

**MINUTES**

**REGULAR MEETING OF THE**

**BOARD OF DIRECTORS**

**THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

**May 10, 2011**

**48645** The Board of Directors of The Metropolitan Water District of Southern California met in Regular Meeting in the Board Room located in the building at 700 North Alameda Street in the City of Los Angeles, State of California, on Tuesday, May 10, 2011.

Chairman Foley called the Meeting to order at 12:32 p.m.

**48646** The Meeting was opened with an invocation by Suresh Radhakrishnan, Talent Manager, Human Resources Group, and President, Metropolitan's Asian American Employees Organization.

**48647** The Pledge of Allegiance to the Flag was given by Director Michael Camacho.

**48648** Board Secretary Morris called the roll. Those answering present were: Directors Abdo, Ackerman, Ballin, Barbre, Blake, Bowersox, Brick, Brown, Camacho, De Jesus, Dick, Evans, Fellow, Fleming, Foley, Gray, Griset, Grunfeld, Hawkins, Heidel, Little, Lowenthal, Montalvo, Morris, J. Murray, K. Murray, Peterson, Quiñonez, Record, Sanchez, Steiner, Wright, and Wunderlich.

Those not answering were: Directors Edwards, Friedman, Grandsen, and Lewinger.

Chairman Foley declared a quorum present.

**48649** Chairman Foley invited members of the public to address the Board on matters within the Board's jurisdiction.

Stan Dean, District Engineer, Sacramento Regional County Sanitation District, commented on his district's support of AB 134 (Dickinson, D-Sacramento) - Appropriation of water: Sacramento Regional County Sanitation District, and requested Metropolitan to reconsider its position on this bill.

Sharon Bolton of Temecula commented on Agenda Item 8-4, the adoption of resolution to approve modification of method of raising annexation charges for eleven annexations to Metropolitan. She urged the Board to retire the debt.

**48650** There being no objection, Chairman Foley ordered the reading of the Minutes of the Meetings of April 12 and 26, 2011, dispensed with, copies having been mailed to each Director.

Vice Chairman J. Murray moved, seconded by Director Fleming and carried, approving the foregoing Minutes as mailed.

**48651** A written report of meetings attended by Directors at Metropolitan expense during the month of April was distributed, which was received and filed.

**48652** Director Blake moved, seconded by Director Fleming and carried, that the Board approve the assignment of Director Sanchez to the Agriculture and Business Outreach Committee, as recommended by Chairman Foley.

**48653** Chairman Foley reported on events in which he participated, as follows:

- April 13 - Attended the Colorado River Board meeting
- April 14 - Met with Kern County officials
- April 19 - Attended Urban Water Institute conference
- April 21 - Attended the American Council of Engineering Companies meeting at the Inland Empire Utilities Agency

Chairman Foley called on Vice Chair Gray who gave a report on the success of the Access DC trip to Washington sponsored by the Los Angeles Area Chamber of Commerce, where the participants met with legislators.

Director Quiñonez withdrew from the Meeting at 12:47 p.m.

**48654** Regarding matters relating to Metropolitan's operations and activities, General Manager Kightlinger referred to the activity report for April dated April 30, 2011, which was posted to the Directors' website.

General Manager Kightlinger reported that Metropolitan held its Spring Green Expo on May 4, which was a successful event with over a thousand people attending. Mr. Kightlinger thanked Directors Dick and Edwards for their opening comments and their remarks at the event.

General Manager Kightlinger announced that the Ninth Annual Solar Cup would begin this coming weekend at Lake Skinner with over 40 high schools and 200 high school students participating. He reported that this event has been highly successful since its inception with ten high schools. Participants will be coming from all six counties in Metropolitan's service area.

General Manager Kightlinger commented on Metropolitan's building of the year award for a green building, and called on Chief Administrative Officer Ivey. Mr. Ivey displayed the trophy and reported that the Headquarters building won the regional building award given by the Managers Association of America. This was a competition among the five western states. Mr. Ivey acknowledged Metropolitan's staff and the building engineers who participated in the successful operation of the Headquarters building. Chairman Foley also congratulated and thanked the staff for their hard work, comparing the old Sunset headquarters building to the current one at Union Station.

**48655** Regarding Legal Department activities, Interim General Counsel Scully referred to the General Counsel's activity report for April dated May 3, 2011, which was posted to the Directors' website.

Interim General Counsel Scully reported that the Sacramento Regional County Sanitation District filed an appeal on the conditions that were granted to it by the regional board,

which imposed significant discharge requirements. Ms. Scully stated that Metropolitan filed a response to that appeal.

Interim General Counsel Scully announced that an additional case has been filed in the Bay-Delta litigation, which challenged the authorization for take of salmon in this year's fishing season. Water agencies are reviewing this case to determine if they are going to take steps to respond to it.

Interim General Counsel Scully reported that the PERS enrollment of persons eligible under the *Cargill* case has been completed; and upon completion, the enrollment estimate of financial exposure was reduced significantly to approximately \$7.2 million.

**48656** General Auditor Riss referred to the Audit Department's activity report for the month of April, dated April 29, 2011, which was posted to the Directors' website.

General Auditor Riss stated that three audit reports were issued with two receiving opinions of generally satisfactory and the third an opinion of satisfactory. Mr. Riss reported that on two of the audit reports, comments and recommendations were presented to management, who acknowledged them, and management has taken steps to remediate them.

**48657** Ethics Officer Elliott referred to the activity report for April dated April 30, 2011, which was posted to the Directors' website.

Ethics Officer Elliott commented on the new quarterly newsletter put out by the Ethics office titled "Ethics in the Public Eye", which included summaries and links for current matters of interest in governmental business and environmental ethics. Dr. Elliott reported that initial response from management had been positive.

Ethics Officer Elliott reported that Ethics Policy H-03 had been distributed to employees for their annual review, along with a quiz titled "Test your ethics".

Director Blake moved seconded by Director Grunfeld and carried, and the Board approved the Consent Calendar Items, **M.I. 48658** through **M.I. 48663**, as follows:

**48658** Adopted the California Environmental Quality Act (CEQA) determination and (a) appropriated \$220,000 (Appropriation No. 15441, No. 31, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and (b) authorized preliminary design of seismic upgrades for the Sepulveda Canyon Control Facility water storage tanks, as set forth in the letter signed by the General Manager on April 25, 2011.

**48659** Adopted the CEQA determination and (a) appropriated \$470,000 (Appropriation No. 15436, No. 12, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and (b) authorized preliminary design of seismic upgrades for the Diemer Administration Building and filter buildings, as set forth in the letter signed by the General Manager on April 25, 2011.

**48660** Adopted the CEQA determination and (a) appropriated \$180,000 (Appropriation No. 15438, No. 14, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and (b) authorized final design of repairs to the Freda, Perris Valley, and MM 19.58 siphons of the Colorado River Aqueduct, as set forth in the letter signed by the General Manager on April 25, 2011.

**48661** Adopted the CEQA determination and authorized changes to the Water Conservation Program to be implemented effective July 1, 2011, as set forth in the letter signed by the General Manager on April 28, 2011.

Directors Bowersox, Heidel, and Steiner requested to be recorded as voting no.

**48662** Adopted the CEQA determination and approved the amendments to The Metropolitan Water District of Southern California Consolidated Savings Plan (Administrative Code Sections 6780-6792), set forth in Attachment 1 of the letter signed jointly by the Interim General Counsel on April 18 and the General Manager on April 25, 2011.

**48663** Adopted the CEQA determination and (a) appropriated \$1.8 million for Diemer Oxidation Retrofit Program completion activities (Appropriation No. 15389, No. 11, for \$1.78 million; and Appropriation No. 15380, No. 20, for \$100,000; both from the Revenue Bonds, Replacement and Refurbishment or General Funds);

and (b) authorized increase of \$3.2 million to the existing agreement with Camp Dresser and McKee, Inc., for a new not-to-exceed total of \$23,038,000, as set forth in the letter signed by the General Manager on April 26, 2011.

**48664** Finance and Insurance Committee Chairman Grunfeld moved, seconded by Committee Vice Chairman Blake and carried, that the Board adopt the CEQA determination and **Resolution 9121** to continue the water standby charge for fiscal year 2011/12, as set forth in the letter signed by the General Manager on April 26, 2011, said resolution entitled:

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN  
WATER DISTRICT OF SOUTHERN CALIFORNIA CONTINUING WATER  
STANDBY CHARGES FOR FISCAL YEAR 2011/2012**

**48665** Finance and Insurance Committee Chairman Grunfeld reported that Agenda Item 8-2 to consider City of Compton's request to withdraw purchase order agreement has been deferred at the request of the City of Compton.

Director Quiñonez returned to the Meeting at  
12:55 p.m.

**48666** Finance and Insurance Committee Chairman Grunfeld moved, seconded by Committee Vice Chairman Blake and carried, that the Board adopt the CEQA determination and (a) grant conditional approval for the Calleguas Annexation No. 95 concurrently to Calleguas and to Metropolitan, conditioned upon receipt in full of annexation fee of approximately \$27,304.42 to Metropolitan if completed by December 31, 2011, or if completed later, at the then-current annexation charge rate; (b) approve Calleguas' Statement of Compliance with the current Water Use Efficiency Guidelines (Attachment 2 to the board letter); and (c) adopt **Resolution 9122**, the resolution of intention to impose water standby charge within the proposed annexation territory, substantially in the form of Attachment 3 to the board letter, as set forth in the letter signed by the General Manager on April 26, 2011, said resolution entitled:

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA GIVING NOTICE OF INTENTION TO IMPOSE WATER STANDBY CHARGES CONTINGENT UPON ANNEXATION—CALLEGUAS ANNEXATION NO. 95**

**48667** Finance and Insurance Committee Chairman Grunfeld moved, seconded by Committee Vice Chairman Blake, that the Board adopt the CEQA determination and:

- a. Adopt Resolution Approving Modification of Method of Raising Annexation Charges for Eleven Area Annexations to Metropolitan **(Resolution 9123)**, amending Resolutions 6630, 6631, 6634, 6929, 7009, 7160, 7209, 7215, 7347, 7415, and 7748 with Exhibit A, Option 1 attached to the board letter;
- b. Direct the Board Executive Secretary to transmit the Resolution to the affected member agencies and request that they obtain approval as provided in the Resolution;
- c. Authorize the General Manager to write down balances related to the annexation areas pursuant to the resolution approved in Option #1a; and
- d. Authorize the General Manager to write off as uncollectible any remaining balances related to the annexation areas, as appropriate, once the annexation areas have been levied for 50 years or not later than June 2020;

as set forth in Option #1 in the letter signed by the General Manager on May 4, 2011.

Director Record moved a substitute motion, seconded by Director Barbre, that the Board adopt the CEQA determination and:

- a. Adopt Resolution Approving Modification of Method of Raising Annexation Charges for Eleven Area Annexations to Metropolitan **(Resolution 9123)**, amending Resolutions 6630, 6631, 6634, 6929, 7009, 7160, 7209, 7215, 7347, 7415, and 7748 with Exhibit A, Option 3 attached to the board letter;

- b. Direct the Board Executive Secretary to transmit the Resolution to the affected member agencies and request that they obtain approval as provided in the Resolution;
- c. Authorize the General Manager to write down balances related to the annexation areas pursuant to the resolution approved in Option #3a; and
- d. Authorize the General Manager to write off as uncollectible any remaining balances related to the annexation areas, as appropriate, once the annexation areas have been levied for 50 years or not later than June 2020;

as set forth in Option #3 in the letter signed by the General Manager on May 4, 2011, said resolution entitled:

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA APPROVING MODIFICATION OF METHOD OF RAISING ANNEXATION CHARGES FOR ELEVEN ANNEXATIONS TO METROPOLITAN**

Chairman Foley called for a vote on the substitute motion.

The following is a record of the vote on the substitute motion:

Ayes: Anaheim (Dir. K. Murray, 3,405 votes), Central Basin Municipal Water District (Dirs. Hawkins and Montalvo, 10,798 votes), Eastern Municipal Water District (Dir. Record, 5,341 votes), Inland Empire Utilities Agency (Dir. Camacho, 7,988 votes), Las Virgenes Municipal Water District (Dir. Peterson, 1,918 votes), Long Beach (Dir. Lowenthal, 3,731 votes), Municipal Water District of Orange County (Dirs. Ackerman, Barbre, and Dick, 34,418 votes), San Diego County Water Authority (Ayes: Dirs. Bowersox, Heidel, and Steiner. Absent: Dir. Lewinger. 36,545 votes), San Fernando (Dir. Ballin, 144 votes), West Basin Municipal Water District (Dirs. Gray and Little, 13,723 votes). Total 118,011 votes.

Noes: Beverly Hills (Dir. Wunderlich, 2,102 votes), Burbank (Dir. Brown, 1,818 votes), Fullerton (Dir. Blake, 1,450 votes), Los Angeles (Dirs. Fleming, Grunfeld, J. Murray, and



Quiñonez, 39,492 votes), Pasadena (Dir. Brick, 2,058 votes), San Marino (Dir. Morris, 422 votes), Santa Ana (Dir. Griset, 1,966 votes), Santa Monica (Dir. Abdo, 2,371 votes), Three Valleys Municipal Water District (Dir. De Jesus, 4,896 votes), Torrance (Dir. Wright, 2,211 votes), Upper San Gabriel Valley Municipal Water District (Dir. Fellow, 7,263 votes), Western Municipal Water District of Riverside County (Dir. Evans, 7,409 votes). Total 73,458 votes.

Abstain: Compton (Dir. Sanchez, 316 votes). Total 316 votes.

Absent: Calleguas Municipal Water District (Dir. Grandsen, 7,870 votes), Foothill Municipal Water District (Dir. Edwards, 1,278 votes), Glendale (Dir. Friedman, 2,256 votes). Total 11,404 votes.

Not Participating: Municipal Water District of Orange County (Dir. Foley, zero votes). Total zero votes.

Chairman Foley declared the substitute motion carried by a vote of 118,011 ayes, 73,458 noes, 316 abstain, 11,404 absent, and zero not participating.

**48668** Organization, Personnel and Technology Committee Chairman J. Murray moved, seconded by Director Quiñonez and carried, that the Board adopt the CEQA determination and (a) appropriate \$1.47 million in budgeted funds (Appropriation No. 15378, No. 5); and authorize the Supervisory Control and Data Acquisition (SCADA) Cyber Security Upgrades initiative, as set forth in the letter signed by the General Manager on April 26, 2011.

**48669** Water Planning and Stewardship Committee Chairman De Jesus moved, seconded by Director Grunfeld, that the Board adopt the CEQA determination and authorize the General Manager to execute an agreement with Calleguas Municipal Water District terminating the Agreement for the Metropolitan-Calleguas Groundwater Storage Conjunctive Use Program in the Las Posas Basin, with terms consistent with those delineated in the board letter and in form acceptable to the General Counsel, as set forth in the confidential letter signed by the General Manager on May 3, 2011.

Director Brick commented on the termination of the Calleguas agreement and requested that in the future Metropolitan should structure these programs to establish regional benefits and that the member agencies pay back the water when Metropolitan calls for it, which is the advantage of the Conjunctive Use Program.

Chairman Foley called for a vote on the motion, which carried.

Director Ballin withdrew from the Meeting at 1:12 p.m.

Director Wright withdrew from the Meeting at 1:13 p.m.

**48670** Legal and Claims Committee Vice Chairman Quiñonez moved, seconded by Director Fleming and carried, that the Board adopt the CEQA determination and authorize an increase of \$300,000 to a maximum of \$800,000 to Bingham McCutchen LLP's contract for legal services in the *San Diego County Water Authority v Metropolitan Water District of Southern California, et al.* lawsuit, San Francisco County Superior Court Case No. CPF-10-510830, as set forth in the confidential letter signed by the Interim General Counsel on April 26, 2011.

Legal and Claims Committee Chairman Wunderlich recused himself and did not participate in this action.

Directors Bowersox, Heidel, and Steiner requested to be recorded as voting no.

Director Ballin returned to the Meeting at 1:14 p.m.

**48671** Legal and Claims Committee Chairman Wunderlich moved that the Board approve Option #3 in the confidential letter signed by the Interim General Counsel and the General Manager on May 3, 2011, not to (a) not support termination of the two conservation rebate agreements with San Diego County Water Authority pursuant to the rate structure integrity provisions of those agreements but terminate the three non-consumer agreements; and (b) direct the General Manager to defer execution of pending incentive agreements with San Diego County Water Authority requiring the rate structure integrity provisions.

Legal and Claims Committee Vice Chairman Quiñonez moved a substitute motion to table this item, which was seconded by Director Barbre. Chairman Foley called for a vote on the substitute motion, which carried.

Director Record requested to be recorded as voting no.

**48672** Regarding the removal of opposition to AB 134 (Dickinson, D-Sacramento) - Appropriation of water: Sacramento Regional County Sanitation District, as recommended in the letter signed by the General Manager on May 4, 2011, Legislation Committee Chair Ackerman stated that the committee did not change its position of opposing AB 134 as approved at the February 8, 2011 board meeting.

**48673** Legislation Committee Chair Ackerman moved, seconded by Director Fleming and carried, that the Board adopt the CEQA determination and authorize the General Manager to express Metropolitan's support for AB 359 (Huffman, D-San Rafael) - Groundwater management plans, as amended April 11, 2011, as set forth in the letter signed by the General Manager on May 4, 2011.

**48674** Legislation Committee Chair Ackerman moved, seconded by Director Fleming and carried, that the Board adopt the CEQA determination and authorize the General Manager to express Metropolitan's support for AB 467 (Eng, D-Monterey Park) - Environment: Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, as amended March 31, 2011, as set forth in the letter signed by the General Manager on May 5, 2011.

Director Barbre requested to be recorded as voting no.

**48675** Legislation Committee Chair Ackerman moved, seconded by Board Vice Chairman J. Murray and carried, that the Board adopt the CEQA determination and express support for AB 741 (Huffman, D-San Rafael) - Onsite wastewater disposal, as set forth in the letter signed by the General Manager on May 4, 2011.

Director Hawkins requested to be recorded as voting no.

**48676** Legislation Committee Chair Ackerman moved, seconded by Director Fleming and carried, that the Board adopt the CEQA determination and authorize the General Manager to express Metropolitan's opposition to SB 34 (Simitian, D-Palo Alto) - California Water Resources Investment Act of 2011 and SB 571 (Wolk, D-Davis) - California Water Commission: California Water Plan: water resources investment, as set forth in the letter signed by the General Manager on May 4, 2011.

**48677** Legislation Committee Chair Ackerman moved, seconded by Director Fleming and carried, that the Board adopt the CEQA determination and authorize the General Manager to express Metropolitan's support for AB 403 (Campos, D-San Jose) - Public Drinking Water Standards: Hexavalent Chromium, if amended, as set forth in the letter signed by the General Manager on May 4, 2011.

Director Little requested to be recorded as voting no.

**48678** Legal and Claims Committee Chairman Wunderlich moved, seconded by Board Vice Chairman J. Murray and carried, that the Board adopt the CEQA determination and authorize an increase of \$600,000 to a maximum of \$950,000 to Meserve, Mumper & Hughes' contract for legal services in the *Jena Minor v. Metropolitan Water District of Southern California* lawsuit, LASC Case No. BC434669, as set forth in the confidential letter signed by the Interim General Counsel on May 3, 2011.

Director Abdo withdrew from the Meeting at 1:20 p.m.

**48679** Bill De Witt, Vice Mayor from the City of South Gate, encouraged the Board to take advantage of whatever additional water storage it could with the available water it has for underground storage, and requested that Metropolitan continue providing additional storage.

**48680** Water Planning and Stewardship Committee Chairman De Jesus moved, seconded by Director Barbre, that the Board adopt the CEQA determination and provide direction to the General Manager to exercise his discretion to offer discounted replenishment in an annual amount limited to increases in supply above currently allocated supplies, as set forth in the letter signed by the General Manager on April 20, 2011, with an amendment directing staff to recommend options to reform the replenishment services program in a manner that assures regional reliability benefits by December 2011. (Given recent supply increases, staff estimated this would allow about 225,000 acre-feet of purchases at the replenishment rate in 2011.)

Director Steiner referred to the letter dated April 25, 2011, addressed to Chairman John V. Foley, from Directors Bowersox, Heidel, Lewinger, and Steiner re Board Memo 5-1 - Sale of discounted water, and asked that this memo be made a part of the record.

Chairman Foley called for a vote on the motion as amended.

The following is a record of the vote on the motion as amended:

Ayes: Anaheim (Dir. K. Murray, 3,405 votes), Beverly Hills (Dir. Wunderlich, 2,102 votes), Burbank (Dir. Brown, 1,818 votes), Central Basin Municipal Water District (Dirs. Hawkins and Montalvo, 10,798 votes), Compton (Dir. Sanchez, 316 votes), Eastern Municipal Water District (Dir. Record, 5,341 votes), Fullerton (Dir. Blake, 1,450 votes), Inland Empire Utilities Agency (Dir. Camacho, 7,988 votes), Las Virgenes Municipal Water District (Dir. Peterson, 1,918 votes), Long Beach (Dir. Lowenthal, 3,731 votes), Municipal Water District of Orange County (Dirs. Ackerman, Barbre, Dick, and Foley, 34,418 votes), Pasadena (Dir. Brick, 2,058 votes), San Marino (Dir. Morris, 422 votes), Santa Ana (Dir. Griset, 1,966 votes), Three Valleys Municipal Water District (Dir. De Jesus, 4,896 votes), Upper San Gabriel Valley Municipal Water District (Dir. Fellow, 7,263 votes), Western Municipal Water District of Riverside County (Dir. Evans, 7,409 votes), West Basin Municipal Water District (Dirs. Gray and Little, 13,723 votes). Total 111,022 votes.

Noes: Los Angeles (Dirs. Fleming, Grunfeld, J. Murray, and Quiñonez, 39,492 votes), San Diego County Water

Authority (Noes: Dirs. Bowersox, Heidel, and Steiner. Absent: Dir. Lewinger. 36,545 votes), San Fernando (Dir. Ballin, 144 votes). Total 76,181 votes.

Abstain: None.

Absent: Calleguas Municipal Water District (Dir. Grandsen, 7,870 votes), Foothill Municipal Water District (Dir. Edwards, 1,278 votes), Glendale (Dir. Friedman, 2,256 votes), Santa Monica (Dir. Abdo, 2,371 votes), Torrance (Dir. Wright, 2,211 votes). Total 15,986 votes.

Chairman Foley declared the amended motion carried by a vote of 111,022 ayes, 76,181 noes, and 15,986 absent.

**48681** Legal and Claims Committee Vice Chairman Quiñonez moved, seconded by Director Fleming and carried, that the Board adopt the CEQA determination and approve an increase in maximum amount payable under contract with Manatt, Phelps and Phillips for legal services by \$750,000 to a maximum of \$1,340,000 in the *Orange County Water District v Northrop Corporation* lawsuit, Orange County Superior Court Case No. 04CC00715, as set forth in the confidential letter signed by the Interim General Counsel on May 3, and the General Manager on May 4, 2011.

Legal and Claims Committee Chairman Wunderlich recused himself and did not participate in this action.

**48682** The following communications were submitted to the Board for information:

- a. Renewal status of Metropolitan's Property and Casualty Insurance Program, signed by the General Manager on April 26, 2011.
- b. Proposal to entering into a consolidated agreement under the Local Resources Program with the Inland Empire Utilities Agency, western Municipal Water District, and Chino Basin Desalter Authority for the Chino Basin Desalination Program, signed by the General Manager on April 28, 2011.

- c. Oral report on Imperial Irrigation District's transfer of unused Colorado River water to the Salton Sea. [Conference with legal counsel—potential litigation (one case); to be heard in closed session pursuant to Gov. Code Section 54956.9(b)]
- d. Status of development on the Weymouth Solar Power Facility, signed by the General Manager on May 5, 2011.

**48683** There being no objection, the Chairman adjourned the Meeting at 1:30 p.m.

**JOHN T. MORRIS**  
\_\_\_\_\_  
**SECRETARY**

**JOHN V. FOLEY**  
\_\_\_\_\_  
**CHAIRMAN**



# San Diego County Water Authority

4677 Overland Avenue • San Diego, California 92123-1233  
(858) 522-6600 FAX (858) 522-6568 www.sdcwa.org

April 25, 2011

John V. (Jack) Foley, Chairman  
Metropolitan Water District of Southern California  
P.O. Box 54153  
Los Angeles, CA 90054-0153

### MEMBER AGENCIES

- Carlsbad Municipal Water District
- City of Del Mar
- City of Escondido
- City of Imperial City
- City of Oceanside
- City of Poway
- City of San Diego
- Fallbrook Public Utility District
- Heald Water District
- Lakeside Water District
- Orangeburg Municipal Water District
- Olney Water District
- Palmer Dam Municipal Water District
- Camp Pendleton Marine Corps Base
- Rainbow Municipal Water District
- Rumour Municipal Water District
- Sierra del Diablo Municipal Water District
- San Diego Water District
- Santa Fe Irrigation District
- South Bay Irrigation District
- Waterbury Water District
- Willow Grove Municipal Water District
- Winters Irrigation District
- Yuma Municipal Water District

Re: Board Memo 5-1 – Sale of discounted water

Dear Chairman Foley:

We have reviewed Board Memorandum 5-1 regarding the sale of discounted water by MWD and would like the following comments to be placed in the record by this letter and its attachment. The sale of discounted water by MWD at this time raises many questions and concerns, which we have organized and discuss in detail in Attachment 1 to this letter. We request that the staff respond in writing to these questions and concerns prior to the board taking any action.

Given the staff's own analysis, which describes its concerns about the performance and equity of the existing Replenishment Service Program (replenishment program) – it acknowledges that there is an "imbalance" between MWD costs and benefits under the Program (page 4) – we are surprised that the staff recommendation is nonetheless to support the sale of discounted water under the replenishment program.

While the recommended action takes into account the budgetary and fiscal constraints the member agencies have, it does not analyze or meaningfully address the unprecedented budgetary and fiscal constraints plaguing MWD. Our board's fiduciary duty is to MWD – not the member agencies. We fail to meet that duty if we vote to sell discounted water under a program that does not provide commensurate benefits to MWD. This is all the more important at a time when we are confronting a nearly \$200 million budget shortfall in the current fiscal year.

The board memo is clear on its face that the replenishment program does not provide a proper foundation for the sale of discounted water. The Water Authority does not support the sale of discounted water by MWD under these conditions. But if the board chooses to do so in order to generate sales in the current fiscal year, then it should be made available to all of MWD's member agencies, rather than limited to replenishment sales.

Sincerely,

Jim Bowersox  
Director

Lynne Heidel  
Director

Keith Lewinger  
Director

Fern Steiner  
Director

### OTHER REPRESENTATIVE

County of San Diego

Attachment 1: Issues Associated with the Sale of Discounted Water by MWD

cc: Jeff Kightlinger, General Manager

*A public agency providing a safe and reliable water supply to the San Diego region*



**Board Memorandum 5-1 – April 26, 2011 Special Board Meeting  
Issues Associated with the Sale of Discounted Water by MWD**

**1. The real issue before the board is price – not local water storage.**

The board memo talks about “optimizing the reliability of water supply into the service area,” but it is apparent that the real issue before the board is the price. MWD has already adopted a 2010/11 Water Management Program for local storage that allows member agencies to purchase additional water for local storage while protecting them from Water Supply Allocation Plan (WSAP) penalties. Some member agencies have purchased supplies under this program, but others have held out in hopes of receiving discounted replenishment water.

**2. MWD should be fully utilizing its own dry-year storage portfolio, rather than selling water at a discount to its member agencies.**

The board memo states that MWD is facing the “unexpected challenge” of managing and storing water in 2011. This is a very perplexing statement and calls into question MWD’s water supply management capabilities. Storing water in good years is at the very heart of the water supply reliability program MWD developed through its Integrated Resources Plan (IRP).

Nine years ago, when MWD lost 662,000 AF of surplus water on the Colorado River *annually*, it shifted to a water supply reliability strategy that depends heavily on storing water in wet years in order to meet water demands during subsequent dry years. When this strategy was initially employed, MWD was counting on having water supplies that were “surplus” to its needs and available for storage seven out of every 10 years. To implement this strategy, MWD established rates and collected revenues from its member agencies and paid billions of dollars to create the dry-year storage accounts that today are in excess of 5 MAF. The Water Supply and Drought Management (WSDM) plan attached to the board memo shows a 2011 storage put capacity of more than 1 MAF.

More recently, MWD staff has consistently stated that the constraints in the Delta now mean that MWD can count on wet-year supplies being available for storage in only three of every 10 years; this is one of those three years. But rather than filling its own storage accounts, MWD staff is recommending selling this water at a discount to its member agencies.

We also find it troubling that for the first time – and in the context of a recommendation to sell water at a discount – the board has been informed that “some of the storage programs and locations” are “less desirable choices” for storage management. Further, that there are “increased risks of future losses from those programs, potential cost implications, and concerns about future dry-year performance.” Given this description, it is difficult to understand why MWD made these “less desirable” dry-year storage investments in the first place. We request that a complete review of the dry-year storage program be placed on the agenda at the next board meeting and before the board takes action to sell the water that is available for storage at a discount.

A final note on MWD’s dry-year storage portfolio relates to the budget. It is not possible to manage a dry-year storage account without incurring costs associated with the put and take of water into and from storage. The fact that MWD failed to adequately budget these costs is

certainly no excuse to sell discounted water now in order to generate cash-flow. We request an analysis of how staff has budgeted these costs in the past and how it proposes to budget the costs associated with its dry-year storage program in the next and subsequent budget years. We also request a schedule of all costs and capital investments associated with developing new water supplies that will be needed to replace the water now proposed to be sold at a discount.

**3. The sale of discounted water will displace full-service sales and exacerbate MWD's current budget and fiscal crisis.**

The board letter is completely silent on the most damaging consequence of selling discounted water: every acre foot sold at the proposed discount will displace an acre-foot sale of water out of MWD's dry-year storage program at the full-service rate. The promise that this discounted water sales program will increase revenues to MWD focuses only on the revenues from discounted water sales and associated near-term fiscal consequences. Ignored in the board memo entirely is the indisputable truth that agencies that would have purchased water at the full service rate – either this fiscal year or in a subsequent year – will instead purchase that water at a discount through the direct discount of up to \$143 per acre-foot and by avoiding future full service rate increases. MWD will not “make money” by selling water at a discount, it will lose money – 200,000 acre-feet of discounted water sales results in the loss of potentially more than \$28 million in revenues. The impact of the lost revenues may not be fully realized in FY 2012, but will certainly be felt in the future.

It is apparent that the reason some MWD member agencies are holding back from purchasing water at the full service rate is precisely because they are waiting to buy it at a discount. That's a smart move for the member agency, but is certainly not in MWD's best interest.

The MWD board is legally required annually to adopt a cost of service and revenue requirement and fix rates that, taken together with other revenue sources, will be sufficient to pay MWD's fixed costs and other expenses. The MWD board has failed to do this and, instead, continues to rely upon inflated sales projections to support its water rates, budget and overspending. At its last meeting, the board was presented with information that projected MWD sales in the current fiscal year are trending to be 291,300 acre-feet below budget. At its meeting on the budget, MWD staff also assessed the value of its water in storage using full service rates. There is no way to reconcile the board's actions in adopting cost of service and revenue requirements with the proposed sale of discounted water.

**4. The board memo does not provide a policy or legal basis for the sale of discounted water for replenishment.**

The board memo presents a detailed list of concerns with the replenishment program (page 2), notably:

- Questionable and unquantifiable performance and expectations;
- Potential of shifting water sales within a year as opposed to generating true longer-term storage;
- Potential offset of full service sales;

- Unequal distribution of costs and benefits among participating and non-participating agencies;
- Questions on whether water was being stored for future use as opposed to being purchased to refill overdraft;
- Difficulties in measuring and verifying in-lieu deliveries to storage; and
- Cash-flow and budgeting issues associated with the frequency under which replenishment supplies are available.

Each of these seven concerns should be significant enough to dissuade the board from approving discounted replenishment sales. Taken together, however, the seven concerns represent perhaps the most troubled program in MWD's recent history. It is a confounding disconnect, therefore, that the board is being asked to forge ahead with the program without regard to these concerns. The board memo, as written, is very clear that there are significant questions about the performance and equity of the replenishment program. We request that the staff present a further analysis and respond to the "disconnect" between the information provided in the board memo and the staff recommendation for action.

**5. The sale of discounted water sends the wrong message at a time when MWD is promising to pay substantial costs associated with a Delta Fix.**

If MWD's member agencies are – as is clear from the board memo – unable or unwilling to pay for MWD's current fixed costs, how can MWD credibly commit to pay the additional costs associated with a Delta Fix? Will MWD's member agencies not be subject to the same "budgetary and fiscal constraints" when faced with the costs of a Delta Fix and other IRP investments? If this is indeed the economic reality – that current full service rates are too expensive to encourage MWD water sales to its member agencies – then the MWD board must reconsider MWD's entire water resources strategy. If we can't afford to pay our current fixed costs then it is difficult to see how we can afford to pay the billions of dollars of investment outlined in the 2010 IRP, including the Delta Fix being negotiated by management, seawater desalination projects and a host of other projects.

The continued disconnect between the board's decisions to spend money and the member agencies' willingness to pay for MWD projects is threatening MWD's very financial viability.