

January 12, 2020

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Rainbow  
Municipal Water District

Ramona  
Municipal Water District

Rincon del Diablo  
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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 issuance and remarketing of MWD Bonds – OPPOSE

Dear Chairwoman Gray and Board Members:

We appreciate the continuing efforts being made by both of our boards to work through our differences in an effort to both settle all litigation and form a solid foundation for working together in the future. We especially look forward to working on the Integrated Resources Plan (IRP) update later this year, which we hope will also focus on affordability and tie into a more robust long-term financial planning process.

### Principal Concerns with Board Distribution 01/03/20 Draft Redline Appendix A

Our overarching concern is that the Appendix A as drafted and taken as a whole does not fairly disclose **reduced demand for MWD water** or the **reliance on wheeling revenues**. We have stated these concerns many times in prior letters. We acknowledge MWD's responses but must respectfully disagree that the concerns have been addressed in a manner sufficient to inform the issues or potential investors.

Without belaboring the detail, we have written numerous letters on this subject in the context of different issues, including the Board's approval of the 2015 IRP<sup>i</sup> and letters on Draft Appendix A.<sup>ii</sup> A short recap of our high-level comments follows:

1. MWD is using a methodology that fails to reasonably acknowledge member agencies' planned local projects, accounting only for projects that are already producing water or are under construction (except for 20,000 AF) (see page A-45<sup>iii</sup>: "*Projections of future local supplies are based on estimated yields from sources and projects that are currently producing water or are under construction at the time a water transaction projection is made*"), resulting in a predictable overstatement of the projected demand for MWD water. Unless an investor is knowledgeable with the extent of member agencies' planned projects, and likelihood of successful implementation, it would be very difficult to assess potential impacts on MWD's future revenues.<sup>iv</sup> Unlike hydrologic variability, there is a *permanent* reduction in the demand for MWD water once local projects are operational.
2. Failure to clearly distinguish facts associated with MWD water sales and provision of wheeling service under the exchange agreement, by lumping the respective revenues

together under the rubric “water transactions.”<sup>v</sup> As an example, if water sales and wheeling services are reported separately, the Water Authority would not be MWD’s largest “water customer,” as described in the table at page A-62; in fact, it would be the 3rd largest water buyer at 134,368 AF of water sales (with plans to further reduce existing water purchases). And, it would be clear that, for all practical purposes, the Water Authority is the only customer being provided wheeling services, accounting for more than \$100 million in revenue for the fiscal year ending June 30, 2019 (see page A-62). These facts are also obscured by the presentation of *Regional Water Resources* beginning at page A-43 through A-48, including the graph at page A-44 which lumps the Water Authority’s independent Colorado River supplies in with MWD’s Colorado River water supplies, as though there has been no change.<sup>vi</sup> This manner and method of presentation carries over to have an impact on the analysis of *Historical and Projected Revenues and Expenses* beginning at page A-106. A lot of weight is given in the process of projecting revenues to the variability of “water transactions” due to the “unpredictability of future hydrologic conditions,” but the fact is that there is no variability in the wheeling revenues paid by the Water Authority because they occur according to a fixed schedule.

3. The risks associated with declining water sales and potential loss of wheeling revenues are materially different. Regarding wheeling revenues, we appreciate that MWD has noted that the Water Authority must provide a five-year notice to terminate the exchange agreement. In June Skillman’s May 16, 2019 letter responding to our comments on the then-pending Appendix A, she stated that, “Metropolitan is not aware of any other current plans for delivering water to SDCWA...” (at page 6). Given the Water Authority’s board action on July 25, 2019 authorizing a professional services contract to conduct a Regional Conveyance Study,<sup>vii</sup> we suggest adding to the disclosure that this Study is underway to consider alternatives to continued use of MWD’s Colorado River Aqueduct to deliver the Water Authority’s independent Colorado River water supplies

In closing, we would like to note that the changes impacting MWD are not unique to MWD. As Director Hogan has mentioned during the recent board retreat and at other meetings, the Water Authority is itself now in the process of a *fiscal sustainability* review of Water Authority rates and strategies, not only in the context of 2020 rate-setting but over the long term. We agree with staff that MWD is at a “crossroads.” And, we hope our board’s 2020 IRP process will be more than an “update” and instead, provide an opportunity for the same kind of “outside of the box” thinking about ways to control or reduce MWD costs and take a hard look at the real projected demand for MWD water (including how much “insurance” agencies need and are willing to pay for). Only then can we have a meaningful dialogue about how to fairly allocate costs. We recognize at the Water Authority that it is not possible to secure our own fiscal sustainability without also securing MWD’s fiscal sustainability—and we are committed to working with the board to develop fair approaches to accomplish that.

### **Other Comments and Concerns**

As noted above, we have provided detailed comments in many prior letters which are in the possession of MWD,<sup>viii</sup> a short summary is provided here.

- *A-13. Impacts of amendment of Coordinated Operating Agreement (COA).* The statements are accurate that the COA Addendum will shift responsibilities for meeting obligations between the Central Valley Project and the State Water Project, resulting in a shift of approximately 120,000 acre-feet in long-term average annual exports; however MWD should also include estimates that the shift will be about 200,000 acre-feet in a dry year. See Figure 9 at [https://www.usbr.gov/mp/nepa/includes/documentShow.php?Doc\\_ID=36503](https://www.usbr.gov/mp/nepa/includes/documentShow.php?Doc_ID=36503),
- *A-17. Delta Reform Act.* What is the basis for deleting explanation of Delta Reform Act (particularly since it is referenced in other parts of the draft Appendix)?
- *A-26. IID sale of water to the Water Authority.* The trial court and Court of Appeal have rejected MWD's argument that the Water Authority is not buying water from IID, but is instead buying "discounted water" from MWD. These misstatements appear in many parts of the Appendix A and further confuse the presentation and analysis of the demand for MWD water as explained above.
- *A-31. Delta Smelt and Salmon Federal ESA Biological Opinions and California ESA.* The explanation states that, "State Water Project deliveries may be about the same as current conditions," but that is premised on the assumption that the incidental take permit from CDFW under California ESA would be consistent with the federal biological opinions. There should be discussion that if the federal and state actions are not consistent, there will likely be a negative impact on the volume of water deliveries to SWP contractors including MWD. It should also be noted that until there is a new CESA permit, the SWP will be operated under the prior federal BiOps, which may also impact the volume of water supply available to MWD and other state contractors.
- *A-38. California ICS Agreement Intrastate Storage Provisions.* This section should be updated to describe the dispute between MWD and IID regarding 87,594 AF of water. <https://www.iid.com/Home/Components/News/News/735/>
- *A-41. Conservation and Water Shortage Measures.* We believe the disclosures would benefit from distinguishing broad public water conservation programs such as plumbing fixtures from agency projects given the legal requirements of Proposition 26.
- *A-43. Regional Water Resources.* See above discussion of Principal Concerns at paragraph two. While there is a statement that demand for MWD water will depend on local projects, "among other things," the explanation goes on to say that "in recent years" demands are down for a number of reasons, not including local supply development. Taking two agencies alone as an example—the Water Authority and Central Basin MWD—we would assume that local water supply development has been a major factor if not the major factor accounting for reduced demand on MWD. See discussion of Principal Concerns, paragraph one.
- *A-47. Recycled Water-Metropolitan Regional Program Demonstration Project.* The statements in Appendix A about the purpose of the IRP and this paragraph on the regional recycled program, reinforces why this program should be included in the IRP, which it is not. Further, the estimated cost of numerous other programs is listed in the Appendix A, for

example, *Metropolitan's Water Delivery System* starting at page A-48, but is not included for this program. If that information is helpful for one purpose, it is helpful for all and should be included here.

- *A-57. Capital Investment Plan Financing.* The draft describes an “internal funding objective” for the funding of capital program expenditures from current revenues but does not describe what has actually transpired during the last three biennial budget cycles, namely, six years in which planned PAYGo has been shifted to pay operating expenses while hundreds of millions of dollars in unplanned debt has been required to make up the difference.
- *A-64. Member Agency Purchase orders.* Completely disconnected from MWD’s water resource planning and rate-setting, MWD’s purchase orders do not provide any real contractual assurances of any kind to MWD or potential investors.
- *A-71. California Ballot Initiatives.* Appendix A should be clear what MWD’s position is on the applicability of Proposition 26, because it has a major impact on its rate-setting and business plan. MWD has frequently stated that Prop 26 “does not apply,” but it says in this Appendix A that its water rates and charges “are not taxes” (which is a different position) and essentially concedes that the Court of Appeal did rule on the applicability of Prop 26 to MWD’s rates.
- *A-76. Litigation Challenging Rate Structure.* The draft states that the Water Authority added a cause of action in the 2018 case to recover any Water Stewardship Rate which may be imposed, “**despite suspension of this charge.**” We have not received any indication from MWD that it has agreed not to seek retroactive collection of WSR payments that were included in adopted budgets but not collected due to the “suspension” of collection. If MWD agrees not to pursue collection of WSR revenue that was suspended, we will immediately reach out to the Water Authority’s general counsel to amend or dismiss claims accordingly. If MWD does not agree not to seek collection of suspended WSR revenues, then the disclosure should be changed to make that clear.
- *A-106. Historical and Projected Revenues and Expenses.* A realistic assessment of current facts would be a far superior basis for estimating projected revenues and expenses than the 2015 IRP Update. See above discussion of Principal Concerns. The 2015 IRP does not provide a reasonable foundation for estimated MWD water demands over the past five years, let alone the next five years. If water sales are distinguished from wheeling services on the graph depicting *Historical Water Transactions* at page A-112 (where wheeled water is being treated as the sale of “discounted” water by MWD), a more accurate picture is presented of MWD water sales trends. We also believe this information would be of value to the MWD board as it approaches the IRP update this year. We very much look forward to working with the board on that update.
- *A-113. Projected Fiscal Year 2019-20 results.* We note that the fiscal year 2020-21 and 2021-22 preliminary budget (not yet reviewed with the board) increases the 10-year forecast of rate increases from the 3% annually in both fiscal years 2018-19 and 2019-20 to 5% annually for calendar years 2021 through 2023, then reduces back to 3% annually thereafter. We very much look forward to review of the preliminary budget to understand what is driving these

recommended rate increases (and later decreases), and working with the MWD board to explore other alternatives to increasing rates such as reducing costs.

Thank you for your consideration of these comments in connection with the draft update of Appendix A, and going forward as part of the IRP update and budget and rate-setting process.

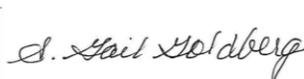
In closing, we want to reiterate the enthusiasm with which we look forward to the IRP and budget process this year, and to creating a future that is less reliant on imported water and more dependent on our collective sources of local water supply.

With best regards.

Sincerely,



Jerry Butkiewicz  
Director



S. Gail Goldberg  
Director



Michael T. Hogan  
Director



Tim Smith  
Director

cc: MWD Board of Directors  
Water Authority Board of Directors

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<sup>i</sup> Water Authority delegates' letter dated January 10, 2016 upon adoption of the 2015 IRP described in detail why we believed then that MWD's demand projections were overstated.

<sup>ii</sup> All of these letters are in MWD's possession and part of the administrative record of MWD board proceedings.

<sup>iii</sup> All page references herein refer to the redline copy (Attachment 2 to 8-1).

<sup>iv</sup> We are not suggesting that every "apple of the eye" of every member agency should be factored in, but that a more reasonable measure be employed by MWD and demanded by the board of directors when practically estimating MWD's future water demands and what water supplies and expenditures are necessary to meet them.

<sup>v</sup> For many years, MWD included wheeling revenues from the Water Authority's exchange water as water sales but began using the term "transactions" in around 2018. There is not a problem in the abstract with use of this terminology, of course, but there is insufficient detail in the Appendix A on the whole such that it is clear, for example, that MWD water sales have actually been materially reduced as a result of the Water Authority's development of more than 300,000 AF of independent water supplies over the past 25 years.

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<sup>vi</sup> We have commented in past letters on the disparate treatment of LA water supplies and those of the Water Authority in this section of Appendix A. Water Authority supplies are only mentioned in the context of having a water purchase agreement with Poseidon, whereas in reality, it has developed 336,000 AF of independent water supplies over the past 25 years and reduced its demand for MWD water accordingly.

<sup>vii</sup> At PDF page 46, [https://www.sdcwa.org/sites/default/files/2016-12/Board/2019\\_Agendas/2019\\_07\\_25FormalBoardPacketSEC\\_0.pdf](https://www.sdcwa.org/sites/default/files/2016-12/Board/2019_Agendas/2019_07_25FormalBoardPacketSEC_0.pdf)

<sup>viii</sup> Except to the extent addressed in edits to prior Appendix A, all letters and comments are incorporated herein for your further consideration.