

City of Atlanta
The Spigot is Running Dry . . .
Implementation Of Consent Decrees
\$\$ Affordability Issues \$\$

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National Association of Clean
Water Agencies
2010 Legal Issues Conference
Santa Fe, New Mexico





CONFESSION!

I am just a member of a team – many thanks go to Eric Rothstein of Galardi Rothstein, Atlanta’s superior financial consultant, Marc Goncher, Atlanta’s excellent “inhouse” attorney, and Rob Hunter, former Commissioner of the Department of Watershed, for helping to create much of the content for this presentation! (and for getting Atlanta to where it is today . . .)

- The City of Atlanta is subject to two Federal Consent Decrees:
 - **1998** CSO Consent Decree.
 - **1999** First Amended Consent Decree or SSO Consent Decree.



CITY OF ATLANTA CONSENT DECREES

- CSO Consent Decree
 - 1995 – Upper Chattahoochee Riverkeeper files citizen suit challenging the City's selected method to obtain compliance with state phosphorous reduction standards; Riverkeeper also alleged violations of permits for the City's newly-constructed CSO facilities.
 - Phosphorous claims were dismissed – Judge is then elevated to the 11th Circuit; new Judge put in place.
 - November 1997 – Court ruled that City had violated CSO NPDES Permits.
 - Following entry of Order, EPA and the State joined Riverkeeper in negotiating terms of Consent Decree to resolve allegations involving CSO facilities.



CITY OF ATLANTA CONSENT DECREES

- CSO Consent Decree entered on September 24, 1998.
 - Required the CSO facilities to be brought into full compliance by March 31, 2007.
 - The City's approved remedial plan included:
 - Sewer separation in certain areas of the City, eliminating three CSO treatment facilities;
 - Construction of a 8.5 mile long/24 feet diameter deep-rock tunnel storage and treatment system to service remaining CSO facilities and transfer flow to new 85 MGD CSO Treatment facility.
 - Reduction of permitted CSO discharges to four per year at each of the remaining CSO facilities -- screened, disinfected and dechlorinated prior to discharge and must meet WQS.
 - Final Plan – \$759 Million
 - ALL CONSTRUCTION NOW COMPLETE!!



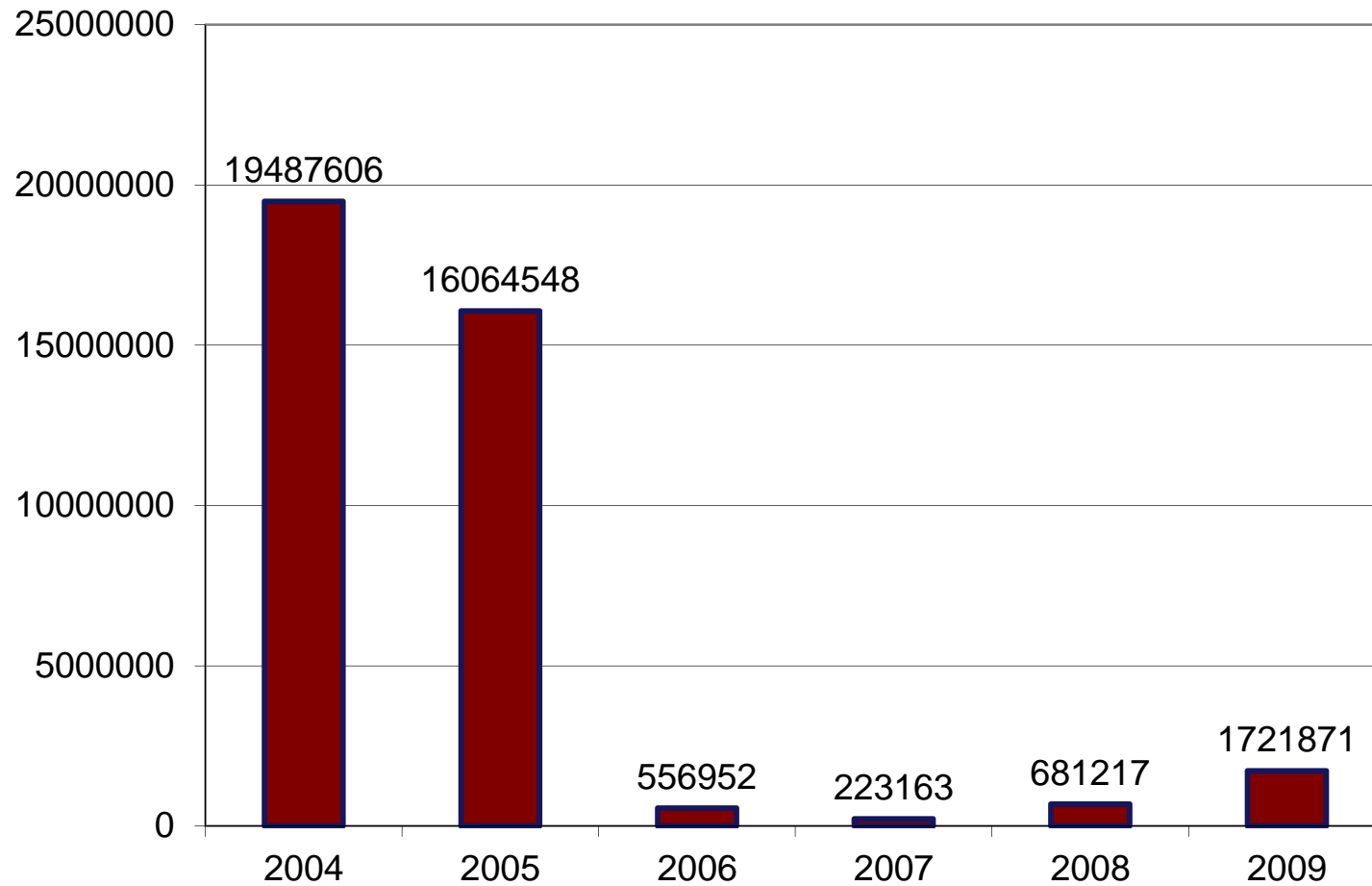
CITY OF ATLANTA CONSENT DECREES

- SSO Consent Decree
 - Shortly after entry of CSO Consent Decree, EPA and EPD commenced negotiations on additional claims regarding wastewater treatment plants and collection system.
 - Wastewater treatment plants already the subject of substantial capital improvements, thus this Consent Decree focused on collection system issues.
 - SSO Consent Decree entered by Court on December 20, 1999.
 - Requires comprehensive study program to evaluate current condition of entire collection system and remedy deficiencies through capital improvement program.
 - 14 years to implement – Final compliance date – July 2014.
 - Entered by Court in December 1999.
 - Full compliance estimated to cost \$2.2 Billion.
 - \$802 Million spent thus far.

- SSO Achievements
 - Robust MOM Programs.
 - Detailed surveys, mapping and hydraulic modeling of collection system.
 - Capacity Program.
 - Rehabilitation of large portions of collection system.
 - Significant Capacity Projects
- Results! 97% reduction in 2004 sewer spill volumes and 75% reduction in number of sewer spills.

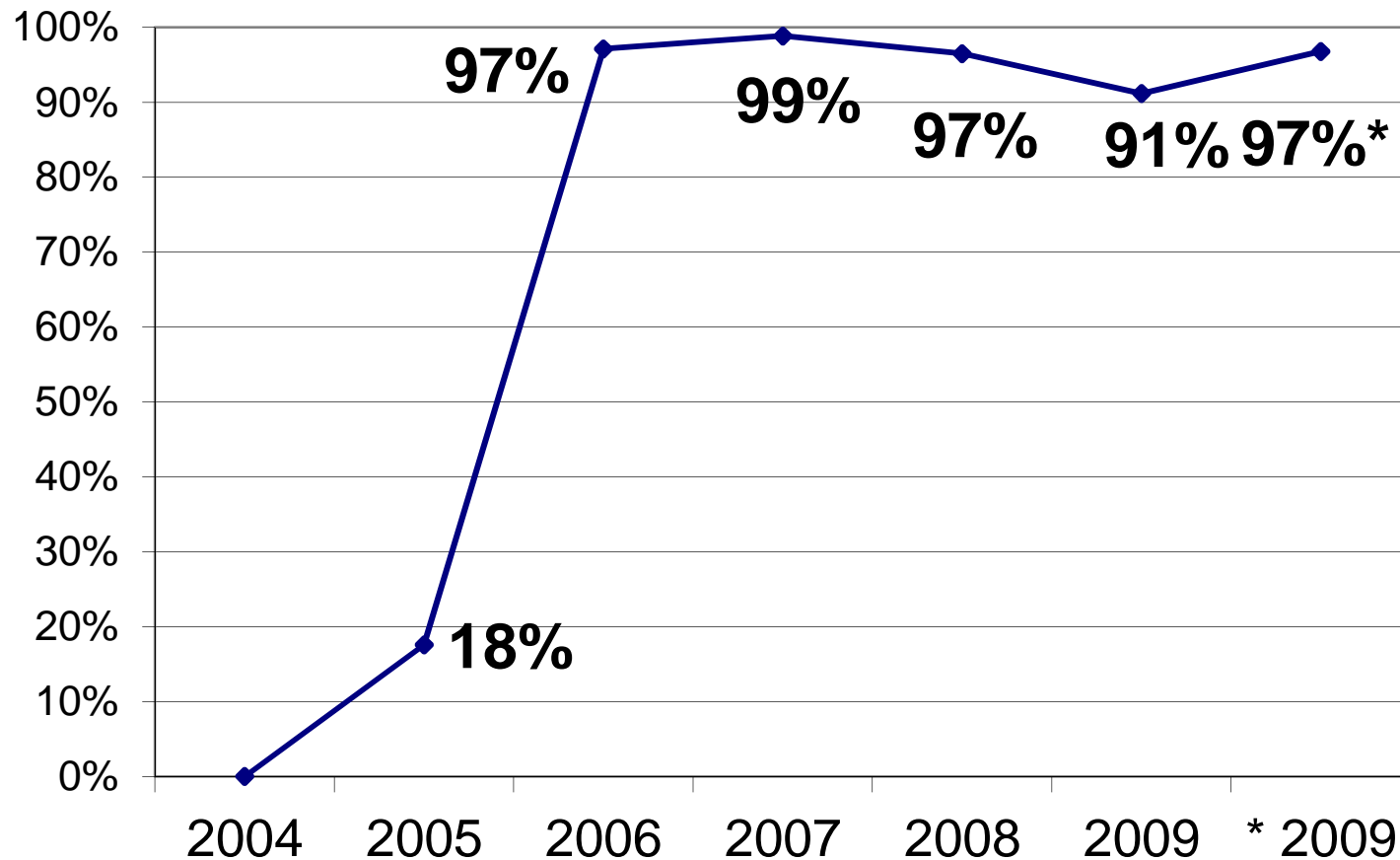
CITY OF ATLANTA CONSENT DECREES

Volume of Sewage Spills in Gallons



CITY OF ATLANTA CONSENT DECREES

% Reduction of Spill Volume



- **Two Primary Methods of Financing Consent Decree Implementation**
 - Water and Sewer Rates
 - “MOST” Sales Tax



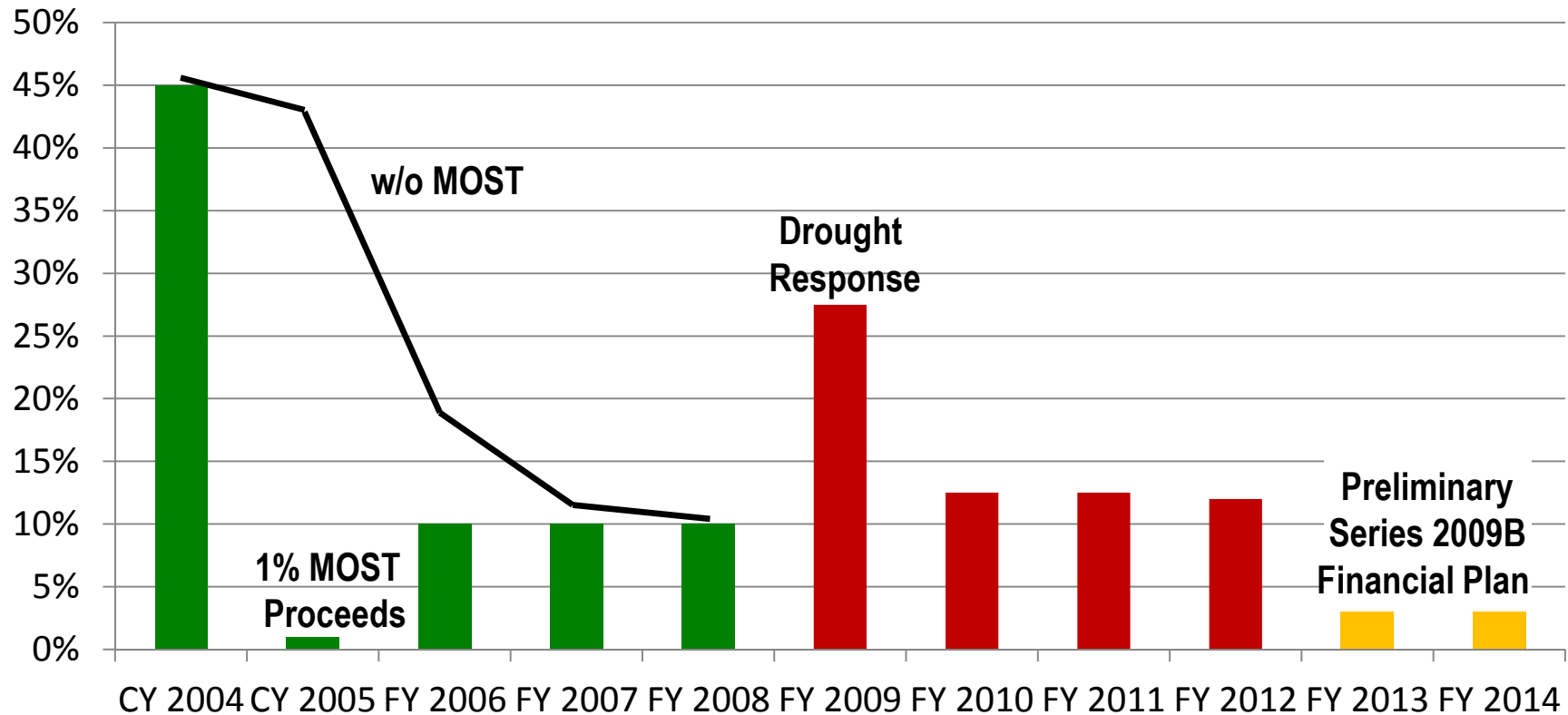
FINANCING THE REMEDIAL MEASURES DRINKING AND WASTEWATER REVENUES

- Atlanta has the highest combined sewer and water rates for a major metropolitan area.
 - 2003 -- Mayor proposed rate hike of 45%; public information campaign
 - Federal and State Agencies and Federal Court ensured that they would enforce decrees if City failed to finance them.
 - City Council rejected, passing one year 1% increase on 12/1/03.
 - City Water Sewer Revenue Bond rating downgraded. 12/3/03
 - Mayor vetoes on 12/8/03
 - State announces it will loan City \$50M/year over 10 years. 12/23/03
 - State Senate Majority leader announces he will back legislation to approve 1 cent muni option sales tax for water sewer purposes to blunt impact of rate hikes. 12/23/03
 - Council unanimously approves sufficient 5 year rate hike 1/5/04.
 - Additional rate hikes for 2010 and 2011.

- **RESULT:**

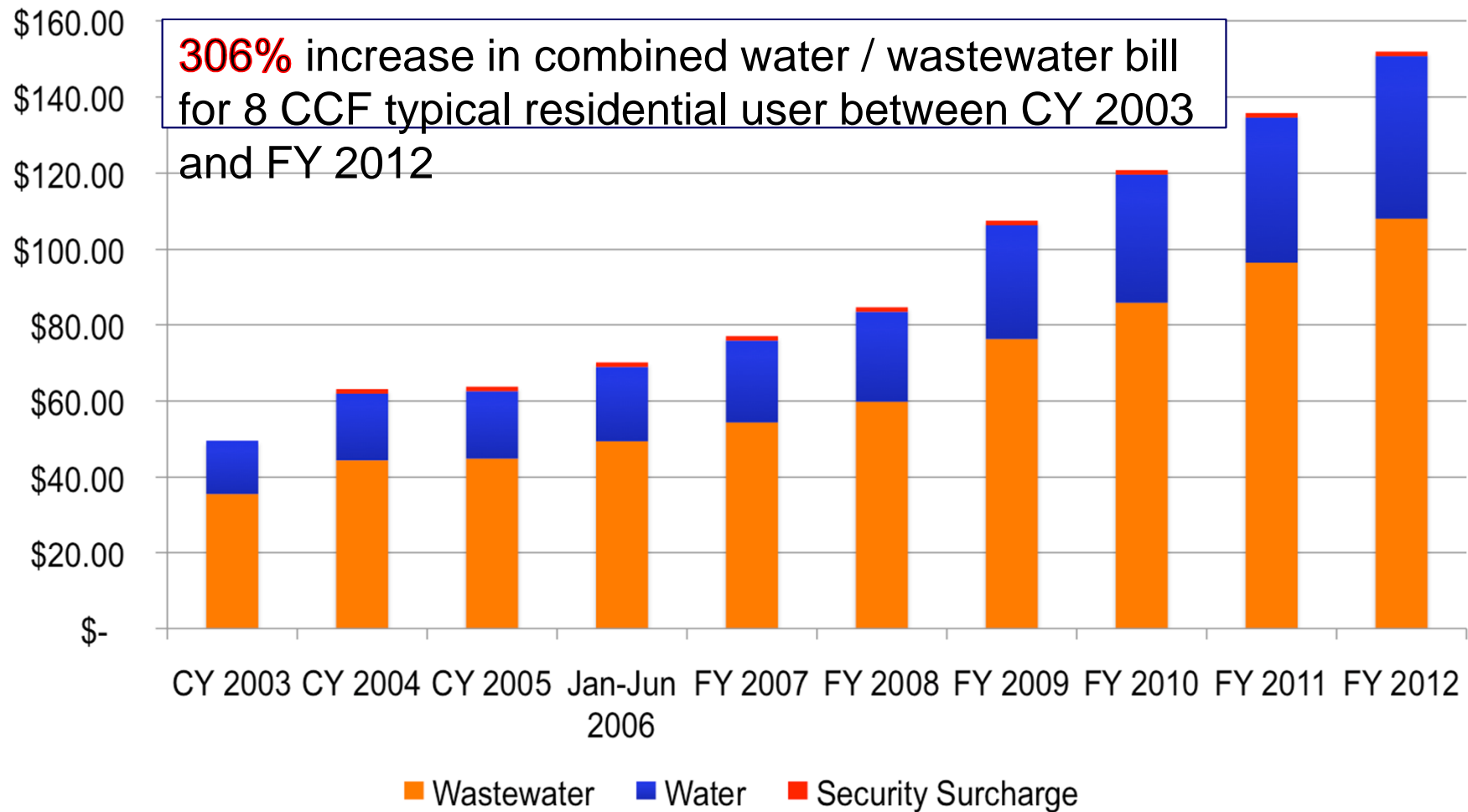
- City of Atlanta has more than tripled sewer and water rates since 2003.
- As of July 2010, Atlanta's customers will be paying the highest sewer and water rates in the country for a major metropolitan area.

RATE INCREASES: CY 2004 – FY 2014

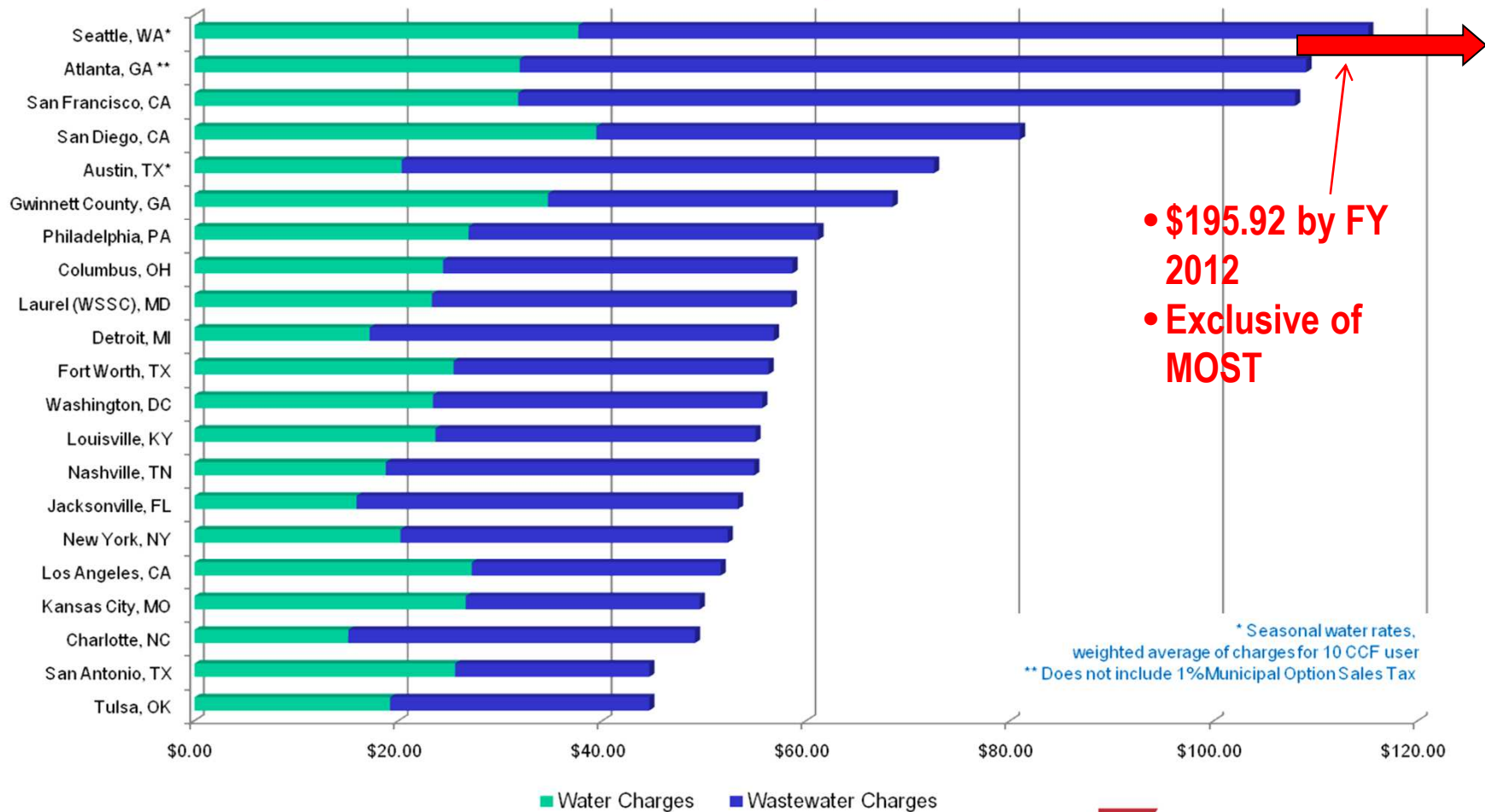


2004 - FY 2008 increases reflect unit rate increases applicable to 7 CCF and above usage

BILL IMPACTS (8 CCF USAGE)



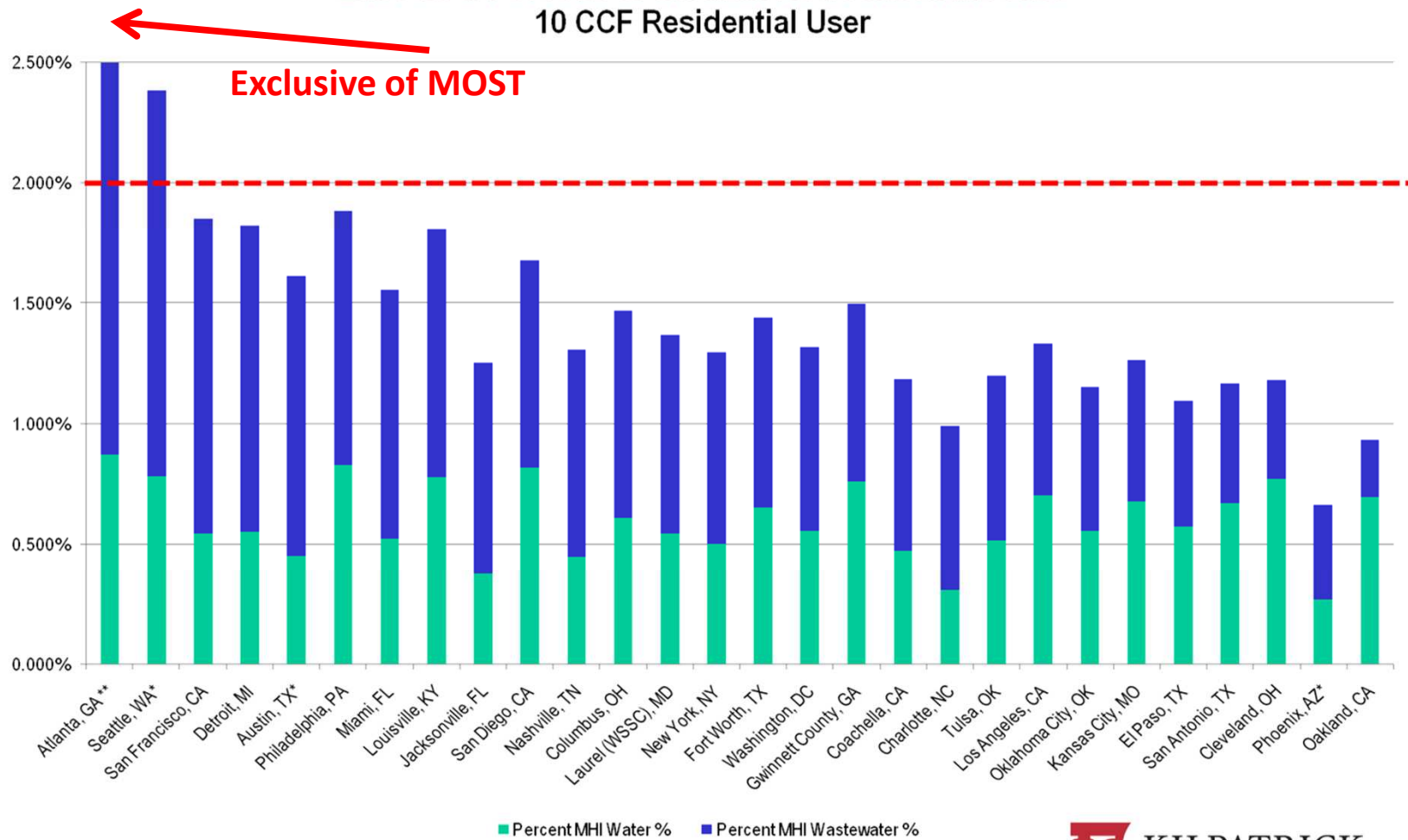
2008 AWWA Water and Wastewater Rate Survey Selected Metropolitan Systems : Group A > 75 MGD Sold Residential User Charges - 10 CCF



• \$195.92 by FY 2012
 • Exclusive of MOST



2008 AWWA Water and Wastewater Rate Survey
Selected Group A Water and Wastewater Utilities
Bills as a Percent of Median Household Income
10 CCF Residential User



- 2003 Sales tax statutory change
 - City lobbies for change in state law allowing opportunity to have a tax referendum.
 - First opportunity – Fulton County requested to place referendum on the ballot – Fulton County denied request.
 - Second opportunity – City of Atlanta allowed to place ordinance for 1% municipal option sales tax on ballot and approved by 75% of the residents.
 - Four year tax; approved for renewal in 2008 with approval by 71% of residents. Law allows voters to approve two more 4 year terms in 2012 and 2016.
 - Designed to provide a dollar for dollar reduction of Atlanta's water and wastewater rates.



FINANCING THE REMEDIAL MEASURES WHERE IS THE CITY NOW?

- **RATES:**

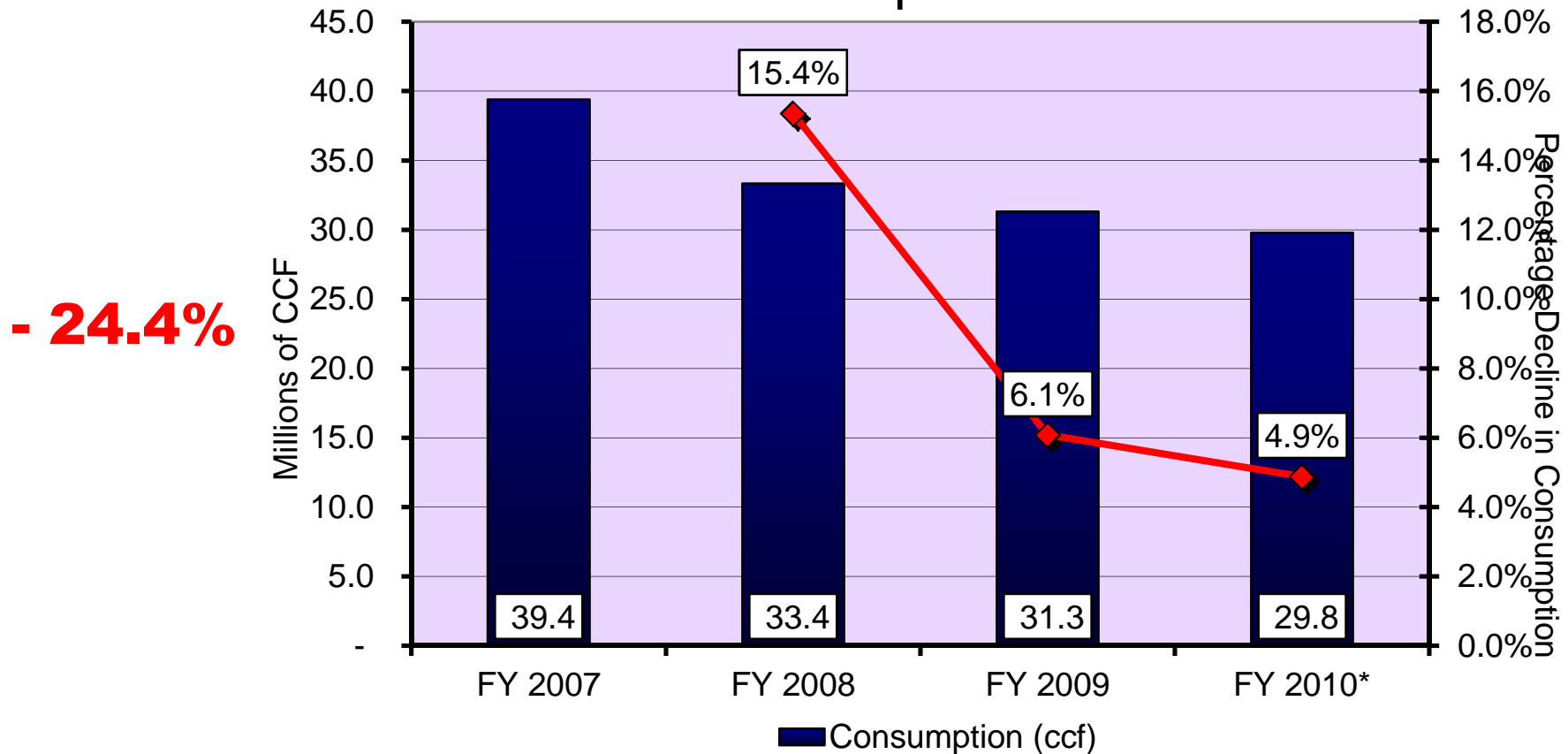
- Diminishing returns on rates – Despite 12.5% increase in rates in FY 2010, Atlanta only saw 6% increase in revenues.
- Result of both economic conditions and weather patterns.
- The Drought – substantially reduced water and sewer revenues from user fees. Mandatory 10% reduction in water usage. State mandated (local gov't enforced) Outdoor water use ban. Users conserving ~20%. (Fall 2006 – ongoing).
- The Flood – continued to suppress outdoor water use.
- Housing foreclosures and people watching their water use.

- **MOST:**

- Economic decline – Reduced retail sales volumes.
- Approximately 8.5% decline in receipts over the past two years.

REVENUES IMPACTED BY MAJOR CONSUMPTION DECLINE

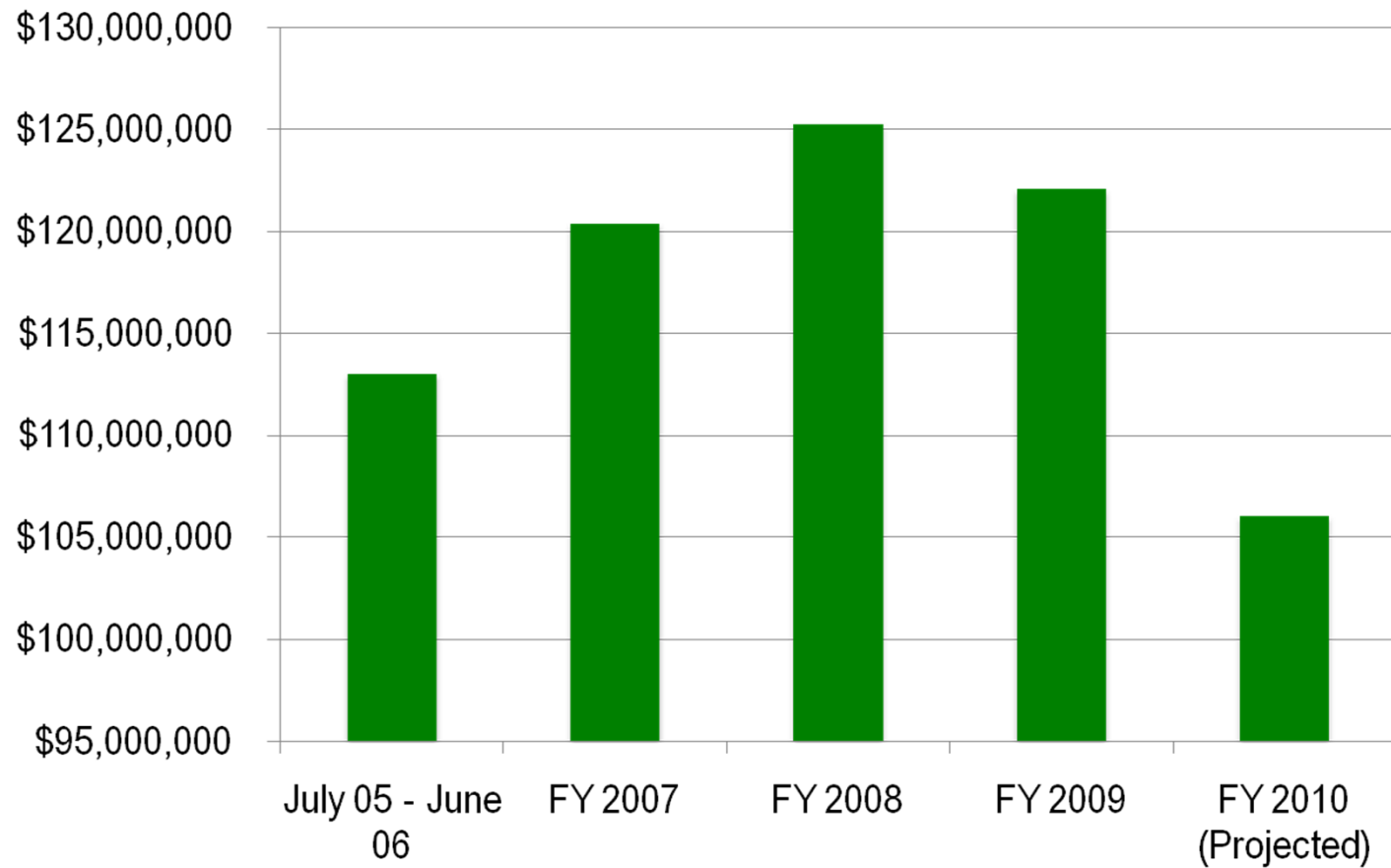
Consumption Trends



**Predicted FY 2010 total based on extrapolated data for 9 months of the fiscal*

MUNICIPAL OPTION SALES TAX TRENDS: FY '06 – FY '10

- \$19 M





COMPETING DEMANDS ON CAPITAL

- Lets not forget the water system!
- Since 2003, most available monies have gone to Consent Decree compliance.
- Result is an imbalance of expenditures between the water system and wastewater system.
- Spending needs to be “ramped up” on aging drinking water infrastructure.
- Atlanta also has spending needs on “non-Consent Decree” wastewater system.

JUNE 8 2010 SINKHOLE

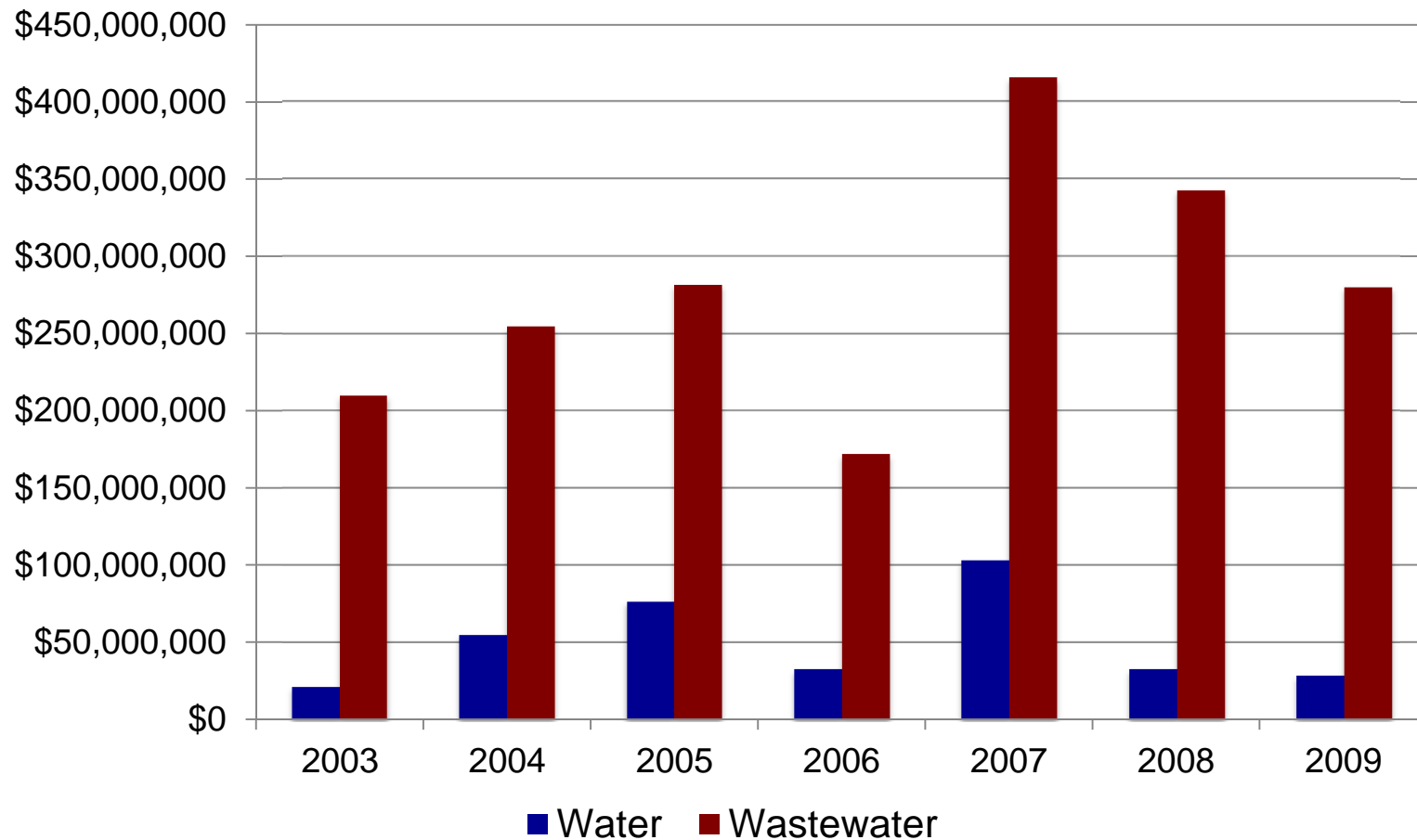
- Potentially caused by leaking or broken 1920s-era 6" water main.
- Sinkhole 30 x 8 feet; 10 to 15 feet deep at Centennial Olympic Park Drive



Photo credit of Atlanta Journal Constitution

UNBALANCED INVESTMENT IN SYSTEM INFRASTRUCTURE

Water and Wastewater System Capital Improvements 2003 - 2009 Fixed Asset Data





CITY OF ATLANTA BOND FINANCING

- Outstanding principal on bonded indebtedness of Atlanta's Water and Wastewater Fund -- \$3.2 billion.
- Debt Service is largest single line item in drinking water and wastewater system's annual revenue requirements.
- 2011 – Debt Service of approximately \$228 million (almost 40% of Atlanta's cash basis revenue requirements).

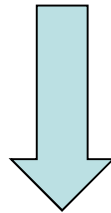


FINANCING REMEDIAL MEASURES WHERE DOES THE CITY GO FROM HERE?

- Additional rate increases are not sustainable.
 - Wastewater costs represent over 2% of MHI – High burden confirmed by EPA – At Last!!
 - (see attached Industrial Economics, Inc. memorandum)
 - Atlanta's sewer affordability statistic may go as high as 2.8% of MHI for FY 2012/13 through 2017/18.
 - Very high lower income population (27.2% incomes below \$24,999 and 22.4% below federal poverty level). For these populations, the rate burden is 4.29% or more.
 - Additional burden presented by MOST.

FINANCING REMEDIAL MEASURES WHERE DOES THE CITY GO FROM HERE?

- COMBINED EFFECTS OF ATLANTA'S
 - HIGHLY LEVERAGED POSITION
 - DECLINING WATER USAGE
 - POTENTIAL LOSS OF SALES TAX REVENUE AT SOME POINT IN THE FUTURE



**ATLANTA HAS EFFECTIVELY REACHED THE
LIMITS OF ITS NEAR TERM ABILITY TO ACCESS
CAPITAL MARKETS.
CAPITAL MARKET INDICATES THAT CHANGES
NEED TO HAPPEN!**



PROGRAM REVISIONS REQUIRED TO MAINTAIN FINANCIAL VIABILITY

Long-term, Fitch remains concerned about the system's ability to continue absorbing rising annual debt service obligations. Fitch will monitor the system's progress in gaining consent

**CHANGE
OR
DOWNGRADE**

and capital costs which may result in a financial profile no longer consistent with the current rating level.



FITCH RATES ATLANTA, GEORGIA WATER & SEWER REVS 'BBB+'; OUTLOOK STABLE

Fitch Ratings-New York-02 October 2009: Fitch Ratings assigns a 'BBB+' underlying rating to Atlanta, GA's (the city) approximately \$460 million water and wastewater revenue bonds, series 2009B. The bonds are scheduled for negotiated sale on Oct. 13, 2009 with proceeds being used to refund outstanding parity bonds originally issued as variable rate demand obligations backed a letter of credit that is set to expire on Nov. 1. At this time, Fitch also affirms the 'BBB+' rating on the city utility system's \$3.2 billion of outstanding parity bonds. The Rating Outlook is Stable.

The 'BBB+' rating primarily reflects the city's utility system's (the system) large capital needs and a very high rate structure partially subsidized by a municipal option sales tax subject to periodic reauthorization. The rating further incorporates the system's adequate debt service coverage, broad and diverse service area, a demonstrated willingness to raise rates and implement other revenue sources, and continued success in executing on time a large and costly regulatory remediation program. Fitch believes the system's much improved capital planning efforts and financial management have led to solid operating results in recent years and continued compliance with outstanding consent orders.

Near-term credit concerns include the potential for continued declines in sales tax revenue attributable to current economic conditions and rate revenues driven by weather patterns and a continued shift towards conservation among rate-payers. Long-term, Fitch remains concerned about the system's ability to continue absorbing rising annual debt service obligations. Fitch will monitor the system's progress in gaining consent decree schedule relief from the Environmental Protection Agency (EPA). If measures prove unsuccessful, Fitch believes the system would face a considerable challenge in raising sufficient revenues to meet its operational and capital costs which may result in a financial profile no longer consistent with the current rating level.

The system continues to face regulatory issues common among older, major metropolitan utilities. Favorably, much progress has been made to date in meeting milestones associated with outstanding consent decrees and court mandated projects. A majority of costly water system projects required by two consent orders issued by the Georgia Environmental Protection Division (EPD) are reportedly complete, including the separation of almost all of the city's combined sewers and the

remediation projects are reportedly being completed ahead of schedule and under budget, as are steps to address an additional consent decree (the first amended consent decree, or FACD) issued in 1999 to reduce sanitary sewer overflows (SSOs). While the system has made notable progress in addressing its regulatory issues, a significant level of capital investment is needed to achieve full compliance.

Financial operations, though satisfactory for the rating category, are reliant on the highest rates in the nation as well as a four-year, one-cent sales tax that was re-authorized by a wide margin of voters in 2008. Rates will continue to rise given the city council's adoption of a four-year rate program that boosted charges by 27.5% in fiscal 2009 and by an additional 12.5% for fiscal years 2010 and 2011 and 12% in fiscal 2012. The average monthly residential bill now exceeds \$100 and is equal to a very high 3% of median household income, nearly twice the percentage that Fitch considers to be in the affordable range. Fiscal 2008 ended with almost 200 days of cash on hand, and net revenues covered annual debt service on senior lien debt by an adequate 1.42 times (x). Unaudited results for fiscal 2009 show debt service coverage increasing to a solid 1.7x. While state-imposed water use restrictions were recently lifted, sales tax receipts continue to decline as collections dropped by about 9% in fiscal 2009. Fitch believes the system's financial forecast is more conservative compared to prior years as consumption is projected to remain level despite easing of watering restrictions, sales tax revenue is held flat over the next two years before showing slight growth in the outer years, and no customer growth is assumed. Debt service coverage is projected to decline to 1.2x over the next few years which Fitch believe is realistic given the

2009 Bond Issues Rating Agency Comments

- **Utility Well Managed**
- **Remarkable Accomplishment on Consent Decree Compliance**
- **Demonstrated Willingness to Fund Capital Programs**
- **Concerns**
 - **Capital Program 50% Complete**
 - **Sustainability of Rate Increases**

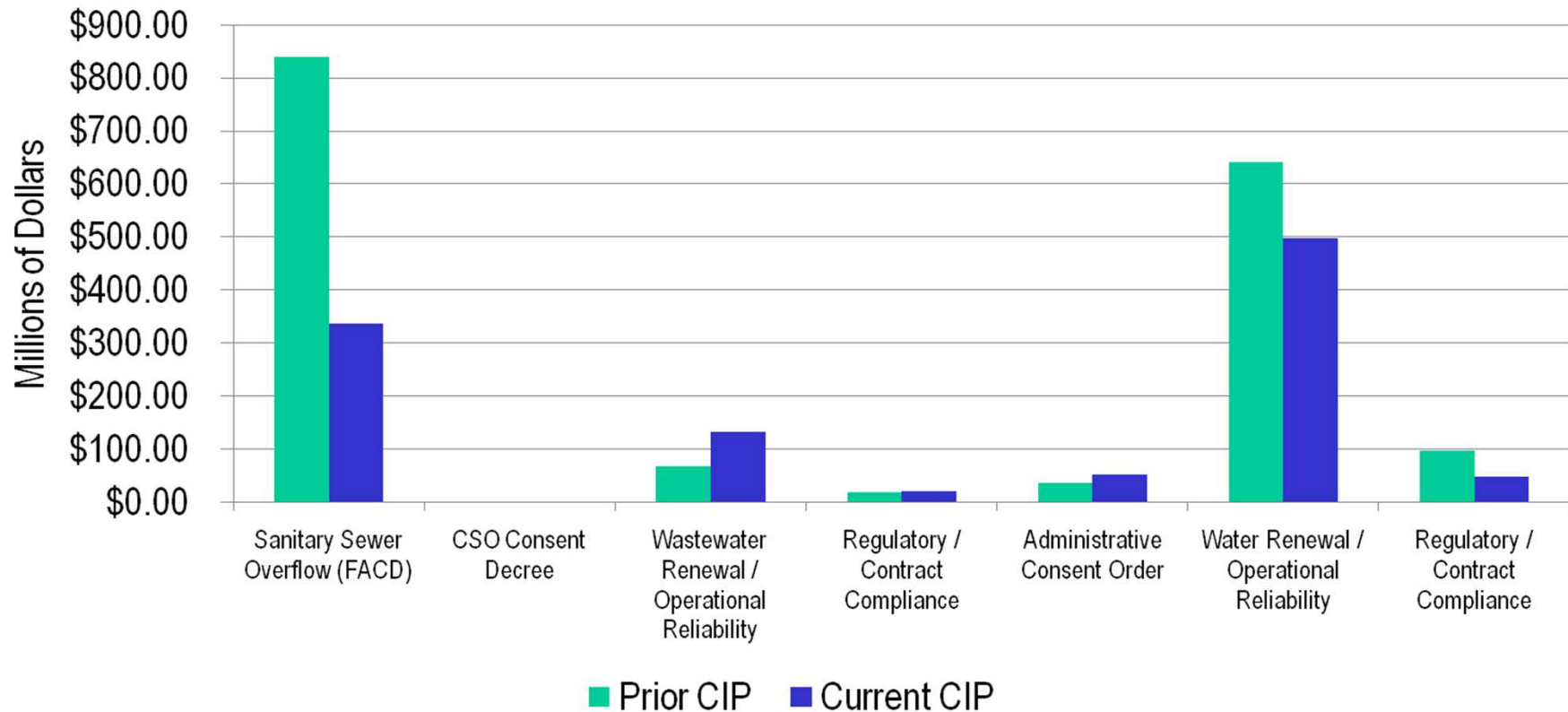
2009 Bond Issues

- \$17 M

- \$52 M

- 2009A - \$750 million Issue
 - \$1.7 Billion CIP (6-yr)
 - FACD = \$840.3 M (49.4%)
- 2009B - \$453 million Issue
 - \$1.1 Billion CIP (6-yr)
 - FACD = \$336.1 M (30.9%)

SERIES 2009B BONDS - CAPITAL SPENDING REDUCED OVER \$600M IN FY'09-14 PERIOD



Revised Capital program to employ new project categories as described in Engineer's Report



SCHEDULE EXTENSION: FUNDAMENTAL LOGIC

- Atlanta has accomplished the vast majority of the environmental benefit for which the Consent Decrees were entered
- Atlanta must also reinvest in renewal and rehabilitation of drinking water system components
- Atlanta must limit financial burdens placed on system ratepayers
- Atlanta must insure system improvement

ESSENTIAL PARTIES

- Judge Thrash
- DOJ & AG's Office
- EPA & EPD
- Upper Chattahoochee Riverkeeper
- City of Atlanta
 - City Council
- Financial community
- General Public





SCHEDULE EXTENSION REQUEST: BASIS

- Financial Capability Assessment submittals
- 20-Year Strategic Financial Plan & model
 - EPA has agreed that Atlanta has approximately \$95 million/year to spend on both water and wastewater projects – both those required by the Consent Decree and non-Consent Decree projects.
- Revision of Capital Improvement Program
 - EPA currently evaluating:
 - “Buckets” of spending between five categories of projects including \$35 million per year allocated to Consent Decree projects to occur post-2014.
 - Estimates of costs for Consent Decree projects.



PRE-2014 CONSENT DECREE PROJECTS

- MAJOR PROJECTS TO BE COMPLETED BY ORIGINAL 2014 DEADLINE.
 - All SSES work to be completed on schedule in for two remaining sewer groups.
 - Three capital projects to be completed, which are designed to achieve the greatest return on investment with regard to spill volumes and numbers.
 - Completion of projects will bring Atlanta within 99% decrease from 2004 spill volumes.
 - To be funded with existing bond proceeds and other available monies -- \$206M.



ASSET MANAGEMENT PROGRAM

- Atlanta will have available approximately \$95 Million per year to finance drinking water and wastewater projects (reduced from \$250 to \$300M per year).
- Presently has allocated \$30M per year to Consent Decree projects.
- Rate increase limitation
 - approx. 2%/yr **baseline** after pre-approved rates
- Remainder of the Consent Decree projects will be address under a comprehensive Asset Management Program – Devil is in the details!



ASSET MANAGEMENT PROGRAM

- City will submit an Asset Management Plan that includes:
 - Baseline schedule of Consent Decree projects.
 - Will be subject to ongoing review and revision utilizing hydraulic model and other information.
 - Anticipated that several projects may “drop off” the schedule based on updated hydraulic modeling info.
 - Will be updated every four years.
 - Baseline Financial Plan
 - Comprehensive plan for financing the water and wastewater system’s capital improvement program.
 - Updated annually with full-scale resubmittal every four years.

- Components of Asset Management Program continued . . .
 - Prioritization Framework
 - Work in progress.
 - Will evaluate and prioritize projects based on such criteria as compliance, public health, security, environmental protection, system reliability, operational efficiency/risk reduction and other needed improvements.
 - Will continue to be refined through implementation.
 - Performance Metrics
 - Used to confirm improvement or decline in performance such as SSO listing/#/volumes; rate of sewer cleaning; implementation of grease management program.



REPORTING REQUIREMENTS

- Four Year Report
 - Update of current/predicted financial condition including financial constraints or availability of additional funds.
 - Anticipated allocation of funds between Consent Decree and non-Consent Decree projects based on prioritization criteria.
 - Work accomplished during preceding four year period.
 - Estimated schedules/spending levels for rehab projects for following 4 year period.
 - Schedules for capacity relief projects (perhaps enforceable) for following 4 year period.



REPORTING REQUIREMENTS

- Annual Report
 - Status of projects and spending levels.
 - Work accomplished over past year.
 - Money spent over the past year.
 - Evaluation of performance metrics.
 - Compliance/noncompliance issues.



OTHER REQUESTS

- Surcharging
 - Not allowed under current SSO Consent Decree.
 - Thus doesn't allow Atlanta to take advantage of available "storage" and requires spending money before it is needed.
 - Negotiating with EPA to allow some level of surcharging within the system.
 - Believe that it will reduce the list of Consent Decree projects under Asset Management Program.



EPA's REACTION

- Rather “cold” reaction at first but have “warmed” to the idea.
- Working closely with Atlanta in trying to make this happen.
- Don’t know if we would be at this point if Atlanta hadn’t taken such extreme financial measures.
- EPA really likes the fact that there is a 97% reduction of SSO volumes right now and will be 99% in 2014.
- They have engaged several consultants to review financial information, which lengthens the negotiation period. Originally thought it would be about six months, but certain is much longer than that now.



CITIZEN GROUP REACTION

- Upper Chattahoochee Riverkeeper has been involved in implementation of both Consent Decrees.
- We have a good relationship with the Riverkeeper.
- They like that monies will be spent on improving the water system but are somewhat concerned about Atlanta keeping its feet to the fire.
- They want the Capacity Certification Program with its associated “big” stipulated penalties to remain.

- THE GREAT UNKNOWN?
 - After initial meetings with EPA and others, Atlanta submitted formal request to EPA and copied the federal judge.
 - We were called immediately to the courthouse for a hearing.
 - This is Judge Thrash's legacy and he has continually stated "this will be done on time."