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CAPE COD
COMMISSION

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January 12, 2024

Chairs of the Joint Committee on Environment and Natural Resources
Cape Cod and Islands Legislative Delegation
24 Beacon Street
Boston, MA 02133

Dear Chairs of the Joint Committee on Environment and Natural Resources and Cape Cod and Islands Legislative Delegation,

On behalf of the Cape Cod and Islands Water Protection Fund ("Fund") Management Board, enclosed, please find the *2023 Cape Cod and Islands Water Protection Fund Annual Report*, prepared in accordance with M.G.L. Chapter 29C, Section 20, which includes information on Fund revenue and expenses to date and provides a 5-year revenue projection.

A cash flow model developed in 2021 by PFM Financial Advisors LLC to support administration of the Fund projects the Fund's cash flow based on certain assumptions, including annual tax collections and annual State Revolving Fund (SRF) eligible Clean Water Intended Use Plan (IUP) projects. Initial assumptions to create the model included eligible annual project costs of approximately \$60 million and annual tax collections of approximately \$20 million. The results of the model were supportive of providing a 25% subsidy to eligible projects while maintaining a Fund balance of at least 50% of annual collections.

Since creation of the Fund, revenue has been largely consistent with projections; however, local commitment to project implementation and eligible project costs have exceeded expectations. The 2023 IUP presented over \$167 million in projects, more than \$100 million above the assumed project costs and the greatest amount that we had seen for Cape Cod in a single year. On June 30, 2023, the Management Board sent a letter to Governor Healey (attached) articulating the critical need for additional revenue to the Fund to maintain a 25% subsidy. In December 2023, the Massachusetts Department of Environmental Protection issued the draft 2024 IUP with over \$248 million in Cape projects, which once again far exceeds assumed project costs and places additional pressures on the Fund beyond those identified in the letter to the Governor.



The 25% subsidy provided by the Fund has been a primary driver of long overdue progress on local wastewater projects. The certainty of the subsidy has helped garner community support for water quality project implementation and has resulted in significant action. Without significant additional revenues to the Fund, the Management Board will be forced to limit subsidies for critically needed wastewater and water quality projects on Cape Cod.

The Management Board and Cape Cod Commission appreciate the Legislature's support of the Fund and looks forward to working collaboratively to develop a solution to this important funding challenge. Should you have any questions, please do not hesitate to reach out.

Sincerely,



Kristy Senatori
Executive Director

cc: Kevin Galligan, Chair, Cape Cod and Islands Water Protection Fund Management Board

Enclosure



CAPE COD AND ISLANDS
WATER PROTECTION FUND

2023 ANNUAL REPORT

PREPARED FOR:

**Chairs of the Joint Committee on Environment
and Natural Resources**

Senator Rebecca L. Rausch
24 Beacon Street, Room 215
Boston, MA 02133

Representative Daniel Cahill
24 Beacon Street, Room 527A
Boston, MA 02133

Cape Cod and Islands Legislative Delegation

Senator Julian Cyr
24 Beacon Street, Room 111
Boston, MA 02133

Senator Susan L. Moran
24 Beacon Street, Room 312-D
Boston, MA 02133

Representative David T. Vieira
24 Beacon Street, Room 167
Boston, MA 02133

Representative Kip A. Diggs
24 Beacon Street Room 472
Boston, MA 02133

Representative Sarah K. Peake
24 Beacon Street, Room 7
Boston, MA 02133

Representative Christopher R. Flanagan
24 Beacon Street, Room 26
Boston, MA 02133

Representative Dylan A. Fernandes
24 Beacon Street, Room 167
Boston, MA 02133

Representative Steven G. Xiarhos
24 Beacon Street Room 542
Boston, MA 02133

PREPARED BY:

Cape Cod Commission, on behalf of the
Cape Cod and Islands Water Protection Fund
Management Board

3225 Main Street
P.O. Box 226
Barnstable, MA 02630

January 2024

The Cape Cod and Islands Water Protection Fund (CCIWPF) was established by the Massachusetts Legislature in 2018 (M.G.L. Chapter 29C, Section 19) to help Cape Cod and Islands towns pay for necessary wastewater infrastructure and water quality remediation projects. Creation of the CCIWPF was the result of efforts by a diverse set of stakeholders, including the Cape Cod and Islands Legislative Delegation, local officials, environmental groups, business leaders, and the Cape Cod Chamber of Commerce, who recognized the need for new financial tools to address the region's degrading water quality and lack of wastewater infrastructure.

The CCIWPF is a dedicated fund within the Massachusetts Clean Water Trust set up to solely benefit communities within the counties of Barnstable, Dukes, and Nantucket. Its source of revenue is a 2.75% excise tax on traditional lodging and short-term rentals. The fund is administered by the Clean Water Trust and overseen by a management board comprised of representatives from every member town from the region. Currently, the 15 Cape Cod communities are members of the CCIWPF.

The Cape Cod and Islands Water Protection Fund Management Board (Board) was established by M.G.L. Chapter 29C, Section 20. The Board is responsible for determining the method for allocating subsidies from the fund, including, but not limited to, an equitable distribution among participating municipalities consistent with revenue deposited from each municipality into the fund. The Board is also responsible for ensuring that the Water Protection Fund is spent only for the purposes set forth in M.G.L. Chapter 29C, Section 19.

This report has been prepared pursuant to M.G.L. Chapter 29C, Section 20, Cape Cod and Islands Water Protection Fund Management Board.

CCIWPF Revenue

As received from the Department of Revenue through the Clean Water Trust, fund revenue to date (July 2019 through November 2023) totals \$81,873,218.21. Income generated by the fund for this period totals \$2,790,795.23.

Subsidies for projects listed on Intended Use Plans for the Clean Water State Revolving Fund dating back to the creation of the CCIWPF (2018) will be paid over 4 years, while subsidies for eligible pre-existing debt incurred for clean water projects that pre-date the CCIWPF will be paid over 10 years. Transfers from the fund for Years 1 through 3 are presented below. The balance of the Fund at the end of the calendar year 2023 is \$30,087,881.00.

CCIWPF	Amounts
Revenue to Date	\$81,873,218.21
Fund Income to Date	\$2,790,795.23
Administrative Expenses to Date	\$226,777.01
Year 1 (2021) Transfer	\$13,708,673.00
Year 1 (2022) Pre-Existing Debt Payments	\$1,302,628.00
Year 2 (2022) Transfer	\$15,112,577.00
Year 2 (2023) Pre-Existing Debt Payments	\$1,302,628.00
Year 3 (2023) Transfer	\$22,597,849.43
2023 Monitoring Transfer	\$325,000.00
Balance	\$30,087,881.00

Expenses and Project Summaries

On June 13, 2023 the Board voted to award subsidies to qualified and eligible water quality projects in several Cape Cod towns. Per the regulations established by the Board in 2020, projects in excess of \$1 million received subsidies equal to 25% of the project costs. Projects of \$1 million or less received 50% subsidies.

Projects eligible for funding include, but are not limited to, innovative strategies and alternative septic system technologies, water quality and wastewater management planning, the construction of sewer collection systems and wastewater treatment plants, and the implementation of drainage improvements and water treatment programs to improve water quality in freshwater ponds and marine resources. Member communities must go through the Clean Water State Revolving Fund program, or SRF, and be listed on the Clean Water SRF Intended Use Plan (IUP) to receive funds.

Contingent commitments are made upon release of the annual IUP. Final commitments are made following execution of a Project Regulatory Agreement (PRA).

Subsidies from the Water Protection Fund have been reduced for 2021 and 2022 IUP projects from 25% to 10%, to reflect an additional 15% subsidy from the Clean Water Trust using American Rescue Plan Act funds. The original commitment to the Towns for a 25% subsidy for these projects remains unchanged despite the sourcing of the funds to provide that 25% subsidy.

Modified Final Commitments for 2021 Intended Use Plan Projects

Town	Description	PRA Cost	Subsidy Based on PRA at 25%	Subsidy with Remaining Payouts Reduced to 10%
Barnstable	Route 28 East Sewer Expansion Project	\$19,926,176	\$4,981,544	\$3,134,558.80
Barnstable	Wastewater Pump Station Improvements Projects	\$2,761,225	\$690,306.25	\$483,214.38
Chatham	Chatham Queen Anne Pumping Station Upgrade 2021 PE	\$2,818,173	\$704,543.25	\$448,908.65
Chatham	Chatham Stormwater Improvement Projects - 2021	\$3,598,348	\$899,587	\$629,710.90
Mashpee	Mashpee WRRF and Collection System - Phase 1	\$53,958,000	\$13,489,500	\$9,097,900
	Totals	\$83,061,922	\$20,765,480.50	\$13,794,292.73

Modified Contingent Commitments for 2022 Intended Use Plan Projects

Town	Description	IUP Cost	Contingent Subsidy at 25%	Subsidy with Remaining Payouts Reduced to 10%
Barnstable	Wastewater Pump Station Replacement Project	\$5,540,000	\$1,385,000	\$761,750
Chatham	Chatham Stage Harbor (1C-5/1E-2) Sewer Extension	\$11,010,500	\$2,752,625	\$1,513,943.75
Chatham	Chatham Mill Pond Pumping Station Upgrade 2022	\$2,268,000	\$567,000	\$311,850
Falmouth	Falmouth WWTF TASA Improvements	\$20,000,000	\$5,000,000	\$2,750,000
Orleans	Meetinghouse Pond Area Collection System and PS	\$32,906,000	\$8,226,500	\$4,524,575
	Totals	\$71,724,000	\$17,931,125	\$9,862,118.75

Contingent Commitments for 2023 Intended Use Plan Projects

Town	Description	IUP Cost	Contingent Subsidy
Barnstable	Sewer Extension and Vacuum Sewer Removal	\$1,120,000	\$280,000
Barnstable	2023 Wastewater Pump Station improvements	\$3,320,000	\$830,000
Barnstable	Park City Wind Route Sewer Expansion	\$30,900,000	\$7,725,000
Barnstable	FY24-25 BWPCF Improvements	\$6,121,800	\$1,530,450
Chatham	WPCF Sludge Processing Upgrades	\$5,000,000	\$1,250,000
Harwich	Harwich Rt 28 Sewer Construction Project	\$8,099,590	\$2,024,897.50
Harwich	Harwich Phase 3 Sewer Extension	\$41,900,410	\$10,475,102.50
Mashpee	Phase 1 Mashpee Treatment and Collection System	\$12,000,000	\$3,000,000
Wellfleet	Enhanced I&A Septic System Program	\$3,000,000	\$750,000
Wellfleet	95 Lawrence Wastewater Treatment and Collection System	\$6,309,000	\$1,577,250
Yarmouth	Phase I – WRRF and Collection System	\$50,000,000	\$12,500,000
	Totals	\$167,770,800	\$41,942,700

Pre-Existing Debt

Consistent with the provision in M.G.L. Chapter 29C, Section 19, certain Cape Cod and Islands communities are eligible for subsidies for debt incurred for water pollution abatement projects apart from the Clean Water Trust prior to the establishment of the CCIWPF.

At their meeting on January 11, 2022, the CCIWPF Board voted to approve final subsidies to qualified and eligible town projects for verified pre-existing debt in the towns of Barnstable, Chatham, Falmouth, and Provincetown in the amounts of:

Town	Eligible Pre-Existing Debt	Total Subsidy
Provincetown	\$11,729,661	\$2,932,415
Barnstable	\$4,842,300	\$1,210,575
Chatham	\$21,391,410	\$5,347,853
Falmouth	\$7,675,200	\$1,918,800
Totals	\$45,638,571	\$11,409,643

The CCIWPF Board also voted to approve additional subsidies for authorized debt and debt that was not issued as of April 14, 2021 in the amounts of \$1,478,010 for Provincetown, pending loan issuance and closure, and \$803,750 for Chatham, as show below:

Town	Amount	Status	Total Subsidy
Provincetown	\$1,651,000	Pending Loan Closure	\$1,478,010
	\$2,486,000	Pending Loan Closure	
	\$1,775,041	Pending Issuance	
Chatham	\$1,850,000	Closed 5/27/2021	\$803,750
	\$235,000	Closed 5/27/2021	
	\$1,130,000	Closed 5/27/2021	

Consistent with the CCIWPF Board votes referenced above, the Commission requested that Year 2 (2023) payments be made to communities awarded subsidies for pre-existing debt on June 15, 2023.

Water Quality Monitoring

Pursuant to M.G.L. c. 29C §§ 19-20, the Management Board may use up to 10% of annual CCIWPF revenue to monitor the water quality and watersheds of areas in the coastal waterways of Barnstable, Dukes, and Nantucket counties, including to evaluate and report on the efficacy of adaptive management measures to reduce nitrogen pollution undertaken pursuant to an area wide wastewater management plan (or equivalent plan), and to support further assessment of water quality monitoring to further refine an area wide wastewater management plan, subject to a memorandum of understanding with the Massachusetts Department of Environmental Protection (MassDEP).

Under its authority, on September 6, 2023, the Management Board executed a Memorandum of Agreement (MOA) with MassDEP regarding funding in support of water quality evaluation, monitoring, or assessment in the waters surrounding Cape Cod and the Islands. The MOA includes a project funding payment of \$325,000 from the Fund to MassDEP to support this work.

A contract with the Center for Coastal Studies (CCS) was executed on October 11, 2023 in the amount of \$324,810 to provide water quality monitoring through July 31, 2024. Of the 284 total stations monitored in the region, 150 of those are monitored by CCS or their partners at the Buzzards Bay Coalition under contract with CCS, and 29 sentinel stations are monitored under that effort.

Administrative Expenses

The Cape Cod Commission is charged with providing administrative and technical support to the Board. On behalf of the Management Board, the Commission contracts with consultants to provide

additional financial and legal support, as necessary and requested by the Board. Costs associated with this support from January 2023 through December 2023 total \$69,802.15, as detailed below. At their August 15, 2023 and January 10, 2024 meetings, the Board voted to reimburse the Commission for these expenses.

Expenditures	Amount
Cape Cod Commission Personnel	
Salaries, including fringe benefits and indirect costs	\$37,659.65
Contractual Services	
Pierce Atwood – legal	\$3,805.00
PFM Financial Advisors	\$28,337.50
Total Expenditures	\$69,802.15

5-Year Revenue Projections

The Board, through Barnstable County through the Cape Cod Commission, contracted with PFM Financial Advisors to provide advisory services relative to subsidy allocations and revenue projections. In consultation with the Board and based on their expertise in forecasting and financial modeling, PFM Financial Advisors developed the following 5-year revenue projections.

	2023 Actual	2024	2025	2026	2027	2028
Revenue	\$20,617,183	\$21,551,270	\$22,101,820	\$22,598,463	\$23,182,533	\$23,749,462
Revenue Growth	3.8%	4.5%	2.6%	2.2%	2.6%	2.4%

In summary, the Cape Cod and Islands Water Protection Fund receipts through November 2023 totaled \$81,873,218.21. In 2023, the CCIWPF Board voted to award subsidies for 11 projects, the total cost of which equals \$167,770,800. The amount transferred from the CCIWPF in 2023 for project subsidies totaled \$22,597,849.43. With the addition of fund investment income totaling \$2,790,795.23, the balance of the fund at the end of the calendar year 2023 was \$30,087,881.00.

In June 2023, the Cape Cod and Islands Water Protection Fund Management Board sent a letter to Governor Healey articulating the critical need for additional revenue to the Fund to maintain the 25% subsidy (attached). While revenues have been largely consistent with projections, local commitments to project implementation and eligible project costs have exceeded expectations. While the 2024 IUP has not yet been finalized, the draft includes more than \$248 million in Cape projects. Given the trajectory of project costs and projects anticipated to advance in the coming years, it is expected that annual project costs will continue to exceed assumptions, compromising the ability of the Management Board to provide a 25% subsidy moving forward.

CAPE COD AND ISLANDS WATER PROTECTION FUND

June 30, 2023

Governor Maura Healey
Massachusetts State House
24 Beacon Street, Room 280
Boston, MA 02133

Dear Governor Healey,

I am writing to you on behalf of the entire Cape Cod and Islands Water Protection Fund (Fund) Management Board to request your urgent assistance in sustaining the long-term financial viability of a critical source of funding that towns on Cape Cod rely upon to clean up our coastal waterways and embayments.

Since its inception in 2019, the Fund has awarded approximately \$140 million in subsidies to Cape Cod wastewater and water quality projects. The Fund has helped spur Cape Cod communities to advance their wastewater planning in earnest. As a result, the number of wastewater management projects in the region has increased significantly, underscoring the important role the Fund plays in accelerating the pace of wastewater projects on Cape Cod – even at the same time of unprecedented inflation and increased project costs. This highlights the impact of Fund subsidy on town's abilities to advance pollution abatement projects with financing from the Clean Water Trust.

A cash flow model developed in 2021 by PFM Financial Advisors LLC to support administration of the Fund projects the Fund's cash flow based on certain assumptions, including annual tax collections and annual State Revolving Fund (SRF) eligible Clean Water Intended Use Plan (IUP) projects. Initial assumptions to create the model included eligible annual project costs of approximately \$60 million and annual tax collections of approximately \$20 million. The results of the model were supportive of providing a 25% subsidy to eligible projects while maintaining a Fund balance of at least 50% of annual collections.

In 2022 and 2023, the IUP included over \$108 million and \$167 million in wastewater projects from Cape Cod, respectively – which are the greatest amounts we have seen for Cape Cod in a single year. With some adjustments to the financial model, including reducing subsidies from the Fund for projects that have received additional state subsidies from the American Rescue Plan Act and reducing the set-aside for critical water quality monitoring, the Board was able to award 25% subsidies to 2023 IUP projects.

CAPE COD AND ISLANDS WATER PROTECTION FUND

However, based on current assumptions for project costs and revenues, the Board cannot continue to award subsidies at this rate. The Management Board has voted to reduce the subsidy to 12% for 2024 IUP projects, absent any additional sources of funding.

PFM Financial Advisors LLC has modeled for us the additional revenue we believe is necessary to allow the Fund to remain solvent through FY30. We need additional revenues of \$5 million in FY24, followed by approximately \$66 million in revenue spread over the following three fiscal years, to allow the Fund to support continuing the 25% subsidy through the end of the decade.

The Management Board appreciates the Administration and the Legislature's support of the Fund and its commitment to improving water quality on Cape Cod. We look forward to working with you collaboratively to develop a solution to this important funding challenge.

Should you have any questions, please do not hesitate to reach out.

Sincerely,



Kevin Galligan
Chair, Cape Cod and Islands Water Protection Fund Management Board

cc: State Senator Julian Cyr
State Senator Susan Moran
State Representative Kip Diggs
State Representative Sarah Peake
State Representative Dylan Fernandes
State Representative Chris Flanagan
State Representative David Vieira
State Representative Steven Xiarhos