zach Nacev (Earthwise Law Center), Don Walker (AECOM), Stephen Perkins (MyRWA), John Raschko (OTA), Heather Miller (CRWA), Jonathan Smith (Somerville), Jennifer Pederson (Mass Water Works Assn), Gwen Speeth

Staff: Andreae Downs

VOTES: Nominating three new members: Dr. Zhenyu Tian of Northeastern, Felina Silver of LWV Brookline, and Jonathan Smith of Somerville Engineering. All have submitted CVs, and Dr. Tian and Ms. Silver have cleared the MWRA conflict-of-interest screening. Membership voted 6-0 to nominate all three to the MWRA Board for appointment to WAC.

WSCAC Update—Moussa Siri: MA is still in drought.

Forestry and Water Conservation subcommittees are up and running, and they are looking for new members of both.

Quinapoxet Dam removal tour in West Boylston coming Tuesday.

MWRA Update—David Wu: Deer Island received a Platinum 18 award, for 18 years of permit compliance.

Construction: DI Clarifier rehab project continues—a lot of rags found in the pipes. Don't flush wipes!

Also rehab projects in design for Columbus Park and Ward Street headworks (these follow Chelsea Creek, which had a significant number of unforeseen issues)

Nut Island (headworks) work on HVAC systems and recovering from the fire is coming to a close with the final change order voted in last month's MWRA Board meeting.

2024 monitoring reports are all available on the MWRA website—headliner is that there were no headlines—i.e. no new issues in the bay.

Job posting for manager of the CSO program

DIRECTOR'S REPORT—Andreae Downs:

WAC's next meeting is a tour of the Alewife Brook and Alewife Brook Pump station, May 2, 10:30 am. Pump station attendance is capped.

April 3, 6-8 pm, MWRA, Cambridge and Somerville held a listening session on Combined Sewers. Responses, outside of longer ones from the watershed organizations and the Advisory Board were from Save the Alewife Brook allies and rowers. Most wanted less sewage in the Alewife and more days of cleaner water on the rivers. Cost is a high concern among those who answered an in-meeting poll, but that didn't come up in comments.

Check out the Advisory Board blog—two new items, one on the Orange Notebook which tracks quarterly MWRA progress, energy usage and renewables, amount of wastewater processed, pellets produced, etc. Also an item on new legislation to force MWRA to contribute more to the water-contributing communities in western Mass.

March Advisory Board meeting discussed a public comment policy, limiting comments to those with an affiliation with MWRA (Advisory Board, MWRA staff, presenters, advisory committee members). This is legal under the open meeting law and can be a meeting management tool. Andreae wants WAC opinions on this policy.

Also had a presentation on the MWRA pension and strategies for full funding.

Wipes labeling bill for “non-flushable” wipes is filed, and Andreae is looking for co-sponsors to the legislation. NACWA (National Association of Clean Water Agencies) liaison says a national bill (the WIPPEs act) may pass this year.

PRESENTATION—David Wu, Michael Altieri *San Francisco vs. Environmental Protection Agency* and its impacts on NPDES (National Pollution Discharge Elimination System) permits like Deer Island’s.

Background on the Deer Island Draft Permit ([link](#) to the draft, the fact sheet, and [all comments](#))—David Wu

- Issued May 31, 2023 (both EPA and DEP)
- Public comment closed Nov 28, 2023—comments can request changes and are needed if a utility or commenter wants to be able to appeal the final permit
- Some of the changes included
 - A seasonal enterococcus limit
 - No Nitrogen limit and changes to TSS (total suspended solids) and cBOD (carbonaceous biological oxygen demand) and acute toxicity
 - Eliminated the contingency plan—which had extremely rapid reporting of limit exceedances at the outfall
 - Modified bay monitoring
 - PFAS monitoring
 - CSO elements of the draft permit should be synchronized with the existing CSO Program
 - Blending—did not seem to allow for the DI need to blend when flows exceed 700mgd (storms)
 - Environmental Justice language
- MWRA comments included requests to change the following (complete comments [here](#))¹
 - Allow for current practice of blending over 700mgd
 - Co-Permittees (making MWRA enforce against municipalities that do not remove extraneous flow from their systems)
 - Storm Event Plans/Climate Adaptation Plans—EPA asked for a significant level of effort/cost that wasn’t balanced with the other requirements of sewage treatment—the language has started to be modified in subsequent draft permits.
 - CSO program—used current goals as hard limits, and that poses compliance issues for MWRA
 - Algal monitoring changes in bay monitoring that are a significant addition, despite the outfall not having any effect on their frequency or occurrence. Other changes to monitoring are mostly doable/affordable

¹ WAC’s comments can be found [here](#)

- Deadlines for TRAC reports need to be adjusted
- Now EPA is compiling and responding to the comments. It may make changes to the permit language
- There may be a new draft permit, upon which MWRA and others could comment. This could happen multiple times
- No set time period for a final draft

Appeals:

- EPA Appeals Board and then Federal Region 1 Court
- DEP Office of Appeals and then state courts

We don't know much about where in the process the draft permit is now. MWRA is in a holding pattern, but has been awaiting a new permit since 2005.

SF v. EPA Michael Altieri

San Francisco operates two combined treatment facilities, one discharges to SF Bay, one to the ocean. This case only applies to the ocean outfall, which serves about 250,000 residents. It is a combined system, so in large rainfall events, the outfall contains stormwater and raw sewage.

At issue were “end-result” limits in a 2019 permit that prohibited SF from any discharge that contributes to a violation of any applicable water quality standard—in other words, not setting out what it had to do, but instead holding it responsible for wider water quality issues in the receiving water. Second, it prohibited any release of pollutants that would create pollution, contamination, or a nuisance in the ocean.

The city appealed.

The Supreme Court sided with the city and [said](#) that while EPA can impose “best practices” and other non-effluent-specific requirements, “end-result” requirements weren't appropriate.

The broad argument said that EPA mis-read the Clean Water Act and its ability to set end limits, but the court disagreed.

The narrow argument said that even if the CWA is broader than strict effluent limitations, EPA can't require a particular end-result of water quality in a discharge permit, but must give dischargers specific actions or upper limits for pollutants in the effluent. (The decision refers to the “permit shield” that protects dischargers from unlimited litigation if they meet their permit limits and fairness in allocating responsibility among dischargers for pollutants in a receiving water).

Dissent—four judges disagreed. They agreed that the broad argument didn't apply. Pick apart the reasoning on the narrow argument—noting that San Francisco is the only point-source

discharger to this section of the ocean, and that its CSO plan dates from 1991. They note the need for quick and flexible permits that allow the permittee some leeway in determining how best to comply. In the case of multiple small dischargers, asking EPA to develop individual plans is unwieldy and probably impossible, they argue. They conclude receiving water end-result limitations are allowed by the Clean Water Act.

Questions—

--Climate language changes in newer permits—what kinds of changes are being incorporated? WAC commented on the difficulty of planning for the range of climate change out to 2050-70 in a 5-year permit.

A: Not area of expertise.

But know that MWRA wants to use & claim its climate work from before 5 years ago, and EPA wasn't allowing any work that was more than 5 years old. Hoping that will change in the final permit.

For instance, Deer Island in the 1990s was built to function in a 100-year storm with an additional 2.5 feet of sea level rise.

Andreae explained that MWRA planners had explained that any model they chose would be wrong, but you need one to move forward. This one is conservative. A more conservative estimate might mean a scenario where the river dams are breached and much of the area MWRA serves is under water (MIT, Harvard, Longwood), so the survivability of MWRA infrastructure isn't as relevant.

--Blending—If MWRA can't blend flows beyond 700 mgd in a storm, because EPA limits it to that ceiling, what does that do upstream?

A: Deer Island can treat up to 360 mgd with primary and secondary treatment. But it has primary treatment capacity of up to 1.3 **billion** gallons a day, which is necessary because Boston, Cambridge, Somerville, and Chelsea have combined sewers. Needs to be headroom for the rainwater. Primary treatment is a physical process. Secondary process needs bacteria for a biological process. This can't be retained bacteria it doesn't have sewage to eat. Up to 700 mgd can go through secondary at Deer Island. When excess flow, some bypasses secondary treatment and is combined in the final effluent.

We want to maximize the amount of flow in Deer Island. In the 1990s, the extra pumping to get water to Deer Island meant a significant drop in CSO.

When you cannot process the extra water, it has to be released through combined sewer overflows.

Also want to stress that there have been no permit violations at Deer Island because of blending.

David Stoff—Alito put a footnote about the elements of a combined sewer control plans. Are the plans for the Alewife and the Charles phase 2 or 3, or would they apply?

A: I read the footnote and did not apply it as you have. I need to think about that, and I don't know if it would apply.

Kannan Vembu—Trying to understand the implications for MWRA. Can you help us understand that?

A: I feel fairly confident that some of the receiving water conditions the Court had issue with will not be in future permits, but anything more than that is speculation.

Vembu—how does MWRA plan to leverage this decision?

A: I don't know that MWRA would leverage anything. Each case is very site-specific, so I would be careful to advise on leveraging in a different circumstance.

Maybe when new permits are issued, we will have a better sense.

John Raschko—Will the SC decision have any impact on PFAS monitoring requirement?

A: I don't think so. The state also has these requirements, and can continue with them.

Q: What might be eliminated from the DI draft permit?

A: I don't want to speculate.

Q: Is anyone going after the companies that put PFAS in products?

A: The permits only require testing for PFAS, because it's not a limited/permitted contaminant. Since it comes from residences, and not only from industry (permits only allow utilities to regulate industry discharges), would be a hard limit to comply with. Some states have started to ban PFAS where they would be unnecessary for life or safety.

Eugene Benson—How broad or narrow the Supreme Court decision will be viewed. For instance for algae bloom monitoring in the harbor and bay, if you're no longer required to meet "end-result" water quality standards, could the monitoring be eliminated?

A: In this specific instance, SC are talking about specific water quality criteria, but algae are not a water quality criterion. I don't think it's out of the question that EPA will continue to ask MWRA to monitor blooms. MWRA comments were just that this work is resource-intensive and may not answer the questions EPA has.

Next Meeting is a tour of Alewife Pump Station and the Alewife Brook on May 2, 10:30-12:30