



Water Supply Protection Trust

September 16, 2024

Virtual Meeting conducted via Webex

*Rebecca L. Tepper, Secretary of Energy and
Environmental Affairs*

Frederick A. Laskey, Executive Director, MWRA

*William Meehan, North Worcester County Quabbin Anglers,
Quabbin Fishermen's Association*

John Sanchez, MWRA Advisory Board

Fred Heyes, Swift River Valley Historical Society

Trustees

Frederick A. Laskey, Executive Director, MWRA

Matthew Romero, Executive Director, MWRA Advisory Board (Designee for John Sanchez, MWRA Advisory Board)

Vandana Rao, Executive Office of Energy and Environmental Affairs

Brigadier General William J. Meehan, North Worcester County Anglers and Quabbin Fishermen's Association

Fred Heyes, Swift River Valley Historical Society

MWRA

Dave Coppes, Chief Operating Officer

Rebecca Weidman, Deputy Chief Operating Officer

Carolyn Francisco-Murphy, General Counsel

Valerie Moran, Director of Waterworks

Thomas Durkin, Director of Finance

Colleen Rizzi, Director, Environmental and Regulatory Affairs

Sean Navin, Director of Public Affairs

Michael Cole, Budget Director

James Coyne, Budget Manager

John Gregoire, Program Manager, Reservoir Operations

Hillary Monahan, Project Manager, Environmental Permitting

MWRA Advisory Board

Nathan Cote, Research & Policy Analyst

Kareen Sud, Finance & Policy Analyst Co-Op

DCR

John Scannell, Director, Division of Water Supply Protection

Dan Clark, Regional Director, Quabbin/Ware

Lisa Gustavsen, Deputy Regional Director, Quabbin/Ware

Derek Liimatainen, Deputy Regional Director, Wachusett

Ken MacKenzie, Director, Natural Resources

Kelley Freda, Regional Director, Wachusett/Sudbury

Joel Zimmerman, Watershed Planning Coordinator

Brian Keegan, Natural Resource Analyst

Jarrett Sparks, Budget Director

WSCAC

Moussa Siri, Executive Director

The meeting was convened at 10:00am.

1. **Welcome and Introductions** – Trustee Laskey welcomed attendees, introduced himself as the Chair and called the September 16, 2024 meeting of the Water Supply Protection Trust (WSPT) to order. It was noted that the meeting was being conducted via remote participation and would be recorded.

The Trustees, as well as several MWRA and DWSP staff, attended the virtual meeting via Webex. General Counsel Carolyn Francisco-Murphy called the roll to establish attendance and a quorum. All Trustees were present.

Trustee Laskey shared that three additional pieces of information regarding ranger interaction from the Advisory Board would be included in the meeting agenda. It was noted that those separate analyses would be discussed alongside items scheduled for *Miscellaneous Updates*.

2. **Approval of the Minutes** – A motion was made by Trustee Meehan and seconded by Trustee Romero to approve the June 10, 2024 WSPT meeting minutes. General Counsel Francisco-Murphy called the roll. The Trustees unanimously voted to approve the minutes.
3. **FY2024 End of Year Report** – John Scannell, Director of the DCR Division of Water Supply Protection (DWSP), shared a presentation summarizing DWSP's Office of Watershed Management Fiscal Year 2024 and provided the following updates:
 - Land Acquisition: DWSP finished FY2024 with 11 properties totaling 565.2 acres protected at a cost of \$949,000.
 - Three of the 11 parcels, comprising 90 acres, were gifts or bargain sales.
 - Five of the 11 parcels were permanently protected using Watershed Preservation Restrictions (WPRs).
 - Land Management:
 - *Forests as Climate Solutions*
 - Committee issued report in December.
 - EEA released *Response to Report of Climate Forestry Committee* in May 2024 and lifted forestry pause.
 - Wildlife Management:
 - The active portion of the Gull Control Program operated for 26 weeks at Wachusett and 28 weeks at Quabbin. Coliform standards were met at both Reservoirs throughout the year.
 - Successful first-ever deer hunt in Quabbin Park. 37 deer taken, mostly female.
 - Public Access Management:
 - Watershed Rangers continue to patrol the watersheds, continuing enforcement using education and law enforcement personnel as needed.
 - Monitoring access points and securing DWSP properties are an ongoing effort.
 - New Public Access map application
 - Infrastructure:
 - Wachusett Dam Promenade is now handicap-accessible.
 - Sudbury Reservoir Boat Ramp Construction
 - Quabbin Projects
 - Hazardous tree removal from Keystone Bridge/Camel Brook
 - BLA III Electrical Upgrade
 - Cleared trees on Quabbin Spillway - plan to use prescribed fire to help maintain area
 - Hell Huddle Road (Gate 43) Road Reconstruction
 - Education and Outreach
 - The Quabbin Visitor Center welcomed over 4,000 visitors with six-day-per-week operations.

- Quabbin staff offered 37 programs and hosted 1,113 attendees. Wachusett staff offered 709 programs with 2,635 attendees.
- The first Interpretive Programming was provided in the Ware River Watershed.
- Mass Envirothon Annual competition held at Wachusett Reservoir in May.
- Recent poster focuses on the various threats from aquatic invasives and how DWSP staff work to minimize the impact.
- Sterling Sensory Trail
- Water Quality and Hydrologic Monitoring
 - Routine sampling in the Reservoirs and of all tributaries was conducted. Nutrient and total suspended solids samples were collected monthly. At Wachusett, chloride samples were collected from selected tributaries and from groundwater wells to document changes due to excessive applications of road salt.
 - Reservoir algal population dynamics were accurately captured throughout the year.
 - Staff continued efforts to address issue of winter salt use and the impacts to water quality:
 - Training for staff and local DPW employees
 - Matching Grant program awarded \$50,000 in grants to three watershed communities with salt reduction efforts. Awards were made to Holden, Sterling, and Princeton.
 - Sterling reported a 52% decrease in total salt applied in the 2023-2024 winter season compared to their previous 4-year average.
 - Paxton, Sterling, and Holden reported decreases of 45%, 48%, and 24%, respectively.
- FY2024 Spending and Revenue
 - FY2024 Final Expenditures – Total FY2024 budget was 89% spent, at about \$20.4 million.
 - FY2024 Revenue – Total DWSP Revenue for FY2024 was about \$716,400. Collected 71% of estimate last year, majority from robust fishing revenue.

Trustee Laskey noted that the report would be accepted and placed on file.

- 4. Certification of FY2024 Trust Expenditures** – Trustee Laskey explained that the Trust must annually certify DWSP expenditures. He requested a motion and a second to authorize him, as Chair, to sign the certification on behalf of the Trust and noted that a copy of the signed certification would be distributed to the Trustees prior to submission to the Comptroller.

Mr. Scannell noted that DWSP experienced an issue at the end of the fiscal year with billing. May and June payments coming back to DCR from MWRA did not occur until after the fiscal year. The Comptroller placed the money in FY2025. Mr. Scannell noted that DWSP is working with the Comptroller's office to resolve the matter. Right now, they do not have the certification letter and it currently shows that DWSP overspent in FY2024. The certification letter states that the Board has certified that they did not overspend. Mr. Scannell reiterated that he does not have the letter at this point.

Trustee Laskey suggested modifying the language to indicate that approval is pending resolution of the billing issue with the Comptroller. Mr. Scannell noted that the vote is just for the Board to authorize Trustee Laskey to sign the letter, which is what has been done. Trustee Meehan stated that he would like to see the letter before authorizing it to be sent out. Trustee Romero suggested a contingent vote that the Board will have an opportunity to view the letter before Trustee Laskey signs it. Trustee Meehan agreed. Trustee Romero asked if the motion should be modified. General Counsel Francisco-Murphy suggested the following language:

A motion to authorize Fred Laskey as Chair to sign the certification letter on behalf of the Trust, conditioned on a copy of the certification distributed to the Trustees in advance.

Trustee Laskey made a motion, seconded by Trustee Romero, to approve the amended motion. General Counsel Francisco-Murphy called the roll and the motion was unanimously approved by the Trust.

5. FY2025 Workplan and Budget Review - Mr. Scannell provided the following highlights of the FY2025 Workplan and Budget:

- Wachusett Dam Walkway accessibility was completed in July.
- Issued Wachusett Watershed Salt Grants.
- Ordered replacement vehicles for Quabbin and Wachusett. Received NR vehicle.
- Pottapaug Aquatic Invasive Species (AIS) removal.
 - Dan Clark, DCR Regional Director for the Quabbin/Ware Region, shared an update on Swollen Bladderwort (*Utricularia inflata*) removal efforts in Pottapaug Pond at Quabbin. He noted that John Gregoire established a contract with TRC, a company expert in invasive plant control. TRC conducted detailed surveys in May, along with significant hand harvesting at both Pottapaug and O'Loughlin Ponds. DCR suspended boating for the 2024 Quabbin Fishing Season (April 20, 2024 – October 19, 2024) at both ponds to minimize risk of the invasive plant spreading into Quabbin Reservoir, other water bodies, or to new areas within the ponds. Mr. Clark noted that DCR is waiting on a final report from TRC outlining removal efforts and next-step recommendations.
- Busy Phytoplankton summer at Quabbin with elevated counts.
- Work on Transfer of Reservoirs 1 and 2 in Framingham.

FY2025 Expenditures through August:

- \$24.69 M operating budget
- \$1.02 M expenditures
- 4% expended
- Mr. Scannell noted that Expenditures do not currently include fringe cost (DD) Pensions/Insurance – not yet put in place, up retroactively next month.

Trustee Laskey noted that the FY2025 Workplan and Budget report would be accepted and placed on file.

6. Hiring Update – Mr. Scannell summarized DWSP's ongoing hiring efforts. He explained that DWSP's FTE count is currently 150, with only one single vacancy. Interviews are currently underway for the vacant Environmental Quality position at Quabbin. Mr. Scannell noted that DWSP is back to a place of filling vacancies as they arise. Trustee Romero and Trustee Rao both congratulated Mr. Scannell on successful hiring efforts.

7. Miscellaneous Updates –

- **Quabbin Window and Roof Project** – Mr. Clark shared an update on the Quabbin Window and Roof Project.
 - Roof – Mr. Clark recalled that last fiscal year, DCR had hoped to utilize an existing roofing contract for the project and explained that they had initially received a quote for \$1.8 million to replace the roof and chimneys. He noted that a different approach to separately bid this project was ultimately necessary to go out to bid for the replacement. Notice to Proceed has now been given to the company that completed the original assessment to assist in development of bid documents. Mr. Clark hopes to have the construction bid out in early 2025, with plans to start construction in the spring of 2025. He acknowledged that while the project has unfortunately been delayed, DCR plans to move quickly with the new required process.
 - Windows – Mr. Clark reported that 114 windows in the Administration Building are being replaced using federal ARPA funds. DCR has awarded that contract for \$1.6 million to complete the work. The process is underway with a contractor on board and order placed, with delivery expected in early December. Mr. Clark noted that installation might need to be paused during the winter in the event of harsh seasonal conditions, though he anticipates project completion by early 2025.

- **Ranger Enforcement** – Trustee Laskey stated that the Advisory Board would be presenting three slides analyzing enforcement numbers from recent years for further discussion.
 - Trustee Meehan recalled details from a previous WSPT meeting on the topic. There was discussion regarding EEA General Counsel Ben Goldberger’s remarks from a September 27, 2022 WSPT meeting on the role of DCR Rangers as public educators and limitations to their enforcement abilities. Trustee Meehan expressed continued concern and requested that the General Counsel put a policy statement into writing rather than a verbal opinion. Trustee Meehan expressed dismay that the issue of Ranger enforcement has been discussed at meetings for two years without clear resolution. He noted that Ranger authority seems to be in jeopardy, further stating that he has yet to see literature on current guidance delineating specific roles and responsibilities of DCR Rangers. There was discussion on Ranger authority and desire to regain the ability to issue citations.

Trustee Laskey noted his understanding of Trustee Meehan’s frustration. Trustee Romero then shared a presentation on Ranger interactions from FY2018 to FY2024. He explained that overall encounters have dropped by over one-fifth, but violations have nearly tripled. Trustee Romero emphasized that the Advisory Board has long been concerned about the impacts of DCR Rangers losing the ability to issue written violations and citations, which Trustee Romero referred to as the *Ranger enforcement gap*. He explained that initially, this gap was difficult to identify because it began in FY2023 as we emerged from the pandemic, when watershed activity and violations were historically high. To clarify these trends, Trustee Romero’s staff at the Advisory Board analyzed data reported by DCR back to FY2018 to find a pre-pandemic baseline and the enforcement gap, including final numbers from FY2024. Trustee Romero presented a chart showing the number of encounters, violations, and different types of enforcement over time. He further noted that despite fewer encounters, violations have surged and calls to law enforcement have not risen in proportion to the drop in Ranger enforcement authority, exposing significant gaps in addressing violations.

Trustee Romero discussed a second chart, asserting that in FY2018, the violations accounted for just over 2% of total encounters, but by FY2024, that figure had nearly tripled to almost 6%. He explained that the Advisory Board team took a closer look at the specific violations under the Code of Massachusetts Regulations Title 313 (313 CMR), specifically focused on violations reported 25 times or more, which had increased across the board from FY2018 to FY2024. Trustee Romero explained that the change began with the Police Reform Act and resulted in the enforcement gap in our watersheds. Trustee Romero emphasized his understanding of the intention behind this legislation, while also noting its unintended consequence of rendering DCR Rangers powerless to the point where violations surge and both water quality and visitor safety are put at risk. He underscored that without swift intervention, the current path threatens the watershed’s integrity and safety.

Trustee Romero urged action to address the enforcement gap head-on for three main reasons:

1. Environmental –
 - a. DCR and MWRA have consistently referred to our system as a forest-filtered system. The key to this is the environmental integrity of our watersheds. These areas provide clean drinking water only when they are healthy and protected, as they are delicate ecosystems and unchecked violations like illegal dumping and unauthorized activities disrupt this balance, endangering a vital natural resource without effective enforcement.
2. Economic –
 - a. Failing to address the enforcement gap puts us at serious risk of losing our federal filtration waiver, which currently saves ratepayers hundreds of millions of dollars. If violations continue to go unchecked and compromise our water quality, we could be forced to construct a filtration plant. Not only would this require an initial investment in hundreds of millions of dollars, but it would also lead to ongoing operational costs that would place an enormous financial burden on the system and its ratepayers for generations. Moreover, constructing and

operating a filtration plant would significantly increase MWRA's carbon footprint and emissions, exacerbating environmental harm. Trustee Romero emphasized that by acting now, financial resources and the environment would be protected.

3. Moral –

- a. Quabbin Reservoirs and other watersheds exist today because nearby communities sacrificed their lands for the greater good. In exchange, we have allowed recreation at levels no other public water system permits. This privilege comes with the responsibility to ensure that these areas remain safe. If violations continue, we risk curtailing or eliminating recreational activities, altogether betraying the trust of these communities. Environmentally, we must preserve watersheds and ensure safe drinking water; economically, we have to safeguard the financial investment of our ratepayers and avoid the enormous costs that would result from inaction; morally, we need to honor our commitment to the nearby host communities.

Trustee Romero concluded that the Trust must resolve the Ranger enforcement gap, noting that data should drive decisions and compel the Trust to act. Trustee Romero urged the Trust to commit to exploring new, different, and more active solutions through a new interpretation of current law, legislative amendments, or another mechanism to significantly reduce violations.

In response to Trustee Romero's presentation, Trustee Heyes reiterated concern that there remains no clarity and no policy on the issue. He noted that it remains unclear how much of this issue is concern for the officers and how much is concern for the watershed. He pointed out that it seems as though a policy is needed.

Trustee Laskey expressed agreement. Trustee Rao also noted her appreciation for the deep-dive of data from the Advisory Board.

Trustee Laskey inquired about the bottom line of Trustee Romero's results. Trustee Romero responded that in FY2024, there was a tripling in the number of violations even as the number of encounters had decreased. He noted that the Advisory Board analyzed data back to FY2018, prior to inflated numbers of the pandemic, and found that while the number of encounters had decreased by over 20%, the number of violations had tripled. He emphasized that this was not the case when Rangers were allowed to issue citations and written violations.

Trustee Heyes raised concern over DCR Ranger morale. Mr. Scannell responded that it is a challenge not having the ability to issue tickets, and that it can be frustrating to lack that tool in the toolbox. Mr. Scannell noted that it was helpful for staff to have that ability for a serious violation or repeat offenders. Trustee Heyes then asked about Ranger ability to carry firearms. Mr. Scannell noted that Rangers have never carried firearms. Trustee Romero posed the question of how Rangers can obtain the necessary tools to get enforcement numbers back to where they belong, as the educational option is not effective.

Trustee Heyes suggested that rangers are not prepared for a difficult offender and questioned how they would protect themselves in an emergency. He also noted the complexity of the issue. Trustee Laskey expressed agreement.

Trustee Meehan noted the ability of DCR to issue ban letters for up to a period of one year. There was discussion regarding interim solutions to violations that are more egregious. Trustee Meehan posed the question of how DCR would be able to issue a ban letter to an offender without the ability to ask for identification. He suggested that legal counsel should clarify that aspect of the issue, and that Rangers could possibly develop a draft proposal that would be acceptable to legal counsel to act on such isolated and severe incidents.

Trustee Laskey acknowledged Trustee Meehan's sentiments. Trustee Romero asked if the Trust could obtain a written legal opinion. Trustee Meehan recalled that there was never a written directive obtained from the

EEA regarding Ranger enforcement, only verbal. Mr. Scannell noted that ban letters have been used for rental boat users who violate the rules, as information is given upon rental boat purchase.

Trustee Meehan referenced language in CMR 302 12.00. Trustee Rao asked if CMR 302 12.00 applies to DWSP. Mr. Scannell noted that the regulations in CMR 302 do not apply to DWSP and only apply to DCR Parks, which pre-date the post-Commission law. He noted that even as the regulations relate to DCR Parks, up-to-date language would still state that Rangers do not have the ability to gather personal identification from offenders.

Trustee Romero stated that the first actionable step towards resolution would be to obtain a written legal opinion on the matter. Trustee Meehan asked Mr. Scannell about the ban authorization language referenced in 302 CMR. Joel Zimmerman, Watershed Planning Coordinator, shared that DWSP has its own separate ban language. He then referenced CMR 12.01 (3) (g), which specifically excludes DWSP from this law by stating the following: *“Lands and Waters of the Watershed System. 302 CMR 12.00 shall apply to all DCR property without the Division of Water Supply Protection.”* Mr. Zimmerman suggested that it could be beneficial to ask legal counsel to offer insight.

Trustee Laskey acknowledged and thanked the Trust for engaging in healthy discussion on the issue. He expressed concern regarding the act of seeking a written legal opinion when a verbal opinion has already been provided upon request of the Trust. He suggested that the Trust reach out to the Executive Office to inquire about the possibility of a written statement. Trustee Laskey also noted that he would like to have MWRA Finance staff take time to analyze the data presented by the Advisory Board. Trustee Meehan expressed agreement, maintaining that he would like Trustee Rao and Trustee Laskey to approach legal counsel with specific questions regarding DCR Ranger ability to ask offenders for identification and to assure the Trust that a ban authority applies to the watersheds.

Trustee Romero noted that the intention of the Advisory Board’s analysis was not to come across as confrontational, but instead to resolve a longstanding request for more thorough information from Trustee Meehan. He agreed that a less confrontational approach to obtain legal information is ideal.

- **Forestry** - Ken MacKenzie, DWSP Natural Resources Director, shared an update on forestry.
 - Mr. MacKenzie noted that DWSP invited Climate Chief Melissa Hoffer to the watershed in late July to provide an opportunity to observe watershed resiliency projects on the ground. He explained that the goal of the visit was to present a better picture of how DWSP manages forestry. Mr. MacKenzie expressed his excitement and enthusiasm for the Administration’s backing of the forestry program. He also referenced the launch of an updated website to be more transparent about resiliency efforts and noted that he is currently waiting on land management language input from Indian Affairs.
 - FY2025 Forestry Proposals –
 - Ten project proposals going out for Quabbin
 - Two in the Ware River, to be presented at the Ware River Advisory Committee Meeting on September 26th
 - Six proposals coming out in Wachusett that will be part of a public meeting at a later date

Mr. MacKenzie explained that 18 new projects are coming out for FY2025. He noted that 29 projects are ready to go, and 14 are already bid out with six sold in July. The second round of showings is in September and bids are forthcoming. Opening will be around September 26th. Mr. MacKenzie noted that one key difference in forestry proposals is the inclusion of a Climate Change Considerations table, which contains specific language on how climate change concerns will be addressed, adapted from the forestry guidelines that were put forth from the Climate Forestry Committee. He noted the new changes are an effort to be more transparent about forestry management practices.

Trustee Romero commended Mr. MacKenzie's team on a job well done, and noted that he looks forward to seeing how the new program incorporates the forestry guidance.

A motion was made to adjourn the meeting by Trustee Heyes. The motion was seconded by Trustee Romero. General Counsel Francisco-Murphy called the roll. **The Trustees unanimously voted to adjourn the meeting at 11:13am.**