



● **Board of Directors**  
***Water Planning and Stewardship Committee***

April 14, 2009 Board Meeting

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8-6

**Subject**

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Proposed amendment to the Water Supply Allocation Plan to resolve *Central Basin Municipal Utility District v. Metropolitan Water District*

**Description**

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Metropolitan's Water Supply Allocation Plan (WSAP) establishes potential penalties based on a member agency's use of water above its WSAP baseline. One of the main allegations made by Central Basin Municipal Water District (Central Basin) in its *Central Basin MWD v. Metropolitan Water District* litigation is that the WSAP penalties can have a greater impact on the more economically disadvantaged communities within its service area.

Metropolitan and Central Basin staffs have discussed measures that might be appropriate for Metropolitan to adopt in the WSAP that could ameliorate such impacts throughout Metropolitan's service area. One potential revision would be an adjustment to a member agency's accrued penalties under the WSAP allocation based on the extent of "lifeline" rates or similar programs in place within any of Metropolitan's member agencies to provide low-income residents differential rates from general customers (Income-Based Rate). Central Basin and Metropolitan staff subsequently drafted a settlement agreement under which Metropolitan staff committed to recommend to Metropolitan's Board a revision to the WSAP incorporating the adjustment described below, and Central Basin staff would recommend that its Board dismiss the litigation. Metropolitan's Board discussed the proposed settlement and gave staff direction regarding the proposed settlement in closed sessions of the Legal and Human Resources Committee and the full Board in March. Following the March meeting, staff held additional discussions with Central Basin representatives. As a result of these discussions, staff recommends that the Board consider whether to adopt the adjustment to the WSAP.

The proposed adjustment would work as follows:

A member agency that is assessed penalties under the WSAP would submit an acre-foot equivalent of water use by retail customers served under an Income-Based Rate. This amount of water use would be multiplied by the percentage of retail-level reduction necessary to reduce the total member agency service area's demand to its water supply allocation. That percentage would be applied to use by retail customers served under an Income-Based Rate. The amount of the penalty associated with the Income-Based Rate customers' use would be subtracted from the total penalties assessed under the WSAP. The end result of this adjustment is that the member agency will not be subject to penalties for the use of water by its retail customers served under an Income-Based Rate. Appropriate documentation and certification will be required.

A sample calculation showing these steps is in [Attachment 1](#).

Metropolitan staff believes the proposed revision is appropriate and recommends that the Board adopt it. A reduction in a member agency's WSAP penalty consistent with the proposed revision would allow it to reduce economic impacts on disadvantaged areas within its service area. This would cause negligible, if any, financial impact on Metropolitan as Metropolitan has not counted on (and hopes not to collect) any penalty payments as revenue in its budgeting or rate setting. In addition, the WSAP specifies that any penalty collected would be held for the benefit of the member agency paying the penalty and used for conservation and other local resource

programs in the member agency's service area. For these same reasons, the proposed revision would not result in any cost-shifting among the member agencies.

If the Board approves staff's recommendation, the settlement agreement would be finalized. The amendment to the WSAP would become effective upon dismissal of the litigation by Central Basin.

**Policy**

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By Minute Item 47393, dated February 12, 2008, the Board adopted the Water Supply Allocation Plan.

**California Environmental Quality Act (CEQA)**

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CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

**Board Options**

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**Option #1**

Adopt the CEQA determination and amend the Water Supply Allocation Plan as described in this letter.

**Fiscal Impact:** None directly related to revision of implementation of the WSAP

**Business Analysis:** Proposed amendment could provide flexibility for member agencies to mitigate impacts of the WSAP on disadvantaged communities.

**Option #2**

Do not amend the Water Supply Allocation Plan as described in this letter.

**Fiscal Impact:** None

**Business Analysis:** No impact on Metropolitan

**Staff Recommendation**

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Option #1

  
 Karen L. Tachiki  
 General Counsel

4/2/2009

Date

  
 Jeffrey Nightlinger  
 General Manager

4/3/2009

Date

**Attachment 1 – Income-Based Rate Penalty Adjustment Example**

**Income-Based Rate Penalty Adjustment Example**

**Adjustment Purpose and Description**

A member agency who is assessed penalties under the Water Supply Allocation Plan (WSAP) would submit an acre-foot equivalent of water use by retail customers served under a qualifying Income-Based Rate. This amount of water use would be multiplied by the percentage of retail-level reduction necessary to reduce the total member agency service area’s demand to demand to its water supply allocation. That percentage would be applied to use by retail customers served under an Income-Based Rate. The amount of the penalty associated with the Income-Based Rate customers’ use would be subtracted from the total penalties assessed under the WSAP. The end result of this adjustment is that the member agency will not be subject to penalties for the use of water by their retail customers served under a qualifying Income-Based Rate. Appropriate documentation and certification will be required.

**Calculation Example**

This example assumes a Water Supply Allocation Plan (WSAP) allocation of Level 2. The following table shows the information that is needed to calculate a water supply allocation under a WSAP Level 2.

WSAP Regional Shortage Level	2
Regional Shortage Percentage	10%
Wholesale Minimum Percentage	85%
Maximum Retail Impact Percentage	0%

This example is based on a hypothetical member agency with the allocation year demands and local supplies, calculated as described in the WSAP, shown in the table below. This example assumes that 20,000 acre-feet of the agency’s retail demand is served under a qualifying Income-Based Rate.

Allocation Year Retail Demand	200,000
Allocation Year Local Supplies	100,000
Allocation Year Demand on MWD	100,000
Base Period Conservation	15,000
Allocation Year Demand Served by Income-Based Rate	20,000

**WSAP Water Supply Allocation**

The first step in calculating the qualifying Income-Based Rate penalty adjustment is to determine the agency’s water supply allocation from MWD. Using the information provided above, the total supply allocation would be calculated as shown in the following table (For detailed calculations reference the WSAP).

Wholesale Minimum Allocation	85,000
Retail Impact Adjustment Allocation	0
Demand Hardening Adjustment	1,125
<b>Total MWD Water Supply Allocation</b>	<b>86,125</b>

### Penalty Calculation

The second step in calculating the qualifying Income-Based Rate adjustment is to calculate the agency's WSAP penalty. If the agency did not incur any penalties from the WSAP, the Income-Based Rate adjustment would not need to be applied. For the purpose of this example, assume the agency used 90,000 acre-feet of MWD supplies in the allocation year. This would represent 3,875 acre-feet of use above its water supply allocation.

Total MWD Water Supply Allocation	86,125
Actual MWD Water Use	90,000
<b>Use Above Water Supply Allocation</b>	<b>3,875</b>

In this example, the agency used 104% of its water supply allocation. The 3,875 acre-feet of use above the allocation would be penalized at two times the untreated Tier 2 rate. (Note that this calculation is based on the rate as of January 1, 2009; the actual rate will be based on the rate in effect at the end of the allocation year. This calculation also assumes that the preferential right penalty rate decrease does not apply to this agency).

Use Above Water Supply Allocation	3,875
Standard Penalty Rate at 100%-115% of WSAP	\$1056/AF
<b>Total Penalty</b>	<b>\$4,092,000</b>

### Expected Use Reduction from Income-Based Rate Customers

The third step in calculating the qualifying Income-Based Rate adjustment is to calculate the amount of water use reduction that would have been expected from the qualifying Income Based-Rate customers. Using the water supply allocation that was calculated above, the total retail-level reduction on the agency can be determined. In this example the agency would have been expected to achieve a retail-level use reduction of 13,875 acre-feet, or 6.9% of their retail level demand.

Total Supply (MWD Allocation + Local Supply)	186,125
Total Water Demand	200,000
<b>Total Retail-level Water Use Reduction</b>	<b>13,875 (6.9%)</b>

### Expected Use Reduction from Income-Based Rate

To calculate the amount of water use that should be associated with the qualifying Income-Based Rate Customers, the amount of demand covered by a qualifying Income-Based Rate is multiplied by the Total Retail-level Water

Use Reduction percentage.

Certified Lifeline Demand	20,000
Effective Cutback Percentage	6.9%
<b>Effective Income-Based Rate Water Use Reduction</b>	<b>1,388</b>

**Penalty Reduction**

Once the effective Income-Based Rate Water Use Reduction has been calculated, the amount of penalty that is associated with those customers can be determined.

Effective Income-Based Rate Water Use Reduction	1,388
Standard Penalty Rate at 100%-115% of WSAP	\$1056/AF
<b>Qualifying Income-Based Rate Penalty Reduction</b>	<b>\$2,626,800</b>

The final step is to subtract the Qualifying Income-Based Rate Penalty Reduction from the total penalty that was calculated above to determine the final amount of penalties due by the member agency.

Total Penalty	\$4,092,000
Lifeline Rate Penalty	\$2,626,800
<b>Lifeline Rate Adjusted Penalty</b>	<b>\$1,456,200</b>

As stated above, the purpose and end result of this adjustment is that the member agency will not be subject to penalties for the use of water by their retail customers served under a qualifying Income-Based Rate. Appropriate documentation and certification of water use associated with customers served under a qualifying Income-Based Rate will be required prior to any adjustments made to penalties accrued under the WSAP.