

## THE WSCAC VIEW

### September 2005

WSCAC believes that reduced demand is leading state water supply regulators, the MWRA Board of Directors, communities outside of the system, and some of the user communities themselves, to conclude that the system has a "surplus" of water which could be sold to defray the costs to consumers. MWRA has done a truly laudatory job of reducing demand (partly the result of very burdensome sewer costs), but it has not fully satisfied other aspects of its stewardship and environmental functions.

#### *A. Commonwealth Water Policy and the MWRA:*

Without question, the Commonwealth has failed to implement the water policies adopted in 1978. Those policies touted demand management and keeping water supplies local. We believe this failure is in part causing the request from non-member communities to join the system. In its 1978 version (revised in 1984 and 1992), the policy urged communities to consider the limits of their natural resources before approving new growth. The recently approved state water policy proposes to improve streamflows and to recognize the significance of judicious allocations in stressed basins, proposes the reduction of wasteful uses and continues the policy of keeping resources local, in order to avoid increased interbasin transfers.

The 2002 Lawn and Landscape Water Conservation Policy determined that although lawn and landscape water use is a substantial part of summertime water consumption... "it is a non-essential use of water compared to water used for public health and safety purposes, (and) reducing the amount of water used for lawn and landscape maintenance is key to protecting water supplies for current and future use and for protecting natural resources." (Introduction – Final Draft, April 2002). The policy, now being incorporated in new DEP Water Management Permits, needs time to take hold. It is ironic that the state's own refusal to maintain "rate relief," given to MWRA and over 100 other communities in the tens of million of dollars in recent years, is probably the significant driver to the MWRA's interest in finding other vehicles to reduce total consumer cost and may in fact result in undermining the state's new water policy initiative.

The state should be leery of allowing non-member communities to supplement local supplies with MWRA water, which is often more expensive. Seasonal supplements convert to baseline need and cause towns to grow into the seasonal demand on a year-round basis. A focus on better management could also be lost because admission to MWRA, while involving a protracted process, is not continually tracked for compliance in any detail. An unfortunate result also might be the continued DEP- allowances to abandon very small local sources

which some towns have requested, and which, for diversity's sake should be protected, but which likely will be contaminated in the future due to inadequate watershed protection.

### *B. Water for Sale?*

MWRA carries a social, political and environmental burden to provide water and sewer services effectively and economically, while protecting and preserving the resources at its disposal. It is not a profit-making entity, but it must maintain the support of its consumers to get the job done well. MWRA's charge as an agency is to provide water services, but it was not provided the authority to own land or to hold or acquire rights in water supply. MWRA does not own the water it distributes, and this condition was quite intentional.

The constraint on water ownership has a philosophical component that we would like to emphasize: For MWRA's purposes, water cannot be a commodity – it is not 'grain to be sold to buy shoes.' It is an end product for public health purposes. Within its Enabling Act, section 8(e) and other sections, the MWRA must charge rates to cover the full cost of service in compliance with all applicable laws and regulations. (The stated requirement to conserve is not made inapplicable if MWRA's demand falls below any given level). Proposing to actively engage in water sales would be clearly contrary to the agency's stated purposes. MWRA's statutory purposes include to "promote water conservation", "protect the adequacy of a pure water supply," "reduce wastewater flow" and "improve environmental quality" and to meet these purposes it may set charges. Section 8(e) goes on to state that the MWRA should meet new and continued demand by implementing conservation and demand management "in preference to solutions which would increase water withdrawals..."

By promoting the notion that there is "water for sale", the MWRA is leaping out of the process and planning sequence. That it is last in line to admit new communities after all other approvals and permits and public review are completed, does not make it less responsible for the ultimate admission decision. The agency process preceding MWRA's deliberations on new admissions is not nearly as stringent as some like to portray it. Political considerations have often come into play, and the environmental and management recommendations made by agency staff are often superceded and made less comprehensive. MWRA has failed to take a comprehensive approach on the combined water resources management, planning and stormwater management matters in potential new water-user communities. We believe that MWRA's unique charge carries that responsibility. Action without planning is a form of planning. MWRA would be "committing planning" by encouraging the sale of water to communities which might otherwise find they can with some effort control and sustain their water needs within their own resources and basins. In offering water, MWRA would pre-empt or undermine the implementation of state water resource policy that has been on the books for decades and which has emerged again for public debate and is in EOEa agency implementation.

As more communities find that they cannot meet potential fire flows while residents' sprinklers run, for example, these towns are seeking grants from the state or using local monies to actually look at the impacts of their water withdrawals in their basins and on local streams. The connection is finally in public discussion! As regional planning agencies and

efforts like the state's water assets study and basin initiatives, such as in the Taunton and Chicopee, look at land build-outs and possible future resource use, citizens are also gearing up to take action. EPA and the Commonwealth are requiring communities to develop comprehensive water resource management plans (CWRMPs, including planning for wastewater), in order to receive SRF grants and other funds. The programs developed under these plans must be given time to be implemented. We believe that as was the case for the MWRA, most of those communities will find they do not need the water now.

We believe that MWRA's responsibility to charge the full cost of providing water services, prohibiting declining rates, requiring demand management, conservation, and environmental protection while reducing wastewater and I& I, is a not-so-faintly disguised mandate to engage in active planning within its various spheres of influence – regions of raw resources, and user communities both present and potential. MWRA has continually underestimated and devalued its impact on regional and state planning initiatives and results.

*C. MWRA never decided “how or why to say no”:*

The MWRA expansion policy has no criteria for saying “no”, but does have requirements in order to say “yes.” These reinforce state agency requirements and actions that are needed before a town should seriously come to MWRA for water service. The MWRA has no *established criteria to judge* how adequate the results truly are or will be. MWRA's statute allows it to say “no” except under a drought declaration by the state or the DEP, which enables MWRA to be asked to serve. MWRA needs to think through the long-term picture of potential demand in its service area and its region, and in the regions of its reservoirs. Unless the MWRA's criteria for saying “yes” are fully met, then the MWRA must say “no.”

More than a decade ago, WSCAC suggested that MWRA strengthen its service contracts and establish criteria to distinguish between communities that might appropriately join the water system and those that should not, at a given point in time. Without those criteria or expansion strategies, the MWRA has been faced with a “first come, first served” response. Such a strategy is deficient. If MWRA had a long view of the potential future demand (where the bodies will be) then it could avoid the prospect of wasting its riches too soon. The huge reservoirs are indeed able to provide vast quantities of water for short bursts of time, but controlling how towns use contractual water would require a different approach than MWRA has used in its contracts – MWRA would need to be much more intrusive. Once the system expands, other worthy communities may find themselves cut out and the emergency relief that is currently assured by the MWRA's capacity may be wholly compromised.

WSCAC also believes that MWRA should not ignore the constraints of its own legislation (S. 71) to consider new entrants only upon the determination by DEP of the existence of contaminated sources that are not feasible to restore. Like the U.S. Constitution, such a constraint may need to be reconsidered over time, but doing so now is not timely, and will reduce the desire of communities to truly test the adequacy of their system management, maintenance, efficiency and their newly required stormwater management plans.

#### *D. Water Use Priorities:*

The proposal to divert additional Connecticut River waters to Quabbin years ago resulted in the passage of the Interbasin Transfer Act (IBTA) of 1983. All of MWRA's water sources are, with the exception of its standby reservoir, the Sudbury, outside of the basins of its consumers (even the CVA communities are not within the Quabbin's basin.) Therefore, MWRA holds a unique responsibility to provide water service that is efficient, non-wasteful and for the public health and safety, while maintaining the viability of the downstream reaches. MWRA also should be continually required to ensure that it maintains and enhances the instream flows. The Swift and Nashua Rivers receive little discharge from their respective reservoirs. Those discharges should be modified to provide more naturally cycled and more ample flows.

In this era of reduced demand, WSCAC believes that the MWRA's first responsibility is to these downstream reaches. Instead of suggesting PILOT payments to the downstream communities, WSCAC is urging the MWRA to return the water in portions that will maintain the streams' physical, chemical and biological integrity. Providing greater downstream flows does not foreclose on the MWRA calling upon that water in times of special or catastrophic need of its members or outside communities; whereas, selling water to more communities now may succeed in reducing MWRA's will to fulfill its environmental responsibilities while potentially denying worthy communities that have worked to meet the highest standards of efficiency from receiving water in the future.

No state law sets explicit priorities on types of water uses. Common sense clearly prescribes that maintenance of source streams and their downstream reaches is a higher priority than meeting the outdoor water uses that are presently jeopardizing a large fraction of water supply in growing communities in the eastern part of the state. Expensively treated water should not be used on lawns. Although the beauty of local surroundings has a high value to us all, it can be achieved with much less waste. There remain to be had many water use efficiencies in new indoor and outdoor appliances that could provide a significant reduction in water use, especially in communities that are at the beginning of conservation and efficiency practices. MWRA should support a revised plumbing and building code and should pursue the national initiative on outdoor water fixture efficiency. MWRA was asked to host a recent meeting on the new initiative because it is considered a leader in reducing demand and tightening up its water system.

In eastern Massachusetts in particular, many communities are short of water in the summers, when outdoor uses bump water consumption by 20-200% or more. The MWRA's potential new customers will not be a dependable lot for rate-revenue purposes. They will buy water variably, year-to-year, depending on rainfall and would not necessarily add to the stability of the MWRA rate base.

#### *E. System Capacity and the System Model:*

MWRA's participation in a national drought study determined that no single quantity or

number is appropriate to use for the “safe yield” of the MWRA system. This is so because “safe yield” depends on the minimum acceptable reservoir elevations, on the duration of those elevations and the impacts on the reservoirs and the willingness of the communities to sustain implementation of a drought plan and its costs and presumed results.

To illustrate our concern, we offer the following example from the *System Capacity Report* presented to the Board in 2002. We were struck by the text’s presentation of the “acceptability” of 26 months of drought response when demand was set at about 270 mgd. Use of a limited Ware River transfer, to protect Quabbin water quality, was an assumption of these model runs. The model identified that drought management is essential, actually vital, to the successful retention of reservoir reserves in a drought. Two years and two months of drought response can have a huge financial impact on consumers and on the regional economy. When the former MDC wanted to divert the Connecticut River, its consultants estimated that not having sufficient water would cost the regional economy hundreds of millions of dollars a year (in the 1986 dollars). We do not consider that to be insignificant, especially when it could be readily avoided by carefully husbanding resources.

The scenarios generated by the model also make assumptions that the MWRA communities are ready to implement and enforce drought response. Although a current assessment would be helpful, we do not believe that all communities are in fact ready to respond effectively and have the bylaws in place to enforce drought responses.

WSCAC has encouraged the MWRA communities to consider a reasonable safety margin on total demand. It limits the amount of water that could be sold (as a new inflexible base demand) before significant impacts to user communities take hold. The willingness of the user communities to reserve a safety net on demand and to respond early when yield is diminishing contributes to the system's reliability. However, the MWRA communities can more readily protect their hard-earned system reliability if the Commonwealth honors its water resources policy “that interbasin transfer is a last resort measure,” and also courageously requires the highest levels of water use efficiency and water system management throughout the state, particularly in those communities that lurk on the MWRA's periphery (all the while declaring that they never want to join the system --- what we call the “Don't throw me in the briar patch” phenomenon).

#### *F. Standby Fees*

The Advisory Board has convened a system expansion policy committee two times in the past decade. In the most recent meetings, the issue again was raised whether MWRA should charge an emergency connection standby fee for communities that are interconnected to the MWRA water system. The matter was not supported because community representatives worried that such fees punished communities for inadvertent happenings resulting in the need for short-term water supply. However, it also was argued, that in the eventuality of need, those same communities would benefit from the almost \$2 billion in system improvements and reduced demand that MWRA has implemented. (Chronically short communities are not the issue here.)

WSCAC believed then and now that such a fee is reasonable to implement and would provide some small increment to MWRA revenues. The actual charge for water that might be called upon in an emergency could readily be waived, depending upon the criteria that the current user communities, in conjunction with MWRA staff and Board, determine are reasonable. For example, an exceptional fire in a neighboring town might use 300,000 gallons of MWRA water and the MWRA could choose to waive user fees.

We believe the MWRA Board, the Advisory Board staff and its Executive Committee should work with MWRA staff to determine a fee structure and present it for discussion. There is a standing list many pages long of communities that are interconnected.

*G. MWRA's responsibility:*

MWRA is charged with supporting the care and protection of the watersheds of its sources. Within those watersheds are almost two-dozen communities whose actions on the land will impact the water quality of the Quabbin and Wachusett Reservoirs, the Ware River and the Sudbury back-up system. MWRA should continually press the DCR to do the job that is needed – to provide adequate levels of technical assistance to those communities and their mostly volunteer boards of conservation, zoning, planning and health. The role of the Secretary of Environmental Affairs as MWRA chair has changed since the MWRA was established. In 1985, the Secretary's role appeared to be that of public watchdog to ensure that MWRA fulfilled the mandate to clean-up Boston Harbor. Now, after MWRA has clearly demonstrated its extraordinary ability to get things done, the Secretary should be a vehicle for assuring that state resources, through DCR and other EOEA and Cabinet agencies, serve the MWRA's mission. Doing less will diminish the long-term health of the water system and cause increasing costs in treatment.

MWRA can utilize policy, and its regulatory and contractual powers to ensure the future dependability of the water supply system. It can, as we have previously suggested, continue to give more teeth to its contractual arrangements, develop regulations regarding seasonal water uses and rates (we understand this would not be simple) and improve the eco-system characteristics downstream of the reservoirs, by making reasonable increases in releases, among other actions. MWRA must consider the present and future value of displaying a level of reservoir reliability coveted by the water industry throughout the nation and beyond.. Compromising this benefit carries a cost for drought response.

WSCAC neither disregards nor is unsympathetic to the rising costs of MWRA water and sewer services. Untimely action on the part of MWRA to promote sales of water which it does not own would not only violate its statutory responsibilities, but would undermine efforts of non-member towns to improve water use efficiency and restore local ecosystems.

Our perspective remains that the first claimants to the waters of the MWRA/DCR reservoirs are the streams from which it is impounded. The next entitlement is held by the historical user communities, followed by those communities in the basins of existing sources. There are no other legitimate claims or entitlements. The legal entitlement of MWRA to the use of vast water resources carries a responsibility for efficiency and non-wasteful demand.