



November 5, 2018

Mr. Randy Record

Members of the Board of Directors

Metropolitan Water District of Southern California

700 N. Alameda Street

Los Angeles, CA 90012-2944

MEMBER AGENCIES

Carlsbad
Municipal Water District

City of Del Mar

City of Escondido

City of National City

City of Oceanside

City of Poway

City of San Diego

Fallbrook
Public Utility District

Helix Water District

Lakeside Water District

Olivenhain
Municipal Water District

Otay Water District

Padre Dam
Municipal Water District

Camp Pendleton
Marine Corps Base

Rainbow
Municipal Water District

Ramona
Municipal Water District

Rincon del Diablo
Municipal Water District

San Dieguito Water District

Santa Fe Irrigation District

South Bay Irrigation District

Vallecitos Water District

Valley Center
Municipal Water District

Vista Irrigation District

Yuima
Municipal Water District

OTHER REPRESENTATIVE

County of San Diego

RE: Board Memo 8-1 - Approve and authorize the distribution of Appendix A for use in the issuance and remarketing of Metropolitan's Bonds; the General Manager has determined the proposed action is exempt or otherwise not subject to CEQA - **OPPOSE**

Dear Chair Record and Board Members:

We OPPOSE Board Memo 8-1 for the reasons described below.

May 7, 2018 Letter and Prior Concerns

Many of the issues presented in our May 7, 2018 letter (MWD's last distribution of a revised Appendix A) ("May 7 Letter") and prior letters (itemized in footnote i of the May 7 Letter) have not been substantively addressed by MWD and are therefore incorporated herein by reference. The most significant issues include the following:

- 1) ***MWD's reporting does not fairly disclose the risks associated with reduced demand for MWD water***; see May 7 Letter, at paragraph 2.
- 2) ***MWD's reporting does not fairly disclose risks associated with the potential loss of wheeling revenues***; see May 7 Letter, at paragraph 3.

3) ***MWD's disclosure of "average" rate impacts from WaterFix is inadequate***; see May 7 Letter, at paragraph 5. MWD member agencies will not make planning and investment decisions based on "average" rates, they will make them based on actual projected ratepayer impacts. For example, the Water Authority has calculated that member agency ratepayer impacts could range from as low as 55 cents per household per month to \$23.30 per household per month; the high range would be reduced to \$12.69 per household per month if MWD recovers 50% of the project costs on its readiness to serve charge (which still presents a disproportionate impact due to the Water Authority's exchange water). Since MWD has not yet established how it will recover WaterFix costs, at a minimum, a range of nominal rate impacts should be provided, rather than in 2017 dollars. A rate sensitivity analysis would be informative and demonstrate the point at which MWD member agencies might be expected to seek water supply and delivery services using facilities and providers other than MWD.

Comments on California WaterFix, the rate litigation and related issues will be discussed in the next section.

11/6/2018 Board Memo 8-1 and Redline Appendix A dated 10/24/18

A-2: *Member Agencies*. Footnote (1) to the table listing member agencies states that the Water Authority is MWD's largest customer, but the changes at page A-54 show the Municipal Water District of Orange County (MWDOC) is MWD's largest customer. The confusion may result from MWD's reporting practice of mixing water sales with water wheeling and reporting them all as "water transactions." MWDOC is MWD's largest water purchaser while the Water Authority remains its largest water customer, when water purchases and wheeling revenues are taken into account. The Water Authority has a standing objection to this form or reporting which fails to disclose how much **water** MWD is actually selling.

A-16 - A-19: *California WaterFix*. The draft Appendix A WaterFix section does not include any reference to the communications from the Commissioner of the Bureau of Reclamation to the California State Water Resources Control Board regarding the Final Draft Bay-Delta Plan Update, the status of the ongoing negotiations to resolve those disputes or the range of potential water supply and cost impacts that could result from that outcome of that process.

A-16, second paragraph: states that, "*DWR announced it would not consider staged implementation, and Metropolitan's Board approved participation in California WaterFix at up to 64.6-percent of project costs to move the project forward as described in more detail below.*" This is not accurate. DWR did not withdraw the possibility of staged implementation until after the MWD Board voted to support the increased participation.

A-21 - A-25: *Quantification Settlement Agreement*. The discussion of the QSA omits reference to the fact that the Water Authority and State of California paid for and implemented the lining of the All-American and Coachella Canals, and that the Water Authority is the party with the lawful entitlement to the water conserved thereby. The confusion caused by omission of these facts is exacerbated by other omissions and characterizations in the Appendix A that suggest that this water is MWD water (as one example, the table of "Sources of Water Supply in the Metropolitan Service Area (1976-2017)," which shows CRA water without distinguishing MWD's use of surplus water from the extraordinary conservation the Water Authority has paid to implement under the QSA. These are material facts which, if presented, would assist investors in understanding the extent to which the Water Authority has permanently reduced its demand for MWD water, in the amount of 280,000 acre-feet alone from its QSA projects.

A-21 - A-22: *Salton Sea*. What is the basis for omitting all of the discussion of the Salton Sea, beginning at the bottom of page A-21, given that the Salton Sea QSA mitigation and State restoration activities are ongoing? This language should be retained and updated as appropriate.

A22: *Sale of Water by the Imperial Irrigation District to San Diego County Water Authority*. Similar to the comment on the QSA above, this paragraph inaccurately describes the Water

Authority's investment in the Coachella and All-American canal lining projects as the "sale of water by IID," which it is not. Since 1998, the Water Authority has been a full partner with the United States in resolving Colorado River issues. Its IID Transfer Project was analyzed in a 2002 Environmental Impact Report (EIR)/EIS with IID as lead agency under CEQA and Reclamation as lead agency under NEPA. The All-American Canal lining project was analyzed in a 1994 EIS and updated in a 2006 via a Supplemental Information Report. MWD had nothing to do with any of these agreements and does not have any claim to the water supply produced by these projects, which the Water Authority has fully funded. The Appendix A does not fairly present the Water Authority's legal position and rights relative to its Colorado River supplies from both the IID transfer and canal linings. The mischaracterizations are woven throughout various parts of the draft Appendix A, and should be corrected.

A-23: *Water Borrowed from Southern Nevada Water Authority (SNWA)*. Positioned in a section of the Appendix A described as "*Interim Surplus Guidelines*," and disconnected from provisions describing the status of its Colorado River supplies (page A-21) or relationship to the Drought Contingency Plan (page A-24), it is difficult to understand that what is being disclosed is that MWD has borrowed 330,000 acre-feet of water from SNWA that it is legally obligated to repay.

A-34: *Conservation*. Why does this draft Appendix A delete the longstanding reference to MWD's direct spending on water conservation from 1989 (reported as totaling \$772 million through fiscal year 2016-17) and substitute a reference to expenditures for a single year only, namely, fiscal year 2017-18? In most other areas of the draft Appendix A, MWD reports back many decades (again, for example, the table on page A-38 describing MWD's major sources of water supply, which dates back to 1976).

A-41: *Local Water Supplies/Camp Pendleton Seawater Desalination Plant*. The Water Authority is no longer studying the Camp Pendleton site and reference to the project should therefore be deleted.

A-45: *State Water Project Facilities-California Aqueduct*. What is the basis of deleting the following language from the Appendix A? Any associated legal and financial risk, if any, should be described: "*Since the State and federal governments control the Bay-Delta levees, repair of any levee failures would be the responsibility of and controlled by the State and federal governments.*"

A-54 – A-61: *Rate Structure*. The Water Authority has written numerous letters regarding MWD's rates and "rate structure," and member agency "purchase orders," all of which are in MWD's possession and will not be repeated here. To touch upon highlights: (1) MWD's Tier 2 supply rate does not do the things described at page A-54; in fact, MWD has not collected any Tier 2 water rates for many years and is not expected to do so in the current biennial budget cycle; (2) similarly, "purchase orders" play no role in MWD's rate "structure" or rate-setting process and are illusory contracts; (3) MWD does not set its rates to take into account classes of service in a cost-of-service context in which the varying demands and service characteristics of its customers are accounted for, in the manner required by California law, the State Constitution and MWD's own governing act; and (4) the Court of Appeal has already applied Prop 26 to

MWD's rates and charges, i.e., it is apparent from the Court of Appeal decision that Prop 26 applies to MWD's rates.

A-61 - A-65: *Litigation Challenging Rate Structure*. As dozens if not hundreds of pages of court pleadings make clear, the Water Authority is not challenging MWD's "rate structure," it has challenged MWD's cost allocations and rates for each of the respective years at issue in the various pending cases. Since there is insufficient opportunity to address MWD's litigation positions in detail in this context, suffice it to say that the language in the Appendix A is very much litigation-driven and the Water Authority does not believe that it accurately reflects either the status of issues that have already been decided or those that remain to be decided. As one example, the Court of Appeal's ruling on the Water Stewardship Rate was not strictly limited to the 2010-2014 administrative record as described by MWD given that the nature of the costs have not changed, MWD did not present any different facts in later years in support of the same cost allocation, and the language in the opinion sweeps more broadly than MWD has stated. Similarly, the description of the litigation omits the clear ruling by Judge Wiss that the issue of offsetting benefits could not be tried on remand in the 2010-2012 cases, suggesting instead that the issue has been finally disposed of, when it has not.


A-64: *Metropolitan's Petition for Writ of Mandate Denied*. This was probably just a timing issue, but this section obviously needs to be updated to reflect the Court of Appeal's denial of MWD's petition for a writ of mandate to retry the damages awarded to the Water Authority.

Thank you for your consideration of these additional points in connection with the update of Appendix A disclosures, which we ask also be forwarded to the financial and legal team working on the bond offering.

Sincerely,



Jerry Butkiewicz
Director



Michael T. Hogan
Director



Tim Smith
Director



Fern Steiner
Director

cc: Jeff Kightlinger, MWD General Manager
Marcia Scully, MWD General Counsel