

May 12, 2019

**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

Gloria Gray, Chairwoman of the Board  
And Members of the Board of Directors  
Metropolitan Water District of Southern California  
P.O. Box 54153  
Los Angeles, CA 90054-0153

**RE: Board Memo 8-1 - Approve and authorize the distribution of Appendix A for use in the issuance and remarketing of Metropolitan's Bonds -- OPPOSE**

Dear Chairwoman Gray and Board Members:

We appreciate the efforts being made by both of our boards at this time to work through our differences in an effort to both settle the litigation and form a solid foundation for working together in the future. We are hopeful that a first step may be taken in the very near future, and that we can continue thereafter, as part of the Integrated Resources Plan update and otherwise, to address and resolve our remaining differences. Unfortunately, our concerns over certain characterizations and representations made in the draft Appendix A are such that we must OPPOSE Board Memo 8-1 for the reasons described below.

**November 5, 2018 Letter and Prior Concerns**

Many of the issues presented in our November 5, 2018 letter (which incorporated our May 7, 2018 letter objections, including those itemized at footnote i) have not been substantively addressed by MWD and are therefore incorporated herein by reference. The most significant of those issues include the following:

- 1) Appendix A does not fairly disclose the risks associated with the reduced demand for MWD water; and
- 2) Appendix A does not fairly disclose the risks associated with the loss of wheeling revenues.

Our concerns regarding disclosure of rate impacts from California WaterFix are no longer applicable due to the project having been withdrawn.

**Important Omissions from the 05-01-19 Redline Draft of Appendix A**

We provide detailed comments on the 05-01-19 draft Appendix A ("Draft") below. However, there are certain omissions from the Draft which we believe have material impacts on many other disclosures in their entirety, including specific subject matter as well as impacts on revenue and sales projections.

1) ***Governor Newsom's Executive Order N-10-19.*** The Draft describes the Governor's February 12, 2019 State of the State announcement as being a "conceptual proposal supporting a single- tunnel configuration for California WaterFix." Draft at A-15, first full paragraph). However, the Governor's statement, more accurately described, is as set forth in his Executive Order issued on April 29, 2019, which is not mentioned in the Draft. As widely reported, the Governor is recommending a fresh "portfolio" approach to water supply planning, with a greater emphasis on local projects and multi-benefit solutions.

2) ***DWR's dismissal of its WaterFix validation case and rescission of WaterFix bond approvals.*** The Draft does not reflect these actions; accordingly, a number of other disclosures in the report are at best, confusing, if not misleading, due to numerous disclosures having to do with board approvals, WaterFix financing and the establishment of numerous entities for the sole purpose of implementing the California WaterFix -- a project that is no longer being implemented by DWR and the State of California.

We believe the disclosures related to the State Water Project and WaterFix must be updated to reflect all of these current facts and circumstances. It is not enough to simply insert, as staff has done, references that the disclosures are limited to the project "as approved." Many of the disclosures simply assume that actions taken by the MWD board on WaterFix--defined as the twin tunnels and based on specific water supply and cost assumptions--remain in full force and effect as to a single, yet-to-be identified tunnel. We do not understand that to be the case and therefore were equally surprised to see a statement in the Draft that the MWD board "may need to take new actions regarding participation in and funding of the project." We do not believe that actions taken by the board on a different project can possibly be the basis of approval for and implementation of a yet-to-be-identified single tunnel, surrounded by a new portfolio of yet-to-be-identified water supply options that will also be identified as part of the Administration's process.

3) ***State and Federal Agreements.*** The Draft omits discussion of various agreements negotiated by the state and federal governments in December 2018, one of which has been fully executed affecting the joint operations of the state (State Water Project or SWP) and federal (Central Valley Project or CVP) projects. MWD staff has reported to the board that the Coordinated Operation Agreement Addendum will reduce water supplies available to MWD under specified circumstances. The remaining agreements, including the voluntary settlement agreements (VSP), continue to be the subject discussion between state and federal agencies, state and federal contractors and other stakeholders. There are significant disputes about the meaning and impacts of the proposed VSP, which could have a material impact on the SWP and through it, MWD.

We look forward to having a discussion about this at Monday's Finance and Insurance Committee meeting, and to working with other MWD member agencies and stakeholders in the process the Governor has outlined in his Executive Order.

#### **Other Comments on the Draft**

*A-12: FEMA's denial of reimbursement.* It would be useful to disclose the amount at issue is \$306 million.

*A-21: IID sale of water to the Water Authority.* As we have noted repeatedly, there is no substantive basis for edits to the disclosures relating to the sale of water by IID to the Water Authority; rather, the constantly evolving "disclosures" are clearly being driven by MWD's litigation positions that MWD is really selling "discounted" water to the Water Authority under the Exchange Agreement, with no "wheeling" involved. This Draft goes so far as to completely eliminate the section of the disclosures previously titled, ***Sale of Water by the Imperial Irrigation District to San Diego County Water Authority***. MWD adheres to these theories even though they have been expressly rejected by the trial court and Court of Appeal in the rate litigation. Accordingly, we believe this representation is misleading, whatever MWD's motivation may be in making it.

*A-23: 2018 water deliveries.* In 2018 207,746 acre-feet of water was delivered to MWD; this included 77,746 acre-feet of water from the Water Authority's canal lining projects.

*A-24 and A-35: Lake Mead ICS storage at January 1, 2019.* A-24 states that storage is 594,000 acre-feet while A-35 states that the storage is 625,000 acre-feet.

*A-25: MWD's responsibility for California's DCP contributions.* The disclosures should be clear that since MWD is paying PVID's 8 percent share; therefore, it is responsible under the DCP to fund 93 percent of California's contributions.

*A-32: IID/MWD conservation agreements.* This section should be updated to include the 2018 amount.

*A-35: MWD water storage capacity and water in storage table.* Some of MWD's "storage" programs include an "exchange" component that needs to be returned to other agencies. In addition, as noted in this month's WSDM report, MWD has a water debt of 503,000 acre-feet that must be paid back to Nevada, IID and other agencies in the future. These numbers are not clearly identified in the table. This data should be disclosed in the chart reflecting water in storage, as well as in all other areas of the Draft that discuss the amount of water supply MWD has available and its associated cost.

*A-40: Sources of water supply in MWD service area.* We have commented many times that the graphic showing historical sources of MWD water supplies is misleading in that it does not distinguish the Water Authority's independent Colorado River water from MWD's Colorado River water. This is a material change that occurred during the 1976-2017 time period, but it is made invisible due to the method of reporting.

*A-42: Groundwater production.* The Draft has reduced the amount of demand met by groundwater production from 1.35 million acre-feet per year to 1.1 million acre-feet per year. What is the basis of this 250,000 acre-foot reduction since the time the last draft Official

Statement was distributed? We would appreciate hearing back on this number in particular since it is a very significant change absent any explanation.

*A-43: Seawater Desalination.* The description of water supply that could be available to any member agency within the MWD service area from the Rosarito Beach project appears inaccurate, at least on the basis of information the Water Authority is aware of. We understand that Tijuana plans to use all of the first phase of water (50,000 acre-feet); and, that Mexico has recently enacted legislation prohibiting the export of water to the United States.

*A-53: MWD revenues.* We have commented many times--but bears repeating--that it would be far more transparent, at a minimum, to separately report wheeling revenues from water sales revenues. Each has distinct and identifiable risks. Wheeling revenues from the Water Authority could be lost on five-years notice. Water sales may reasonably be expected to be impacted by state water policies demanding reduced reliance on the Delta and increased investment in local water supplies. None of this means that MWD will not continue to have an important role in statewide water supply, but it must be a different role in a portfolio environment.

*A-54 and A-57: Purchase orders.* We have commented many times (and refer you to our many prior letters that are in MWD's possession) that the purchase orders--which are completely disconnected from MWD's water resource planning and rate setting--do not provide any real contractual assurances of any kind to MWD as far as investment decisions are concerned. As far as providing a "pricing signal," MWD has not had one dollar of Tier Two revenue since 2015. We believe continued representations about the purchase orders are inappropriate at best and designed to provide assurances in an area where none may reasonably be given by MWD.

*A-63: Preferential rights.* We have commented many times that the statement that preferential rights "have not been used" in allocating MWD's water is misleading in that it suggests MWD would have the authority to "use" preferential rights--or not--in allocating water at its discretion. This is not true. The very case MWD cites for upholding MWD's methodology for calculation of preferential rights also upheld the enforceability of those rights by the member agencies that hold them.

*A-65: CMC remand.* Update to reflect that next CMC is set for July 15, 2019.

*A-66: MWD's tender of \$44.4 million.* Contrary to the statement in the Draft, MWD was under no legal compulsion to tender its payment. No final judgment has been entered and thus MWD was under no "compulsion" to make this payment. It voluntarily chose to do so in an attempt to stop the running of statutory interest; however, it chose at the same time to reserve its rights to appeal. The Water Authority has tried to work out an agreement so that any amount MWD does not dispute may be paid, in order to stop the running of interest and is still willing to do so.

Thank you for your consideration of these comments in connection with the Draft update of

Chairwoman Gray and Members of the Board

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Appendix A, which we also ask be forwarded to the financial and legal team working on the bond offering.

We firmly believe that in spite of past differences, we can find a common ground and course of action as we move into a future that is less reliant on imported water and more dependent on our collective sources of local water supply.

Sincerely,



Jerry Butkiewicz  
Director



S. Gail Goldberg  
Director



Michael T. Hogan  
Director



Tim Smith  
Director