

April 11, 2021

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

Water Planning and Stewardship Committee Chair Richard Atwater and
Members of the Board
Metropolitan Water District of Southern California
700 N. Alameda Street
Los Angeles, CA 90012

RE: Public Hearing regarding: (1) Metropolitan's 2020 Urban Water Management Plan, (2) Metropolitan's Water Shortage Contingency Plan, and (3) Metropolitan's Appendix 11 Addendum to the 2015 Urban Water Management Plan

Dear Water Planning and Stewardship Chair Atwater and Board Members:

The Water Authority has reviewed MWD's March 2021 public draft 2020 Urban Water Management Plan (Draft 2020 UWMP) and submits the following comments:

General Comments

The Water Authority objects to the changes in the draft 2020 UWMP regarding the characterization of the Water Authority's independent Colorado River QSA supplies (exchange water). See the letter sent by the Water Authority's General Counsel dated April 11, 2021 which is incorporated herein by reference.¹

In addition to describing its Water Surplus and Drought Management Plan and Water Supply Allocation Plan (WSAP), MWD needs to include a discussion of preferential rights, which is a member agency's statutory right to MWD water. (Sections 1.4 and 2.5, and Appendix 4.) The General Manager has made a number of statements recently to the effect that MWD has the legal authority to change or disregard preferential rights in its water supply allocation planning but neither he nor the General Counsel has provided any legal analysis to support these statements (which are contrary to many past statements and opinions by both MWD and member agencies in the context of both litigation and agency policy). The Water Authority – and we believe many other member agencies disagree with Mr. Kightlinger's statements. Preferential rights represent and reflect billions of dollars of investments MWD member agencies have historically made and MWD staff has no authority to either disregard those investments or declare the provisions of state law null and void.

MWD describes the 2020 UWMP as being “developed as part of the 2020 Integrated Water Resources Plan (IRP) planning process;” however, given that the 2020 IRP has not yet reached any conclusions or even presented core planning data, we do not understand how the UWMP is being developed in any meaningful way as part of that process. Moreover, MWD

¹ Water Authority General Counsel's letter dated April 11, 2021 is found here:

<https://mwdprograms.sdcwa.org/wp-content/uploads/2021-04-11-WA-GC-letter-to-MWD-GC-re-UWMP.pdf>

staff stated early on that the 2020 UWMP and 2020 IRP processes would be conducted independently, with separate workgroups and with different MWD and member agency staff.

Further, although there have been many requests by member agencies, including the Water Authority, to incorporate analysis from the 2020 UWMP into the 2020 IRP update (Director Smith has asked more than once that it be included as baseline data in all graphics and tables in the IRP), MWD staff has yet to accommodate this request.

Chapter 5 of the Draft 2020 UWMP describes MWD's 2020 IRP outreach efforts, implying that these efforts are somehow related to 2020 UWMP outreach—this is not correct as these outreach efforts solely focused on the 2020 IRP rather than the 2020 UWMP. Rather than focusing on the IRP outreach, we suggest focusing this chapter on the outreach effort conducted related to the 2020 UWMP. For example, Table 5-1 details when the IRP Committee met and discussed the 2020 IRP update but not when the board discussed the 2020 UWMP. We suggest the table be modified to reflect when the board discussed the 2020 UWMP. Similarly, Table 5-2 lists the IRP-focused “Member Agency Technical Workgroup” and Member Agency Managers meetings that discussed the IRP. We suggest reference to technical workgroup meetings be removed unless the 2020 UWMP was actually discussed; similarly, member agency manager meetings should only be included in cases where the 2020 UWMP was actually discussed. Again, MWD made clear that it was “delinking” the two processes (per the request of its member agencies) during the May 2020 meeting of the IRP Special Committee¹ and that should be clearly and accurately reported in the 2020 UWMP. (Executive Summary, Sections 2.1 and 2.6, and Chapter 5.)

The draft plan's index includes Appendix 13, *Alternative Forecasts for Demand on Metropolitan*, which is “to be developed.” A similar appendix was not included in MWD's prior UWMPs and this appendix has not been presented to the board, member agencies, or public for review. MWD has not explained the need for this new “alternative” in the 2020 UWMP. Unless it is statutorily required under the UWMP Act (we do not believe it is), we suggest that reference to this unidentified and unexplained appendix be removed. It is not appropriate for MWD to include a new appendix, when board members, member agencies, and the public have not had any explanation of the appendix or opportunity to review or provide input.

Comments on “Findings” of the Draft 2020 UWMP (page ES-6 and ES-7)

MWD plans and programs to address reduction in its water supplies: As noted above, in addition to describing its Water Surplus and Drought Management and Water Supply Allocation Plans, MWD should include a discussion of preferential rights in order to accurately address this subject.

MWD plans to continue investments in water use efficiency measures and local projects: MWD states that it will continue to invest in water efficiency measures to help retail agencies achieve their 20 percent per person water use efficiency targets. However, it is past 2020 and many if not all member agencies have already achieved these targets. If there are agencies that have not yet achieved these targets, the MWD board should address the issue on a policy level, including whether regional dollars might be used to provide financial assistance to

agencies that have not yet complied with state regulations. For example, the board could consider how disadvantaged communities who might not have met conservation targets might be supported financially within the requirements of Proposition 26, especially where it is demonstrated that the ratepayers of disadvantaged communities have paid MWD water rates and charges in excess of demand management benefits received.

Other comments

We provide the following additional comments and requests:

- Throughout the Draft 2020 UWMP, MWD references very generally impacts and potential impacts to its imported water supplies, such as impacts from the Biological Opinions, subsidence on the California Aqueduct, and State Water Resources Control Board's update to the Bay-Delta Water Quality Control Plan on the State Water Project. However, the plan does not explain or provide any analysis of *how staff believes these potential impacts are expected to impact MWD (even within a range)*. Broad generalizations about climate change and subsidence are not a sufficient basis for the board to consider potential actions and associated costs. MWD should provide an analysis of each of these issues including the anticipated impacts on MWD's imported supplies and some sense of the measures that may be taken over a timeline to address these concerns (i.e., adaptive management cannot be done in the abstract but needs to occur in the context of an identified set of potential impacts and possible solutions to address those impacts).
- The Draft 2020 UWMP references many agreements—like those related to MWD's storage and exchange programs—we suggest MWD include more detail about these various agreements including the term and other material features that could impact the UWMP analysis.
- Page 1-24: We request that MWD add a statement to clarify that the Water Authority and its member agencies did not receive MWD financial incentives for the development and successful implementation of the Claude "Bud" Lewis Seawater Desalination Plant.
- Starting at page 2-1, MWD describes its role in "regional" planning as "Southern California's lead agency in regional water management," which would lead many readers to believe that MWD member agencies are somehow subject to the jurisdiction of MWD in implementing local projects and programs, which is not accurate. This section should be modified to make clear that MWD's role is as a *supplemental* water supplier. The point should also be reinforced that if MWD develops water supplies for which there is no buyer, all member agencies will be on the hook to pay for it, because MWD's costs will have to be covered in any case once money is spent. The Blue Ribbon Task Force identified this problem more than 20 years ago, and MWD has yet to grapple with the reality of declining demand for MWD water, which is:

“Member agencies may want... the insurance provided by major investments to increase MWD standby capacity, but if forced to commit funds for such capabilities, they may actually prefer far lower levels of protection than a hypothetically "costless" water supply guarantee.” Metropolitan Water District Blue Ribbon Task Force Final Report (January 1994) at page 9.

MWD began during its October 2019 board Retreat to talk about this issue but it has not been continued as part of the IRP discussions. Calling excess water supplies “insurance,” without any analysis of the cost of insurance or understanding which member agencies want insurance is a recipe for the future imposition of fixed costs to pay for supplemental water supplies for which there is no buyer. This poses a material risk to MWD and the member agencies, which the Water Authority and its delegates to MWD will continue to request for discussion in the IRP and rate review processes.

- Pages 2-46 and 2-47: We suggest MWD modify the description of its effort related to the Water Stewardship Rate to reflect that the board’s December 2019 action was intended to provide additional time to consider ***alternative cost recovery methods*** for MWD’s demand management costs (rather than “a rate design alternative.”) The problem identified by the Court of Appeal and the basis of its ruling invalidating MWD’s Water Stewardship Rate wasn’t the rate *per se*, but the fact that MWD was improperly characterizing supply costs as transportation. A new “rate design,” if it continues to allocate supply costs to any transportation rate or charge as part of a new “rate design” will suffer from the same problem and invalidity as it has in the cases that have already been decided (and which MWD has expressly been ordered by the Court not to repeat in future rate setting).
- Page 3-5: We suggest the text include the additional parties to the suite of the agreements under the Quantification Settlement Agreement (QSA), including, but not limited to, the Water Authority, the California Department of Water Resources, the California Department of Fish and Wildlife, the U.S. Department of the Interior, and the San Luis Rey Settlement parties.
- Pages 3-8: Please clarify that the volume of exchange water does not include any unused portion of the mitigation water.
- Page 3-9: Please clarify that the Water Authority’s water conservation and transfer agreement with the Imperial Irrigation District will reach full implementation in 2021 (at 200,000 acre-feet), and that the 2021 and 2022 transfer volumes include early transfer water.
- Page 3-9: We suggest adding the completion dates for the Coachella and All-American Canal Lining projects of 2007 and 2010, respectively.
- Page 3-9: Please clarify that the Water Authority receives any unused environmental mitigation water from the Coachella Canal Lining project.

- Page 3-11: Please update the description of MWD’s DCP contributions to match the description in MWD’s most recent Official Statement stating that MWD “is responsible for 93 percent of California’s DCP Contributions under the Lower Basin DCP.”ⁱⁱ
- Pages 3-56 through 3-78: Section 3.5 describes the benefits and challenges of various local supplies. We suggest the plan include tables summarizing these benefits and challenges for each type of local water supply discussed such as Table 3-10 on page 3-69.
- Page 3-91: Figure 3-8 shows MWD’s projected greenhouse gas emissions but does not reflect the description in the text that MWD plans to achieve carbon neutrality by 2045. We suggest explaining or clarifying why the figure does not reflect MWD achieving this goal.
- Page A.3-18: Please make changes as requested by the Water Authority’s General Counsel in his April 11, 2021 letter referred to above.
- Page A.3-52: Please correct the statement that “*the 2020 Update of the Integrated Water Resources Plan (2020 IRP Update) identified policies and strategies for ensuring sustainable groundwater production in light of a potential for extended multiple-year dry conditions*” to reflect that the 2020 IRP is still being developed and that staff will present these policies and strategies to the board for consideration.
- Page A.3-54: Please clarify that the board has not yet taken action to implement the Regional Recycled Water Program and include the timeline when that decision is expected. Also, when the costs associated with the Program will be incorporated into MWD’s 10-year rate forecast. This request is not in any way to suggest that the Water Authority does not support this and other local water supply development; however, there is more work to be done by the board to consider how much water supply is needed and what the preferred investment portfolio will be to provide it.
- Pages A.3-56 through A.3-60: Tables A.3-7 characterize the Exchange with the Water Authority as “Additional Colorado River Exchange Supplies;” please modify this description to “Additional Non-Metropolitan Colorado River Aqueduct Supplies,” consistent with MWD’s reporting of this water supply in its 2015 UWMP and the provisions of the Exchange Agreement as described in Water Authority’s General Counsel’s April 11, 2021 letter to General Counsel Scully (who should be well aware of this contractual provision).
- Page A.4-13: Please clarify under *Exchange with the San Diego County Water Authority* that the conserved IID water and the canal lining water are within Priority 3a. Similarly, please clarify under *Exchange with the United States* that the canal lining water falls within Priority 3a.

- Page A.4-11: Table A.4-3 Please clarify that the Exchange with the Water Authority and Exchange with the United States are not MWD supplies.
- Page A.4-16: The text states, “*Over the last 40 years, Metropolitan effectively delivered to its member agencies water supplies to meet demands ranging from 1.2 MAF per year to over 2.5 MAF per year.*” Consistent with the many comments the Water Authority has made on Appendix A to MWD Official Statements relating to the sale of bonds, please clarify that these *deliveries* are from different sources at different times so as not to mislead the reader about the volume of MWD water sales over time.
- Page A.4-21: Please confirm that the actions described in Table A.4-5 for MWD’s shortage stages and response actions are consistent with MWD’s Water Surplus and Drought Management Plan.
- Pages A.10-3 and A.10-9: Page A.10-3 describes that MWD includes the upstream embedded energy from the State Water Project in its energy intensity calculations, but then later, on page A.10-9, describes the associated greenhouse gas emissions from the State Water Project are not included in its greenhouse gas emissions inventory. Please explain why MWD does not apply the same approach for embedded energy and its greenhouse gas emissions inventory.

Sincerely,



Sandra L Kerl
General Manager

Cc: San Diego County Water Authority Board of Directors
San Diego County Water Authority Member Agency Managers
Jeff Kightlinger, MWD General Manager

ⁱ See presentation *Integrated Resources Plan: Schedule and Outreach* dated May 26, 2020 found here: <http://www.mwdh2o.com/WhoWeAre/Board/Board-Meeting/Board%20Archives/2020/05%20-%20May/Presentations/05262020%20IRP%203a%20Presentation.pdf>

Also, audio recording of this IRP Committee meeting found here:

http://mwdh2o.granicus.com/MediaPlayer.php?view_id=21&clip_id=8297

ⁱⁱ See page A-25 of MWD’s Official Statement dated January 21, 2021:

http://www.mwdh2o.com/PDF_Who_We_Are/MWD_2021%20Ser.%20A_FOS.pdf