

WATER SUPPLY CITIZENS ADVISORY COMMITTEE

MWRA WATER SYSTEM EXPANSION: Position Review and Thoughts On Admission Criteria and Contract Requirements - June 28, 2006

Since its inception, the MWRA has demonstrated a willingness to support citizen participation through its wastewater and water advisory committees. In turn the Advisory Board has included these citizen interests in many of its deliberations. We are very pleased with this spirit of open cooperation and believe it has in turn served you well at your many difficult decision points over the years.

The WSCAC disagreement with MWRA's proposal to actively promote and market new water sales has been presented to you in writing and at Board meetings in September, December, 2005, January, and May 2006. We have noted that your present position represents a reinterpretation or shift, if you will, in MWRA's formal mandate and as a result has stirred concerns throughout much of the state about its potential consequences for water management practices and compliance with state policy.

WSCAC's position is, briefly, that MWRA's dramatic reduction in water demand to date allows the use of reservoir waters to increase and more effectively manage its downstream releases. MWRA should also more fully investigate the potential future water need in its riparian and watershed communities, especially those in the Chicopee and Connecticut valleys. WSCAC believes that the MWRA should not be buffeted by a first come first served philosophy but rather should develop detailed criteria for admission of communities more consistent with MWRA's unique legislative mandate. Also consistent with that mandate, MWRA should continue to improve its contract requirements, although the latter have become more consistent with sound resource management practice over the years. WSCAC participated in MWRA/Advisory Board committees that developed formal system expansion policy and contract regulations. The outcomes were reasonable although not fully satisfying to WSCAC. However MWRA's proposal to increase sales makes those insufficiencies far more significant.

In order to avoid the historical problems of the MDC water system, the MWRA has been given the care and control of one of the largest out-of-basin water systems in the nation, reasonably free of state administration. However, with respect to meeting its statutory purposes during the process of admitting a new community, the MWRA relies too heavily on the approval of state agencies (MEPA and the Water Resources Commission). MWRA does not lack guidance and conditions for the admission of a new community, but in our opinion, independent criteria and conditions should be set forth that would improve the rigor of a community's admission process whether the state does so adequately or not.

WSCAC has repeatedly said that the state has not adequately controlled or conditioned the system expansion approvals under its jurisdiction. As an example, the state's commitment to improve resource management in headwater communities in order to increase streamflows was not implemented (Ipswich or Neponset). Instead the state condoned increased out of basin transfers from MWRA in these basins. The Interbasin Transfer Act is not prohibitive, but does require that actions to improve water use efficiency and management take place prior to a community requesting an interbasin transfer. MWRA should not require less.

MWRA's Enabling Act includes some admission criteria (SEC. 8(d)), an explanation of its conservation mandate (SEC. 8(e)), and a standard that contamination be a principal reason for a town to seek MWRA water service (SEC. 71). MWRA also developed a System Expansion Policy (Policy #10) which states that in

admitting a community, the MWRA must strive for no negative impact, and generally, that MWRA may refuse service if a new community connection “is contrary to sound water system management.” The Policy provides fundamental resource management requirements, that the applicant community’s local water management plan be comprehensive and include an “alternatives evaluation and build-out analysis related to community water use and wastewater collection system.” Both the Interbasin Transfer Act approval process and the MWRA review of new community applications have often failed to adequately require an analysis of the consequences of new water service on the expansion of sewers in a recipient community (sending groundwater resources out of basin).

MWRA’s Enabling Act provides in SECTION 8(e) that MWRA’s statutory purposes can be attained by promoting water conservation, charging rates to achieve water conservation and by improving environmental quality (of its sources). MWRA has experienced reduced water use sufficient to be in compliance with the first part of its statutory mandate, but needs now to focus on the second part – long term improved management of its source environments, especially the downstream reaches of the impounded Swift and Nashua rivers and the intermittently diverted Ware River.

The listings below are not exhaustive, and are provided to clarify and ground part of the WSCAC position in illustrative recommendations while providing a basis for discussions with the MWRA staff, Advisory Board staff and members, and ultimately with the MWRA Board of Directors.

MWRA Admission Criteria - some suggestions:

1. MWRA’s admission policy contains a waiver provision. MWRA does not permit such waivers for specified financial requirements upon the application of new communities. In like manner, MWRA should eliminate the option of waiving environmental and water and sewer management requirements.
2. SECTION 71 was added to the MWRA’s Enabling Act to keep the reasons a community would seek MWRA water service quire narrow, to avoid mere preference. The standard has been upheld in some prior admissions, but not in the Dedham-Westwood Water District or Reading admission cases. In these, the section has been legislatively overridden. We believe such overrides diminish the legal intent. Further discussion is needed about this section.
3. An applicant community should be required to show that receipt of MWRA water provides a net environmental benefit that is not contrary to state water management policy.
4. MWRA should develop criteria explaining the conditions applicable to a refusal new service if a community connection “is contrary to sound water system management.” (Water Service Expansion Policy #10.).
5. MWRA should require that a prospective community’s local water management plan provides a build out analysis related to community water use “*and wastewater collection system*” regardless of whether the system is MWRA’s (as required in Water Policy #10). The addition of water service should not lead inadvertently to increase out of basin transfers.
6. MWRA’s admission procedure must require that state water conservation standards be actively implemented before admission to the system, not merely proposed for implementation.
7. MWRA should require a prospective community to have identified potential sources of water supply, (this has been done in the Water Assets Program), and to fully implement a program for protection for existing local sources.

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MWRA Contract Requirements - some suggestions:

1. MWRA contracts should require a more detailed annual report (shared with the Water Resources Commission) on progress on contract requirements, especially demand management controls, seasonal water use, drought and conservation enforcement capabilities and source protection where needed.
2. MWRA contracts should require active implementation of the state water conservation standards.
3. MWRA should require moisture sensors on irrigations systems and restricted hours for outdoor watering, similar to those found in the Town of Wilmington emergency water use contract.
4. MWRA should require a new community to prohibit irrigation well development in the local Zone II (with appropriate agricultural exemption). It should prohibit second meters for irrigation wells in sewerred communities where the meter flow could be used as a deduction from sewer costs, or require that such meters not be read, reducing the incentive for separate irrigation meters in sewerred communities.
5. MWRA should require an I/I analysis and mitigation program even for water contracts, as well as assessing the wet-weather capacity of sewer lines.
6. MWRA should require a community bylaw containing provisions for enforcement of drought restrictions and for the adoption and enforcement of DEP's recently approved water conservation emergency declaration.

Generally stated, WSCAC believes that the MWRA should:

Require compliance with state water policy to the fullest extent.

Improve the downstream releases from the Quabbin and Wachusett reservoirs and continue to limit the use of the Ware River diversion.

Conduct a more detailed analysis (with a long term view) of the water needs in riparian and watershed communities.

Develop an improved process and review to admit new communities that is more consistent with its unique conservation, protection and service mandate.

Write contracts that have enforceable provisions, and encourage the original contract communities to meet requirements consistent with improved water management and state water resource management policies.

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