

MASSACHUSETTS WATER RESOURCES AUTHORITY

Charlestown Navy Yard
100 First Avenue
Boston, MA 02129

January 22, 2000

Dear Friends:

Our last letter to you on the MWRA's Integrated Water Supply Improvement Program was this past spring, shortly after US District Court Judge Richard Stearns ruled in MWRA's favor in the treatment technology court case. We thought you'd appreciate an update on the status of the court case and some of the key issues related to MWRA's program. As you know, MWRA has continued through this period to move forward to protect the watersheds and source water quality, to upgrade treatment, and to rehabilitate both its own and the individual community pipe lines.

Status of the Court Case

The United States appealed from Judge Stearns' June 2, 2000 decision, which denied EPA's request for an injunction ordering filtration. The appeal goes to the U.S. Court of Appeals for the First Circuit (in Boston). A three judge panel of the Appeals Court will review the decision of the trial judge based on the trial record (the transcript, exhibits and other documents filed with the trial court) and on the written and oral arguments of counsel.

The United States submitted its Opening Brief in the appeal on November 13, 2000. As expected, the Government argues that Judge Stearns had no authority to consider any remedy other than filtration. MWRA's brief was filed on December 14, 2000. MWRA's position is that the district court had discretion to deny the Government's request for an injunction and correctly determined that filtration was not necessary in this case to protect public health.

Five non-profit and environmental advocates which support protection of water quality through watershed management filed a "Friend of the Court" brief in support of MWRA's position. The group consists of Nashua River Watershed Association, Inc., Massachusetts Audubon Society, Inc., Friends of Quabbin, Inc., Water Supply Citizens Advisory Committee, and Rutherford H. Platt. These parties point out that prevention of pollution through watershed protection is a primary treatment technique for protecting public health that is increasingly supported by national policy and regulation and that the public will benefit if the MWRA system remains unfiltered.

The final reply brief for the United States, filed on January 12, 2001, reiterates the position that under the SDWA an injunction requiring filtration is the only remedy for MWRA's "permanent noncompliance" since the Surface Water Treatment Rule criteria for avoiding filtration, if not met, "trigger an irrevocable obligation to install filtration."

The Court has scheduled the oral argument for February 8, 2001 at 9:30 a.m. in the Court of Appeals Panel Court Room at the new Federal Courthouse. A decision could come within several months.

Watershed Protection

Since our last letter, the MWRA system has continued to perform well and show results of the improvements already made. Fecal coliform bacteria counts in the Wachusett Reservoir, a key factor in the dispute with EPA, have been low throughout the year, and have continued low at least so far through the critical winter months when changes in the roosting habits of gulls and other water fowl have often caused increased levels. With more effective MDC bird harassment activities (better boats and access to the roosting areas), no days have exceeded the standard so far this winter. (In fact, there have been no exceedances since January of 1999.

MDC has also continued its successful land acquisition program and continues to move forward with sewerage in West Boylston and Holden.

Treatment Improvements

At Walnut Hill in Marlborough, construction of the new water treatment plant is moving

along rapidly. The first major contract, including the 45 million gallon storage tank and 10 and 12 foot diameter connecting piping, is about two thirds completed. Work on several other key contracts has begun over the summer and fall of 2000. The contract for the ozonation plant itself was awarded by the Board of Directors on November 15, 2000 to Barletta-Shea, JV. Over 98 percent of the work is now under contract.

MWRA has not been waiting for the Walnut Hill treatment plant to be completed to continue to improve the existing system. Improvements in corrosion control have contributed to the trend of declining lead levels in first flush samples in targeted high-risk homes. With improvements in disinfection and the elimination of all but the last open distribution reservoir, total coliform levels in community systems have stayed quite low system-wide.



Walnut Hill Water Treatment Plant site – fall, 2000



MetroWest Tunnel mining completed – October 27, 2000

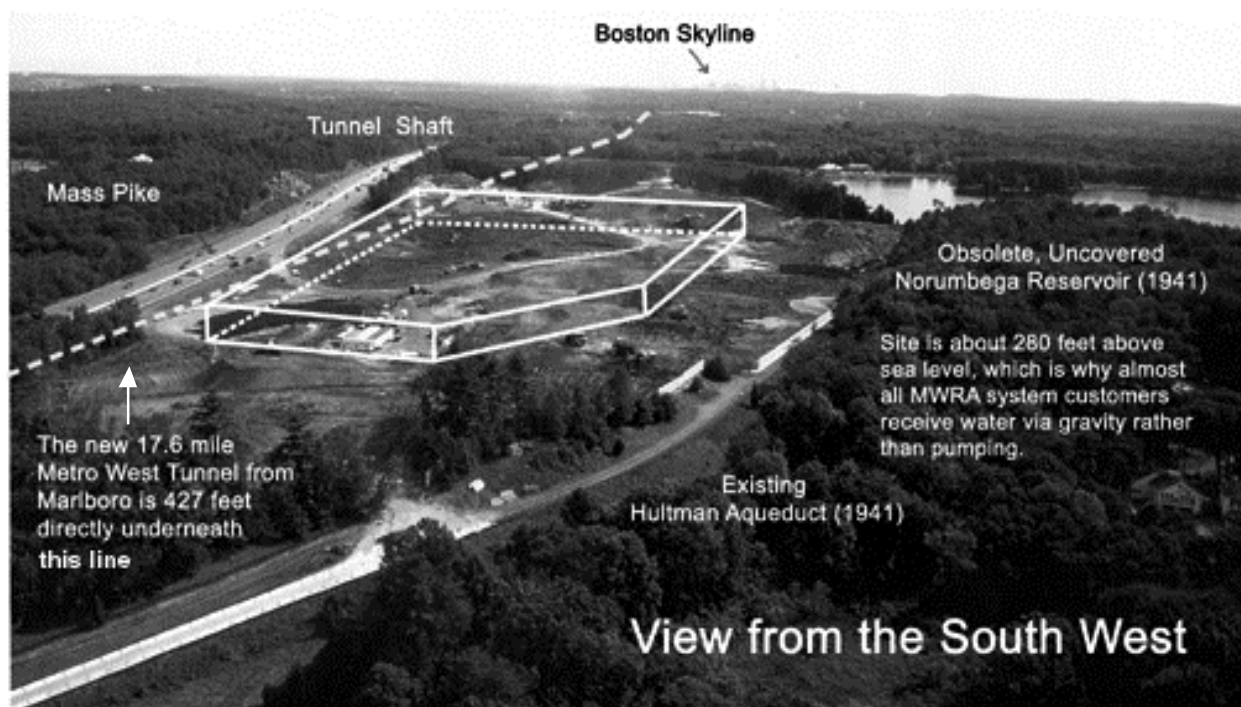
MetroWest Tunnel, Covered Storage and Distribution System Improvements

Other elements of the MWRA Integrated Water Supply Improvement Program are also moving ahead. The boring of all 17.6 miles of the MetroWest Water Supply Tunnel is now complete. Tunnel lining with cast-in-place cement is underway. We expect the tunnel to be complete and ready for testing by about April 2003.

Equally important, there is now, for the first time, a project under construction that is widely visible to the public! This is the Norumbega covered storage tank. You may have noticed the extensive site clearing and grading as you drive on the Mass Pike about 1 1/2 miles west of the Route 128 tolls in Weston. By Spring the site will be ready, and concrete will have begun to be poured for the 115 million gallon tank. When this tank goes into service in early 2004, MWRA will have removed the last of its active open storage reservoirs.

In terms of pipeline improvements, both the MWRA program and its customer communities are making notable progress. MWRA completed about nine miles of pipe rehabilitation each of the last two years, and MWRA has kicked off the new zero interest loan program for communities. Interest has been high. MWRA has already provided the first \$6 million in loans to communities to clean and line or replace old corroded unlined cast iron pipe.

Norumbega Covered Storage Facility - Weston



Public Health

This year the cooperative health research program which MWRA has been helping to support, has achieved its first real lift-off. MWRA is now working directly with both Boston's Public Health Commission and the state Department of Public Health on enhanced programs to track and understand any potentially water borne disease in the service area. MWRA is also cooperating in a series of federally funded research programs with Tufts University School of Medicine to better understand the relationship to source water quality, water treatment and disease. We have also been increasingly involved in outreach to the public health community and health care providers.

Outlook for the Future

Interestingly, even as MWRA was planning and getting construction underway for the Walnut Hill ozonation plant, EPA in Washington was undertaking a negotiation process to develop the framework for new rules to further protect water systems against pathogens such as *cryptosporidium* and minimize exposures to potentially harmful byproducts of disinfection. In September the EPA Advisory Committee endorsed a site-specific approach to both issues which included a strong emphasis on watershed protection and high quality source water, and recognized the importance of the distribution system to the delivery of safe water all the way to the consumer's tap. This is precisely the approach the MWRA Board selected in October 1998 and which Judge Stearns affirmed in June 2000. (Why the United States continues to attempt to overturn Judge Stearns' ruling in court seems quite strange in these circumstances). With the system strengthened by the new plant now under construction in Marlborough, the engineers believe MWRA's new plant will meet the new requirements which are expected to come out in regulatory form in May of 2002.

We appreciate your support and interest and would be happy to provide you with any additional information you want on our programs. We have been working to upgrade MWRA's web site – www.mwra.com – which now has more detailed information on many of these topics. I invite you to check it out, and to feel free to call or email us. If you have legal questions or comments, contact MWRA's General Counsel Nancy Kurtz: (617) 788-1145, or Nancy.Kurtz@mwra.state.ma.us. For information about MWRA's water system, please contact Stephen Estes-Smargiassi, Planning Director at (617) 788-4303, or Stephen.Estes-Smargiassi@mwra.state.ma.us.

Sincerely,



Douglas B. MacDonald
Executive Director