### NOTICE OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT 1966 Olivenhain Road, Encinitas, CA 92024 Tel: (760) 753-6466 • Fax: (760) 753-5640

Pursuant to AB3035, effective January 1, 2003, any person who requires a disability related modification or accommodation in order to participate in a public meeting shall make such a request in writing to Stephanie Kaufmann, Executive Secretary, for immediate consideration.

- DATE: WEDNESDAY, MAY 17, 2023
- TIME: 4:00 P.M.
- PLACE: DISTRICT OFFICE
  - NOTE: ITEMS ON THE AGENDA MAY BE TAKEN OUT OF SEQUENTIAL ORDER AS THEIR PRIORITY IS DETERMINED BY THE BOARD OF DIRECTORS
- 1. CALL TO ORDER
- 2. PLEDGE OF ALLEGIANCE
- 3. ROLL CALL
- 4. DETERMINATION OF A QUORUM
- 5. ADOPTION OF AGENDA
- 6. PERSONAL APPEARANCES AND PUBLIC COMMENTS
- 7. PRESENTATION OF AWARDS AND HONORABLE MENTIONS

Service Awards, Promotions and Honorable Mentions

- \* Annual Fourth Grade Poster Contest Winners Lillian Cook, El Camino Creek Elementary Leo W., Olivenhain Pioneer Elementary Talia Elizabeth Abordo, Stone Ranch Elementary
- \* Bryan Rickards Systems Operator I 5 Years April
- \* Nicholas Boess Field Services Technician I New Hire April
- \* Tom Arellano Water Treatment Plant Supervisor 20 Years May
- 8. CONSIDER APPROVAL OF THE MINUTES OF THE APRIL 19, 2023, REGULAR BOARD OF DIRECTORS MEETING

### 9. CONSENT CALENDAR

### NOTE: ANY ITEM MAY BE REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

C-a	CONSIDER ADOPTION OF A MOTION APPROVING THE PAYMENT OF LISTED WARRANTS FROM THE DISTRICT'S REVOLVING AND REGULAR ACCOUNTS; LISTED TRANSFERS OF FUNDS; REIMBURSEMENT OF EXPENSES TO BOARD MEMBERS AND STAFF; AND MONTHLY INVESTMENT REPORT
C-b	CONSIDER ADOPTION OF A MOTION APPROVING THE DISTRICT'S CONSOLIDATED STATEMENT OF NET POSITION, CONSOLIDATED STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN NET POSITION, CONSOLIDATED STATEMENT OF CASH FLOWS, CONSOLIDATED ACTUAL VS BUDGET SUMMARY, AND CONSTRUCTION IN PROGRESS REPORT
C-c	CONSIDER A RESOLUTION HONORING VISTA IRRIGATION DISTRICT FOR A CENTURY OF SERVICE AND STEWARDSHIP
C-d	CONSIDER APPROVAL OF A GRANT OF ACCESS ROAD EASEMENT TO SAN DIEGO GAS & ELECTRIC OVER OMWD'S GATY II PROPERTY AND CHLORINATION BUILDING SITE AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF OMWD
C-e	CONSIDER ACCEPTANCE OF THE AVENIDA APICE WATER SERVICE REESTABLISHMENT (TAYLOR MORRISON) INTO OMWD'S SYSTEM AND ORDER A NOTICE OF COMPLETION FILED
C-f	CONSIDER FINAL UPDATE OF THE 4S WATER RECLAMATION FACILITY WIRING AND CHEMICAL FEED EMERGENCY REPLACEMENT PROJECTS, ACCEPT INTO THE DISTRICT'S SYSTEM AND ORDER THE NOTICES OF COMPLETION FILED
6	DROUNDE CANNEADY CENTER OVERENCE MACTEMATER DISCURDED SECURITY (1992)
C-g	UPDATE TO THE BOARD OF DIRECTORS OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT

- 10. CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (Article 3 Organization of Staff and Article 4 Classified Positions)
- 11. REVIEW THE CURRENT EMAIL RETENTION POLICY AND PRESENT FINDINGS FROM THE SURVEY OF OTHER LOCAL PUBLIC AGENCIES
- 12. CONSIDER APPROVAL OF CHANGE ORDER NO. 3 AND CHANGE ORDER NO. 4 WITH ORION CONSTRUCTION CORPORATION FOR A COMBINED TOTAL OF \$223,345 FOR THE 4S RANCH NEIGHBORHOOD 1 SEWER PUMP STATION REPLACEMENT PROJECT, AND INCREASE THE OVERALL PROJECT BUDGET BY \$400,000, AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF OMWD
- 13. CONSIDER ADOPTION OF A RESOLUTION ELECTING TO HAVE SEWER SERVICE FEES WITHIN THE 4S RANCH SANITATION DISTRICT COLLECTED ON THE COUNTY TAX ROLLS FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024 AND TO CERTIFY SAID FEES WITH THE SAN DIEGO COUNTY ASSESSOR

- 14. CONSIDER ADOPTION OF A RESOLUTION ELECTING TO HAVE SEWER SERVICE FEES WITHIN THE RANCHO CIELO SANITATION DISTRICT COLLECTED ON THE COUNTY TAX ROLLS FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024 AND TO CERTIFY SAID FEES WITH THE SAN DIEGO COUNTY ASSESSOR
- 15. CONSIDER ADOPTION OF A RESOLUTION ELECTING TO HAVE SEWER SERVICE FEES FOR THE SANTA LUZ AFFORDABLE HOUSING AREA AND BLACK MOUNTAIN RANCH EAST CLUSTERS PROJECT WITHIN THE 4S RANCH SANITATION DISTRICT COLLECTED ON THE COUNTY TAX ROLLS FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024 AND TO CERTIFY SAID FEES WITH THE SAN DIEGO COUNTY ASSESSOR
- 16. REVIEW AND DISCUSS STAFF'S PROPOSED CHANGES TO THE GENERAL MANAGER'S RECOMMENDED BIENNIAL OPERATING AND CAPITAL BUDGET FISCAL YEARS 2023 AND 2024 AT MIDTERM (DRAFT)
- 17. CONSIDER STATUS UPDATE ON THE PROPOSED FALLBROOK PUBLIC UTILITIES DISTRICT AND RAINBOW MUNICIPAL WATER DISTRICT DETACHMENT FROM THE SAN DIEGO COUNTY WATER AUTHORITY AND CONSIDER COMMENTS TO BE SUBMITTED FOR THE JUNE 5, 2023 SAN DIEGO LOCAL AGENCY FORMATION COMMISSION MEETING
- 18. CONSIDER A RESOLUTION NOMINATING A CANDIDATE AS A MEMBER OF THE ASSOCIATION OF CALIFORNIA WATER AGENCIES REGION 10 BOARD OF DIRECTORS
- 19. DISCUSS RESULTS OF 2022 WATER CAPACITY FEES STUDY WITH RAFTELIS FINANCIAL CONSULTANTS AND CONSIDER AN OPTION FOR 2023 WATER CAPACITY FEES (WORKSHOP)
- 20. CONSIDER A RESOLUTION CONSENTING TO ENTER THE JOINT PROTECTION PROGRAMS OF THE ASSOCIATION OF CALIFORNIA WATER AGENCIES JOINT POWERS INSURANCE AUTHORITY
- 21. INFORMATIONAL REPORTS
  - A. PRESIDENT
  - B. GENERAL MANAGER
  - C. CONSULTING ENGINEER
  - D. GENERAL COUNSEL
  - E. SAN DIEGO COUNTY WATER AUTHORITY REPRESENTATIVE
  - F. LEGISLATIVE
  - G. TWELVE MONTH CALENDAR / OTHER MEETINGS / REPORTS BY BOARD MEMBERS PER AB 1234
  - H. BOARD COMMENTS
- 22. CORRESPONDENCE
- 23. AUTHORIZATION TO ATTEND UPCOMING MEETINGS / CONFERENCES / SEMINARS
- 24. FUTURE AGENDA ITEMS
- 25. CONSIDER PUBLIC COMMENTS

### 26. CLOSED SESSION

- A) CONSIDER LITIGATION HILLSIDE PATIO HOMES HOA [PURSUANT TO GOVERNMENT CODE SECTION 54956.9] • Additional Facts: Claim received on August 17, 2020. Claim rejected on September 9, 2020.
- B) CONSIDER GENERAL COUNSEL REVIEW [PURSUANT TO GOVERNMENT CODE SECTION 54957] • Additional Facts: Preliminary input provided on May 17, 2023; full review to be held on June 21, 2023.
- C) IF NECESSARY: POTENTIAL LITIGATION ON THE FALLBROOK PUBLIC UTILITY DISTRICT AND RAINBOW MUNICIPAL WATER DISTRICT DETACHMENT [PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(4)]
- 27. OPEN SESSION
- 28. ADJOURNMENT

## ANNUAL FOURTH GRADE POSTER CONTEST WINNERS





Congratulations to 2023 "Love Water, Save Water" Winner Talia Elizabeth Abordo!





### Congratulations to 2023 "Love Water, Save Water" Winner Lillian Cook!





Congratulations to 2023 "Love Water, Save Water" Winner Leo W.!



# Congratulations to this year's winners!





### Memo

To:	Board of Directors
From:	Stephanie Kaufmann, Executive Secretary
Via:	Kimberly A. Thorner, General Manager
Subject:	BOARD MEETING MINUTES

Draft minutes of the most recently held Board of Directors meeting will be provided separately. Following board approval, the minutes will be posted on OMWD's website.

Agenda Item C-a



### Memo

Date:	May 17, 2023
То:	Olivenhain Municipal Water District Board of Directors
From:	Rainy K. Selamat, Finance Manager
Via:	Kimberly A. Thorner, General Manager
Subject:	CONSIDER ADOPTION OF A MOTION APPROVING THE PAYMENT OF LISTED WARRANTS FROM THE DISTRICT'S REVOLVING AND REGULAR ACCOUNTS; LISTED TRANSFERS OF FUNDS; REIMBURSEMENT OF EXPENSES TO BOARD MEMBERS AND STAFF; AND MONTHLY INVESTMENT REPORTS

The following monthly financial reports are enclosed for review and approval by the Board of Directors:

- April 2023 Summary of payment of listed warrants from the District's checking account and listed transfer of funds.
- April 2023 Monthly Summary of Reimbursement Expenses to Board Members and Staff.
- March 2023 Monthly Investment Reports.

#### Olivenhain Municipal Water District Proposed Motions for May 17, 2023 Board of Directors Meeting April 2023 Activities Consent Calendar Item # C-a

### Proposed Motions:

Regular Account	Warrants - by check	033211 V	to	033387		\$	1,043,828.69				
	Warrants - by EFT	EFT00000000445	to	EFT0000000	000492		660,563.72				
						1	1,704,392.41				
	ACH Payments - Payroll						213,335.33				
	Wire - SDCWA - Monthly P	Wire - SDCWA - Monthly Purchased Water Payment									
	Wire - SDCWA - Quarterly (	Capacity Fees					15,233.00				
	ACH Payments - Payroll						219,059.37				
						5 -	3 803 688 54				
Category of Disburse	ements					1 -					
Total warrants from	the District's checking account	÷									
						\$	1,704,392.41				
Following is a break	down of this total by major cate	egories:									
Category											
Outside services				\$	893,930.28						
Inventory and suppl	ies				355,652.62						
Utilities					117,255.33						
<b>Repairs and maintar</b>	ience				28,737.29						
Other					2,344.15						
Refunds					26,623.83						
Insurance					151,735.91						
Permit Fees					128,113.00						
. commen and											

Rainy K. Setahuat/Finance Manager

M:\Board Packet\Proposed Motions\FY23\2023-04 Proposed Motions for May 17 board meeting

### Olivenhain Municipal Water District Proposed Motions for May 17, 2023 Board of Directors Meeting April 2023 Activities

California Bank and Trust

Regular Account

Warrants Warrants	s - by check s - by EFT	033211 EFT000000000445	to to	\$ 1,043,828.69 660,563.72		
					1,704,392.41	
	4/13/202	23 ACH Payments - Payroll			213,335.33	
	4/17/202	23 Wire - SDCWA - Monthly I	Purchased W	ater Payment	1,651,668.43	
	4/26/202	23 Wire - SDCWA - Quarterly	Capacity Fee	s	15,233.00	
	4/27/202	23 ACH Payments - Payroll			219,059.37	
				Total	\$ 3,803,688.54	$\checkmark$

Approved:

For Board Consideration and Approval

#### Olivenhain Municipal Water District April 2023 Warrant List - Check & EFT

Number	Date	Name	Amount	Inv Reference	Multiple
033211	4/5/2023 American	Messaging	60.50	11-072035	Vec
033212	4/5/2023 Balboa En	aineering Inc.	900.00	Preliminary & Final Design Services for VP West PRS Replacement Project	Yes
033213	4/5/2023 Belinda Fo	ard	49	REF:1010671_167250-Customer Refund	163
033214	4/5/2023 Bianca Fel	ix	108.66	REF:1088923 223840-Customer Refund	
033215	4/5/2023 Boot Worl	dinc	200.00	) Safety Boots	Vor
00000			200.00	Cost collaboration with City of Encinitas on the paying of Manchester Ave	/ res
033216	4/5/2023 City Of En	cinitas	106,033.00	S. El Camino Ave	Yes Yes
033217	4/5/2023 Claudette	Chemtob	112.96	REF:1083546_229075-Customer Refund	
033218	4/5/2023 Core & M	ain LP	984.26	Inventory - PSI Gauges	Yes
033219	4/5/2023 County Of	San Diego	100.00	3535 MANCHESTER AVE, 16092 SAN DIEGUITO PERMIT FEES	Yes
033220	4/5/2023 Crosby Est	ate HOA	18,313.B7	REF:1046373_166300-Customer Refund for large overpayment	Yes
033221	4/5/2023 Dell Comp	outers	1,676.29	NETWORKING CABLE (B) & OTHER NETWORK SUPPLIES	Yes
033222	4/5/2023 Dept Of W	/ater Resources	6,241.00	4S REC RSVR DAM FEE (PERMIT)	
033223	4/5/2023 DMV		23.00	RPLCMNT TITLE - 2017 HONDA ATV	
033224	4/5/2023 Edco Wast	e & Recycling	632.83	25-4A 861816- Waste Disposal	Vec
033225	4/5/2023 Federal Ex	press Corp	29.29	SHIPPING	103
033226	4/5/2023 Gallade Ch	nemical	6 399 70		
033227	4/5/2023 Ignacio To		48.70		
033228	4/5/2023 Integrity M	funicinal Systems	40.70 862.00		
033229	4/5/2023 Mega Engi	ingering Co	375.00	REE-10323223 202200 Customers Defund	
033230	4/5/2023 Mayaan	Hobbe San Diaga	375.01		
033230	4/5/2025 Naumann	Hobbs - San Diego	709.16	WIP FORKLIFT SERVICES	Yes
033231	4/5/2023 Ninyo & M	loore	4,131.00	DEGLECTINICAL SERVICES FOR MAINCHESTER & OTHER DISTRICT	Yes
033232	4/5/2023 Pacific Safe	ety Center	280.00		
033233	4/5/2023 Republic Se	ervices #661	693.89	3-0661-1001776 - WASTE DISPOSAL SERVICES	
033234	4/5/2023 State Wate	r Resources	90.00		
033235	4/5/2023 United Pan	cel Service	3B 43		
033236	4/5/2023 Vasu Nisht	ala	68.13	PEE-1090882 155325 Customer Befund	
033237	4/5/2023 Whitson C	M	1 050.00		
033238	4/12/2023 45 Panch G	The River Mach	7,950.00	MANTER CASCULATE & CAR WASHINGTON	
033239	4/12/2023 Ababa Bolt		2,299.74	WWIF GASOLINE & CAR WASH - FED/MARCH	Yes
033240	4/12/2023 Ababa Bolt	hapical loc	195.66	WIP SUPPLIES	Yes
033240	4/12/2023 Alpha Med 4/12/2023 American B	larkflow Specialities	1,975.00		
033242	4/12/2023 Aqua Metri	c	12.76	E-REGISTERS WARRANTY SHIPPING	res
033243	4/12/2023 AT & T		24.49	9391056562	
033244	4/12/2023 Bay City Ele	ectric Works	532.08	CONNEMARA PS GENERATOR 5VCS	
033245	4/12/2023 Bee Rescue		S0.00	2426 BADAJOZ PL BEE SERVICES	
033247	4/12/2023 Brightview	Landscape Services	394.49	SATELY BOOTS	Yes
033248	4/12/2023 California S	tate Disbursement Unit	123.23	EMPLOYEE GARNISHMENT	
033249	4/12/2023 Core & Mai	in LP	34,612.22	Various inventory items - for stock up, to avoid price increases	Yes
033250	4/12/2023 D-Max Eng	ineering, Inc.	2,180.72	FOG Inspections for the 4S and Cielo Collection Systems	Yes
033252	4/12/2023 Encinitas FC 4/12/2023 Escondido I	ora Metal Supphy	257.26	PU13 SUPPLIES	Yes
033253	4/12/2023 ESS		672.00	WWTP ALARM MONITORING SVCS	Vec
033254	4/12/2023 Fallbrook P	rinting Corp	1,426.34	WELCOME LETTERS (QTY 177)	Yes
033255	4/12/2023 Farwest Cor	rosion	488.57	30" ANODE WITH CABLE	
033256	4/12/2023 Ferguson Er	nterprises Inc. #1083	3,859.93	Various inventory items	Yes
033258	4/12/2023 Franchise 1 4/12/2023 Global Pow	er Group Inc	544.26	EMPLOYEE GARNISHMENT	¥
033259	4/12/2023 Grangetto's	Ag. Supply	9.16	SUPPLIES	Tes
033260	4/12/2023 Gutermann	Inc	282.00	AQUASCOPE CABLE	
033261	4/12/2023 Hawthorne	Machinery Co.	120.39	GENERATOR COOLANT BOTTLE	
033262	4/12/2023 Ignacio Too 4/12/2023 Infocond	l Supply Inc.	129.30	SHOP TOOLS	Yes
033264	4/12/2023 J.M.D. Land	scape inc	4 970 00	DEL DIOS SEWER ESMINT CLEARING	Yes
033265	4/12/2023 Marina Land	dscape, Inc.	1,425.00	HQ Courtyard Garden 22AGR012	Yes
033266	4/12/2023 Matheson T	ri-Gas Inc	115.67	PROPANE	
033267	4/12/2023 Mission Elec	tric Supply, Inc.	39.31	SUPPLIES	
033268	4/12/2023 Morris Cere		189.76	REF:100S320_172030-Customer Refund	
033270	4/12/2023 Nash Fabric	ators	6,226.51	TRAIN & REAM REFURBISHMENT	Vor
033271	4/12/2023 One Source	Distributors	210.32	USB PROGRAMMING CABLE	163
033272	4/12/2023 Pacific Pipel	ine Supply	195.13	SUPPLIES	Yes
033273	4/12/2023 Parkhouse T	ire Inc	1,148.76	PU108 SUPPLIES	Yes
033274	4/12/2023 Patriot Envir	ronmental	2,666.34	CONTAINMENT LINE CLEANING AT WWTP	
033276	4/12/2023 PWLC I. INC	ana nite	15,367.01	Now meters for 5 kancho Cleip Sewer Pump Stations	TES Vac
033277	4/12/2023 Republic Ser	rvices	1,288.25	4530-000033210 - WASTE DISPOSAL	103
033278	4/12/2023 Republic Ser	rvices #661	2,651.33	3-0661-2000037 - WASTE DISPOSAL	Yes
033279	4/12/2023 S D G & E	P. Fl	264.85	Utilities	
033281	4/12/2023 San Diego G 4/12/2023 Santa Felleri	uas & Electric	22,686.57	Utilities - various locations	Yes
033282	4/12/2023 Specialty Se	als & Accessories	1.796.03	WTP SUPPLIES	
	· · · · · · · · · · · · · · · · · · ·		.,, 50.05		

### Olivenhain Municipal Water District April 2023 Warrant List - Check & EFT

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
033283	4/12/2023 Steve	n L. Sherman D8A	1.147.50	Conservation landscape services-evaluations - Jan/Feb	Yec
033284	4/12/2023 TASC		456.90	) 3/23 VEBA PROCESSING FEES	103
033285	4/12/2023 Traffic	Supply Inc	808.63	OMWD HQ GATE SIGNS -no deliveries/no trespassing (Qty 11)	
033286	4/12/2023 Transe	ene Company, Inc.	404.88	WTP SUPPLIES	
033287	4/12/2023 T5 Ind	lustrial Supply	666.S1	Pump & Supplies	
033288	4/12/2023 Under	ground Service Alert	344.25	DIG ALERT TICKETS	
033290	4/12/2023 Uniter	d Parcel Service	399.65		Yes
033291	4/12/2023 USA E	Blue Book	196.20		
033292	4/12/2023 Verizo	n Connect Fleet USA, LLC	1.849.70	100000112726 - vehicle tracking services	Yes
033293	4/12/2023 Vortex	Industries	1,031.25	BUILDING J ROLL UP DOOR PREVENTATIVE MAINT. SVCS	
033294	4/12/2023 West (	Coast Sand & Gravel	536.B0	SCREENED FILL SAND	
033295	4/19/2023 Bee Re	escue LLC	340.00	3620 DOVE HOLLOW ROAD	
033296	4/19/2023 Bright	view Landscape Services	1,440.00	EMERGENCY TREE RMVL - WIEGAND (FALLEN TREE)	
033298	4/19/2023 C E W	reasurer	85,891.87	VALVE REPLACEMENT PROJECT FY22/23 -Construction	Yes
033299	4/19/2023 Coble	Homes/Brian Coble	64.41	REE:108655B 301920-Customer Refund	
033300	4/19/2023 Core 8	k Main LP	231.67	Inventory - 1" Insulating union (5)	Yes
033301	4/19/2023 Corod	ata	306.82	RECORDS STORAGE	
033302	4/19/2023 Corod	ata Shredding, Inc	69.B7	PAPER DESTRUCTION SERVICES	
033303	4/19/2023 County	y Of San Diego	3,627.00	Permit fees - various locations	Yes
033304	4/19/2023 Count	y Of San Diego Dwaves Duesan	11,006.00	Permit fees - various locations	Yes
033306	4/19/2023 Eden V	Vaste & Recycling	74.56	25-49 912759 - Waste Disporal	Vac
033307	4/19/2023 Encina	Wastewater Authority	9.530.00	Jan - Mar Water Samples (Oty 529)	162
033308	4/19/2023 Fallbro	ok Printing Corp	340.27	ENGINEERING PADS, Qty 20	
033309	4/19/2023 Fergus	on Enterprises Inc. #1083	25,148.75	Various Inventory Items	Yes
033310	4/19/2023 First Cl	hoice Technology	153.43	13001474	Yes
033311	4/19/2023 Guardi	an	969.68	S/23 DENTAL ADMIN FEES	
033312	4/19/2023 Hadron	nex Lic	1,486.93	NBHD #1 SPS SUPPLIES	
033314	4/19/2023 Home	Denot/Gecf	43,926.50 7 811 76	2/23 SUBDIES	Yes
033315	4/19/2023 Infrastr	ructure Engineering Corporation	1,732.50	NBHD SPS Bal Design Support CO#3	Yes
033316	4/19/2023 Integrit	ty Municipal Systems	1,303.00	ODOR SCRUBBER MAINT (WWTP)	103
033317	4/19/2023 Jennet	te Company Inc.	25,476.35	RETENTION (PH CNTL SYS PJT)	
033318	4/19/2023 John W	/alker	77.05	REF:1090038_196975-Customer Refund	
033319	4/19/2023 L83 En:	terprises Inc.	1,984.62	REF:1091235_303170-Customer Refund	
033320	4/19/2023 Melissa 4/19/2023 Melissa	a Harkiewicz	100.00	REF:1058347_201610-Customer Refund	
033322	4/19/2023 Ninvo /	& Moore	1,393.31	GEOTECHNICAL CONSULTING SVCS	
033323	4/19/2023 North (	County Powder Coating	310.06	CSP SPS PUMP PARTS COATING SVC	
033324	4/19/2023 Pacific	Pipeline Supply	4,773.33	VALVE REPLACEMENT PROJECT SUPPLIES	Yes
033325	4/19/2023 Pacific	Safety Center	125.00	TRAFFIC CONTROL/FLAGGER CLASS	
033326	4/19/2023 Paige N	Aicaela Heiden Bruno	116.39	REF:1090935_194805-Customer Refund	
033327	4/19/2023 Paloma	ir Health	555.00	PRE-EMPLOYMENT SCREENING	
033329	4/19/2023 Patriot 4/19/2023 Patriot	environmental	375.00	Constants Tank Inspection Services	N
033330	4/19/2023 PWLC I	. INC	14 848 00		Vec
033331	4/19/2023 RECON	Environmental, Inc.	4,682.34	VALVE REPLACEMENT PROJECT SERVICES	Yes
033332	4/19/2023 Robert	Swisher	87.11	REF:10S2B21_188B25-Customer Refund	
033333	4/19/2023 Ryan H	erco	692.B1	WTP SUPPLIES	
033334	4/19/2023 San Die	go Building Maintenance	5,396.00	3/23 JANITORIAL SERVICES	
033336	4/19/2023 San Die 4/19/2023 San Die	go Gas & Electric	/1,350./9	Utilities - Various Locations	Yes
033337	4/19/2023 Sandra	Ferrer	2,301.00	MOU EDUCATION INCENTIVE	
033338	4/19/2023 Shlomi	Cohen	134.53	REF:1059929 12B030-Customer Refund	
033339	4/19/2023 Srinivas	Patwari	104.39	REF:1082758_182965-Customer Refund	
033340	4/19/2023 Taylor N	Morrison of CA	1,737.45	REF:10S4864_303340-Customer Refund	Yes
033341	4/19/2023 The Lak	es HOA	24.19	REF:10579S2_182465-Customer Refund	
033342	4/19/2023 The Rut	h 8. Chaimers Trust	993.30	REF:1048666_1744B5-Customer Refund	
033344	4/19/2023 United I	Parcel Service	232.00		
033345	4/19/2023 USA Bi	ue Book	2 030 79	WTP SUPPLIES	Ver
033346	4/19/2023 Vallecito	os Water District	48,481.86	RECLAIMED WATER SALES	
033347	4/19/2023 West Co	oast Sand & Gravel	2,180.30	YARD MATERIALS	
033348	4/19/2023 Whitsor	1 CM	150.00	8/22 SITE INSPECTIONS	
033349	4/26/2023 Aflac		1,445.50	Supplemental Insurance	
033350	4/20/2023 AG Tech 4/26/2023 Andrea	1 LIC Scott	1,890.24	WWTP BIOSOLIDS WASTE DISPOSAL	
033352	4/26/2023 Anne Hi	uson	125.10	REF: 1091814 181025-Customer Refund	
033353	4/26/2023 Tom Are	ellano	200.00	20 YEAR SERVICE AWARD	
033354	4/26/2023 AT & T		1,607.38	9391059578 - District Phones	Yes
033355	4/26/2023 Californ	ia State Disbursement Unit	123.23	EMPLOYEE GARNISHMENT	
033356	4/26/2023 Claude I	Heacox	214.S0	REF:1048060_13741S-Customer Refund	
03335/	4/26/2023 County	Of San Diego	1,106.00	Permit fees - various locations	Yes
033359	4/20/2023 County	or san Diego, KCS Johns	171.00	3/23 KAUIU SERVICES	
033360	4/26/2023 Durley		42.27 26.270.00	ner 1000002_224203-Customer Ketuna Design Services - Headworks Project	Vor
033361	4/26/2023 EcosCor	nnect LLC	1.967.50	BACKFLOW REPORTS & NOTICES	162
033362	4/26/2023 Encinita:	s Ford	633.05	PU104 SUPPLIES	Yes
033363	4/26/2023 Franchis	e Tax Board	544.26	EMPLOYEE GARNISHMENT	
J33364	4/26/2023 Freeway	Truck and Vans, Inc	67,171.52	2023 Isuzu NPR-HD - Vehicle Purchase	Yes

### Olivenhain Municipal Water District April 2023 Warrant List - Check & EFT

Number	Date	Name	Amount	Inv Reference	Multiple Invoices?
033365	4/26/2023 Gol	den State Labor	2,189.00	Manchester Recycled Water Labor Compliance Program	Yes
033366	4/26/2023 Igna	icio Tool Supply Inc.	81.89	SHOP TOOLS	
033368	4/26/2023 Jase	n Bush	58.53 68.10	REF:1085534_109565-Customer Refund	
033369	4/26/2023 Jenr	nifer Kriech	186.02	REF:108932B_230930-Customer Refund	
033370	4/26/2023 Jona	athan Boever	125.10	REF:1085367_225380-Customer Refund	
033371	4/26/2023 KRC	Rock	2,805.33	PARKS DEPT SUPPLIES - DIRT FOR STORM REPAIRS	
033372	4/26/2023 Oric	In Construction Corporation	212,538.75	Construction Services for Neighborhood 1 SPS Project	Yes
033374	4/26/2023 Paci	th Inc. dba	702.51	760-489-9971	Yes
033375	4/26/2023 Qua	lity Chevrolet	952.67	E874 SUPPLIES	Yes
033376	4/26/2023 Ralp	h Dipiero	112.25	REF:1008402_234520-Customer Refund	105
033377	4/26/2023 RCP	Block & Brick Inc	1,075.13	SAND BAGS - FILLED (144)	Yes
033378	4/26/2023 San	Diego Cty. Assessor/Recorder/Clerk	125.00	MPR EXTRACT - 2022 ROLL - 27k records for sewer billing	
033380	4/26/2023 San 4/26/2023 Sunt	pelt Bentals Inc	14,390.76	Utilities - Various Locations	Yes
033381	4/26/2023 Tam	ara Williams	2,190.40	REF:1085165_149675-Customer Refund	res
033382	4/26/2023 TS Ir	idustrial Supply	929.32	SUPPLIES	
033383	4/26/2023 Unit	ed Parcel Service	14.66	SHIPPING	
033384	4/26/2023 USA	Blue Book	500.23	WWTP SUPPLIES	
033385	4/26/2023 WES	I Consultants, Inc.	856.00	4S RANCH DAM INUNDATION STUDY	Yes
033387	4/26/2023 Jero	ESTATE REDEVELOPERS INC	51.29 849.04	RM REFUND: DEBIT00000000575	
EFT00000000445	4/5/2023 Sout	hern Counties Lubricants, LLC.	6.531 B5	UNLEADED & DIESEL FUEL	
EFT00000000446	4/5/2023 Volt	Management Corp DBA	1,256.79	SDCWA INTERN W/E 3/10/23	
EET000000000447	4/5/2023 Pars		15 116 63	Preliminary and Final Design Services - Unit A, No. RSF Potable Pipeline	¥
	4/5/2025 1 415		13,110.03	Replacement Projects	Tes
EFT00000000448	4/5/2023 Softe	hoice	3,815.78	KNOWBE4 PHISHER SUBSCRIPTION	
EF100000000449	4/5/2023 West	ern Hose & Gasket	235.93	WTP SUPPLIES	Vere
EFT000000000451	4/12/2023 ACW	A - JPIA	142 964 85	5/23 GROUP INSURANCE PREMIUM	res
EFT00000000452	4/12/2023 Sout	hern Counties Lubricants, LLC.	7,140.85	UNLEADED & DIESEL FUEL	
EFT00000000453	4/12/2023 DLM	Engineering Inc	17,043.75	Potable Water & RW Master Plan Development (D120099)	Yes
EFT00000000454	4/12/2023 Mesa	Products	536.06	SUPPLIES	Yes
EFT00000000455	4/12/2023 B. W	eber Consulting LLC	4,961.26	IT CONSULTING SERVICES	
EFT00000000458	4/12/2023 EVOQ	aster-Carr Supply Co	6,357.58		Vor
EFT00000000458	4/12/2023 Semi	Torr Group, LLC	12.597.24	CIP pump replacement	Yes
EFT00000000459	4/12/2023 Sloar	Electric	5,730.27	WWTP ANOX MIXER MOTOR	Yes
EFT00000000460	4/12/2023 Calif.	Surveying & Drafting Supply	210.77	SUPPLIES	
EFT00000000461	4/12/2023 Woo	dard & Curran	15,639.13	SD Valley GW and WIIN NEPA Consulting Services	Yes
EF100000000462	4/12/2023 Volt	Management Corp DBA	652.42	SDCWA INTERN W/E 3/17/23	
EFT00000000464	4/12/2023 Trans	Sign. Inc.	70.00	FSIGNATURE ACCESS MANAGEMENT - 1 year	
EFT00000000465	4/12/2023 Marti	n Marietta Materials Inc	1.400.22	Bolts, washers, nuts, and other project supplies	Yes
EFT00000000466	4/12/2023 Softc	hoice	2,201.67	Microsoft Surface Laptop & Accessories	Yes
EFT00000000467	4/12/2023 CDW	Government Inc	66,746.82	Dell PowerProtect DD6400	Yes
EFT00000000468	4/12/2023 Noss	aman LLP	26,603.93	2/28 LEGAL SERVICES	Yes
EFT00000000469	4/12/2023 West	ern Hose & Gasket r for Rooplo	942.90	SUPPLIES	Yes
EFT000000000471	4/19/2023 Brow	n & Bigelow	2 077 43	OMWD UNFORM SHIRTS	
EFT00000000472	4/19/2023 Evoq	Ja Water Technologies	258.60	DEL DIOS SPS VAPORLINK SVCS	
EFT00000000473	4/19/2023 Cybe	linkASP Technology	8,929.01	DYNAMICS & CIS HOSTING SVCS + DEDICATED SERVERS	
EFT00000000474	4/19/2023 Volt I	Management Corp DBA	1,957.80	SDCWA INTERN W/E 3/17 & 3/24	
EFT00000000475	4/19/2023 Rutar	n & Tucker, LLP	3,060.00	San Dieguito Desal GW Project	Yes
EFT00000000476	4/19/2023 Nobe	Systems	1,100.00	GIS UPDATES	
EF100000000477	4/19/2023 CDW	Government Inc	6,618,20	Zoom Meetings - Biz - 1 Year Prepay	Yes
EFT00000000478	4/19/2023 Univa		2,240.00		
EFT000000000480	4/26/2023 Stand		5,050.50 4 069 94		
EFT00000000481	4/26/2023 West	america Communications Inc	5 282 36	3/23 WATCHING WATER	
EFT00000000482	4/26/2023 Evoq	Ja Water Technologies	276.76	WWTP HEADWORKS PM SERVICES	
EFT00000000483	4/26/2023 BlueV	Vater Strategies IIc	B0.500.00	Lobbying & Consulting Services	Yes
EFT00000000484	4/26/2023 Nexu	sTek Phoenix	4,819.50	CLOUD SUPPORT	105
EFT00000000485	4/26/2023 AVI 5	ystems, Inc.	3,270.86	AVI Systems Engineering Services	Yes
EFT00000000486	4/26/2023 RS AN	IERICAS INC.	609.73	SUPPLIES IT	
EFT00000000487	4/26/2023 Nobe	Systems	144,160.00	GEOVIEWER ANNUAL SUBSCRIPTION	
EFT000000000488	4/26/2023 CDW	Government Inc	42.37	SUPPLIES	
EFT00000000489	4/26/2023 Nossa	iman LLP	6,750.00	LO88YING SERVICES	
EFT00000000490	4/26/2023 Dell C	omputers	6,157.33	Dell Networking S4148 support renewal	Yes
EFT000000000491	4/26/2023 Valley	Construction Management	18,406.50	Additional ROW Inspection Technician Services	Yes
EF100000000492	4/26/2023 Water	for People	66.00	WTRPL 4/27/2023	
		-	\$1,704,392.41	V	

### Olivenhain Municipal Water District Monthly Directors Fee and Reimbursed Expenses for Directors and Staff April 2023

						Total	
	Payment	Check#/	Meals &	Travel &		Reimbursed	
<u>Name</u>	<u>Date</u>	Credit Card	Lodging	<u>Transport</u>	<u>Other</u>	<u>Expenses</u>	Directors Fee
Director Guerin			0.00	0.00	0.00	0.00	750.00
		-	0.00	0.00	0.00	0.00	750.00
Director Hahn			0.00	0.00	0.00	0.00	300.00
		-	0.00	0.00	0.00	0.00	300.00
Director Meyers		-	0.00	0.00	0.00	0.00	1.050.00
Director Weyers		-	0.00	0.00	0.00	0.00	1,050.00
		5	0.00	0.00	0.00	0.00	1,030.00
Director San Antonio		_	0.00	0.00	0.00	0.00	150.00
			0.00	0.00	0.00	0.00	150.00
Director Watt			0.00	0.00	0.00	0.00	750.00
		-	0.00	0.00	0.00	0.00	750.00
		=	****				
General Manager Thorner			0.00	0.00	0.00	0.00	
		-	0.00	0.00	0.00	0.00	
Human Resources Manager Joslin		-	0.00	0.00	0.00	0.00	
		=	0.00	0.00	0.00	0.00	
Finance Manager Selamat			0.00	0.00	0.00	0.00	
			0.00	0.00	0.00	0.00	
Operations Manager Fulks			0.00	0.00	0.00	0.00	
			0.00	0.00	0.00	0.00	
Engineering Manager Stephenson			0.00	0.00	0.00	0.00	
			0.00	0.00	0.00	0.00	
						<u></u>	
Assistant General Manager Randall		_	0.00	0.00	0.00	0.00	1
			0.00	0.00	0.00	0.00	
Customer Service Manager Carnegie			0.00	0.00	0.00	0.00	
		<del></del>	0.00	0.00	0.00	0.00	V

\*Includes March and April Director fees.

Notes:

(1) Reviewed and discussed with the Finance Committee (02/05/18).

(2) Reimbursement of expenses are in compliance with Article 19 of the District's Administrative and Ethics Code.

(3) Travel and other expenses charged to District's credit cards and paid by the District are recorded and maintained separately.

### Olivenhain Municipal Water District MONTHLY CASH AND INVESTMENT SUMMARY As of March 31, 2023

Active Deposits							Book Value
Checking Accounts Cash Restricted for Specific Use Petty Cash/Disaster Preparedness						\$	3,015,889 4,559,958 1,491
Total Active Deposits						\$	7,577,337
Deposits Not Covered by Investm	ent	Policy					
Cash with Fiscal Agents							3,416,317
<u>Investments</u>		Face <u>Value</u>	Market <u>Value</u>	(	Current <u>Yield</u>		
LAIF	\$	9,350,737	9,176,713		2.83%	\$	9.350.737
CAMP - US Bank		23,146,181	23,146,181		4.80%	·	23,146,181
Money Market Funds		2,205,302	2,205,302		4.61%		2,205,302
Medium Term Notes		500,000	493,565		2.33%		497,940
Municipal Bonds		1,000,000	1,014,220		4.93%		1,216,760
U.S. Treasury Securities		13,530,000	13,288,107		4.13%		13,294,356
U.S. Agency Securities		35,426,111	33,041,527		1.17%		35,381,024
Total Investments	\$	85,158,331	\$ 82,365,614		3.00%	\$	85,092,300
Total - All Deposits/Investments						\$	96,085,954 V
Maturity Analysis of Investments							
				E	Percent	-	<u>Balance</u>
Demand Deposits					40.8%	\$	34,702,220
Maturity within three menths and one		or			2.5%		2,156,967
Maturity beyond one year	ye	ai			19.4%		10,020,191
Total Invoctments					400.09/	÷	01,700,022
i otar investments					100.0%	\$	85,092,300 V
Weighted Average Days to	M	aturity			390		
Other Required Disclosures:							
Accrued interest receivable as of 03/	31/2	2023		\$	293,061		
The above investments are in accord approved by the Board in Decembe	anc er 20	e with the po 022.	ortfolio limitations	in th	e Investment Policy	/	

The District has sufficient funds on hand to meet the next 30 days' obligations.

### Olivenhain Municipal Water District PORTFOLIO LIMITATIONS ANALYSIS PER INVESTMENT POLICY March 31, 2023

			Book <u>Value</u>	Percent	Permitted <u>Percent</u>		In <u>Compliance?</u>
LAIF		\$	9,350,737	11.0%	50.0%	(1)	Yes
Investmen	t Pools: CAMP - US Bank		23,146,181	27.2%	30.0%		Yes
Money Market Funds			2,205,302	2.6%	20.0%	(2)	Yes
Medium Term Notes			497,940	0.6% 30.0		(3)	Yes
Municipal Bonds			1,216,760	1.4%	30.0%		Yes
U.S. Treas	sury Securities	13,294,356		15.6%	100.0%	(4)	Yes
U.S. Agen	cy Securities		35,381,024	41.6%	50.0%		Yes
FHLB	Federal Home Loan Bank		32,131,024	37.8%			
FNMA	Fannie Mae		2,250,000	2.6%			
FHLMC	Freddie Mac		1,000,000	1.2%			
Total	Investments	\$	85,092,300 V	100%	-		

### Note:

<sup>(1)</sup> No more than 50% of the total value of all District Investments or \$40 million.

<sup>(2)</sup> May not exceed 5% in any money market fund.

(3) May not exceed 5% per issuer.

(4) No limit.

### TOTAL INVESTMENTS



\* Total may not add up to 100% due to rounding.

### Olivenhain Municipal Water District MONTHLY INVESTMENTS DETAIL March 31, 2023

#### ACTIVE DEPOSIT Book Value 3,015,889 Checking A/C: California Bank and Trust for General Purpose California Bank and Trust for Specific Purpose CAMP 2021A Bond Petty Cash/Disaster Preparedness Total - Active Deposits DEPOSITS NOT COVERED BY INVESTMENT POLICY Cash with Fiscal Agents: Union Bank - RAD 96-1 Refunding Bond Union Bank - 2015A Refunding Bond SRF Loan Union Bank - 2016A Refunding Bond Union Bank - 2021A WW Revenue Bond Union Bank - 2021B Refunding Bond

#### Total Deposits Not Covered by Investment Policy

		RATI	NG		D	ATE		Weighted Average Davs to		Stated	Current				
		Moody's	S&P	Purchase	Maturity	Next Call	Next S-U	Maturity	Call	Coupon	Yield	Market Value	Face Value		Book Value
INVESTMENT	s		-									•		•	
Invest, Pool	S: US Bank Calif. Asset Mo	a mt Pram (C	CAMP)		Demand			1			4 80%	\$ 23 146 181	\$ 23 146 181	¢	23 146 181
State Local A	gency investment Fund (LA	IF)	,		Demand			1			2.83%	9,176,713	9,350,737	÷	9,350,737
First America	in Government 31846V567				Demand			1			4.61%	2,205,302	2,205,302		2,205,302
912796YN3	ILS Tressury Bills	422	_	10/06/22	04/06/22			7		2.0.4%	2.0.49/	1 400 544	4 000 000		4 470 000
912796YU7	U.S. Treasury Bills	Aaa	-	10/13/22	04/06/23			14		3.94%	3.94% 4.08%	1,199,544	1,200,000		1,176,886
912796ZG7	U.S. Treasury Bills	Aaa	-	12/01/22	06/01/23			63		4.68%	4.72%	1.985.120	2.000.000		1 954 392
912796X53	U.S. Treasury Bills	Aaa	-	12/15/22	06/15/23			77		4.66%	4.70%	990,590	1,000,000		977,290
912796ZQ5	U.S. Treasury Bills	Aaa	-	12/22/22	06/22/23			84		4.65%	4.70%	1,979,560	2,000,000		1,954,680
912796XQ7	U.S. Treasury Bills	Aaa	-	01/13/23	07/13/23			105		4.74%	4.80%	1,973,760	2,000,000		1,954,100
912796729	U.S. Treasury Bills	Aaa	-	01/30/23	07/27/23			119		4.77%	4.84%	1,310,183	1,330,000		1,299,765
91282CBQ3	U.S. Treasury Notes	Aaa		02/10/23	09/30/24			550		4.93%	5.02%	982,270	1,000,000		976,000
912828YH7	U.S. Treasury Notes	Aaa	-	03/09/21	02/28/26			1.066		1.50%	1.56%	959 490	1,000,000		1 036 684
	•							.,				000,400	1,000,000		1,000,004
								71		4.06%	4.13%	\$ 13,288,107	\$ 13,530,000	\$	13,294,356
U.S. Agency	/ Securities														
3130AJZJ1	FHLB Callable	Aaa	AA+	09/02/20	08/25/23	Anytime		148	1	0.32%	0.33%	1.129.390	1.151.111		1 151 111
3130AS3J6	FHLB Callable	Aaa	AA+	05/24/22	11/24/23	05/24/23		239	55	2.50%	2.54%	541,129	550,000		550,000
313384QR3	FHLB Discount Note	Aaa	AA+	01/19/23	12/18/23			263		4.77%	4.93%	967,200	1,000,000		957,913
3135GAEU1	FNMA Callable	Aaa	AA+	02/13/23	02/09/24	08/09/23		316	132	5.13%	5.13%	998,510	1,000,000		1,000,000
3130AR109	FHLB Callable	Aaa	AA+	05/23/22	02/23/24	05/23/23		330	54	3.00%	3.05%	983,680	1,000,000		1,000,000
3130AL 6O2	FHI B Callable	Aaa	AA+	02/26/20	02/26/24	05/26/23 Anvtime		333	57	0.40%	0.42%	1,201,213	1,250,000		1,250,000
3130AMMV1	FHLB Callable	Aaa	AA+	06/03/21	06/03/24	06/03/23		431	65	0.40%	0.42%	475 485	500,000		500,000
3130ALHM9	FHLB Callable	Aaa	AA+	03/10/21	06/10/24	06/10/23		438	72	0.30%	0.32%	949,200	1,000,000		999.000
3130ANTP5	FHLB Callable	Aaa	AA+	09/16/21	09/16/24	06/16/23		536	78	0.50%	0.53%	943,560	1,000,000		1,000,000
3130ANSP6	FHLB Callable	Aaa	AA+	09/17/21	10/17/24	09/17/23		567	171	0.50%	0.53%	941,420	1,000,000		1,000,000
3130AKEW2	FHLB Callable	Aaa	AA+	11/04/20	11/04/24	Anytime		585	1	0.43%	0.46%	1,878,520	2,000,000		2,000,000
3130AMKE1	FILE Step-up Callable	Aaa	AA+	08/18/21	02/18/25	05/18/23	08/18/23	691	49	0.50%	0.53%	938,900	1,000,000		1,000,000
3134GWAQ9	FHLMC Callable	Aaa	AA+	07/28/20	07/28/25	07/28/23		700	120	0.00%	0.77%	933,070	1,000,000		1,000,000
3130AKGX8	FHLB Step-up Callable	Aaa	AA+	12/15/20	12/15/25	06/15/23	06/15/23	991	77	0.40%	0.43%	1.851.280	2,000,000		2 000,000
3130AKMD5	FHLB Callable	Aaa	AA+	01/26/21	01/26/26	04/26/23		1,033	27	0.50%	0.55%	905,190	1,000,000		999,500
3130AKU53	FHLB Callable	Aaa	AA+	01/28/21	01/28/26	04/28/23		1,035	29	0.52%	0.57%	905,580	1,000,000		1,000,000
3130AKN69	FHLB Callable	Aaa	AA+	01/28/21	01/28/26	01/28/24		1,035	304	0.50%	0.55%	905,070	1,000,000		1,000,000
3130AKVN3	FHLB Callable	Aaa	AA+	01/29/21	01/29/26	11/29/23		1,036	244	0.52%	0.57%	905,460	1,000,000		1,000,000
3130AKX43	FHLB Sten-un Callable	Aaa 4aa	AA+	02/12/21	02/12/26	05/12/23	None	1,050	43	0.51%	0.56%	903,520	1,000,000		1,000,000
3130AL7M0	FHLB Callable	Aaa	AA+	02/24/21	02/24/26	05/24/23	None	1,002	55	0.63%	0.69%	905 780	2,000,000		2,000,000
3130AKYR1	FHLB Callable	Aaa	AA+	02/25/21	02/25/26	02/25/24		1,063	332	0.55%	0.61%	903,720	1,000,000		1,000,000
3130AL6K5	FHLB Callable	Aaa	AA+	02/25/21	02/25/26	02/25/24		1,063	332	0.58%	0.64%	904,530	1,000,000		1,000,000
3130ALD76	FHLB Callable	Aaa	AA+	02/25/21	02/25/26	05/25/23		1,063	56	0.70%	0.77%	907,720	1,000,000		1,000,000
3130ALCW2	FHLB Callable	Aaa	AA+	02/25/21	02/25/26	02/25/24		1,063	332	0.63%	0.69%	905,740	1,000,000		998,500
3130ALGJ7	FRLB Callable FHLB Step-up Callable	Aaa	AA+	03/23/21	03/23/26	04/23/23	03/30/34	1,089	24	1.00%	1.10%	886,811	975,000		975,000
3130ALVC5	FHLB Step-up Callable	Aaa	AA+	04/14/21	03/30/20	04/14/23	03/30/24	1,090	92	0.75%	0.81%	925,670	1,000,000		1,000,000
3130APAY1	FHLB Callable	Aaa	AA+	10/21/21	10/21/26	04/21/23	04/14/20	1.301	22	1.10%	1.22%	903 100	1 000 000		1,000,000
3130APL78	FHLB Callable	Aaa	AA+	10/28/21	10/28/26	04/28/23		1,308	29	1.38%	1.51%	911,380	1,000,000		1,000,000
3130AVCS9	FHLB Callable	Aaa	AA+	03/29/23	03/29/28	12/29/23		1,826	274	6.00%	5.95%	1,008,570	1,000,000		1,000,000
								832		1.09%	1 17%	\$ 33 041 527	\$ 35 426 111	-	35 381 024
									•.				,,	Ŧ	55,567,024
<u>Medium Terr</u>	n Notes														
740816AJ2	Pres & Fellows of Harvard	Aaa	AAA	05/06/22	10/01/23	04/01/23		185	2	2.30%	2.33%	493,565	500,000		497,940
								3	2	2.30%	2.33%	\$ 493,565	\$ 500,000	\$	497,940
Municipal Bo	onds														
882724RA7	LEXAS ST PUB FIN AUTH	H Aaa	AAA	10/30/20	10/01/25			916		5.00%	4.93%	1,014,220	1,000,000		1,216,760
							-	32	-	5.00%	4.93%	\$ 1,014,220	\$ 1,000,000	\$	1,216,760
	Total Investments						-	390	-	2.90%	3.00%	\$ 82,365,614	\$ 85,158,331	\$	85,092,300
TROTAL - AVEL	DEPOSITIS AND INV	वन्त्र ()) (म))) ()	nis .								-				96,085,954

167,377 4,392,580 1,491 7,577,337

825,027 941,827 964,216 287,866 107,319 290,062

3,416,317

### Olivenhain Municipal Water District INVESTMENTS TRANSACTION March 31, 2023

### PURCHASED

DATE				Stated	Current			
Purchase	Maturity	Call	Step-Up	Investment Description	Coupon	Yield	Face Value	Book Value
03/29/23	03/29/28	12/29/23		FHLB Callable	6.000%	5.949%	1,000,000	1,000,000

### MATURED / REDEEMED / CALLED

	DAT	E			Stated	Current		
Redemption	Maturity	Call	Step-Up	Investment Description	Coupon	Yield	Face Value	Book Value
03/30/23	03/30/23			U.S. Treasury Bills	3.907%	3.921%	2,000,000	1,961,780

### Olivenhain Municipal Water District UNAUDITED CASH POSITION BY FUNDING SOURCES As of March 31, 2023

Water Funds (Potable & Recycled)	Balance
10050-100 Cash - Petty Cash Fund	1,491
10010-100 Cash - Operating Fund	16,596,361
10030-100 Cash - Capital and Equipment Fund	36,722,894
10040-100 Cash - Rate Stabilization Fund	11,834,190
10080-100 Cash - Pension Stabilization Fund	438,169
10060-100 Cash - Deposit Work for Other	126,333
14000-500 Restricted Cash - Capacity Fee Fund	6,569,466
Total Water Funds (Potable & Recycled)	72,288,903
Wastewater Funds	
10010-110 Wastewater - Operating Fund	3,645,164
10030-110 Wastewater - Capital Replacement Fund	9,486,829
10040-110 Wastewater - Rate Stabilization Fund	2,648,492
10080-110 Cash - Pension Stabilization Fund	40,291
Total Wastewater Funds	15,820,776
Non Fiscal Agent Debt Service Cash	
14020-570 Cash non-agent - RAD 96-1	156,177
10070-561 Cash non-agent - Bond 2015A	621
10070-581 Cash non-agent - Bond 2016A	10,580
14020-521 Cash non-agent - Bond 2021A	4,392,580
14020-522 Cash non-agent - Bond 2021B	-
Total Non Fiscal Agent Debt Service Cash	4,559,958
Debt Service Funds	
14030-510 SRF Loan - Fiscal Agent	964,216
14105-570 Redemption fund - RAD 96-1	755,779
14110-570 Reserve fund - RAD 96-1	69,248
14100-561 Redemption fund - Bond 2015A	941,827
14100-581 Redemption fund - Bond 2016A	287,866
14100-521 Redemption fund - Bond 2021A	107,319
14100-522 Redemption fund - Bond 2021B	290,062
Total Debt Service Funds	3,416,317
TOTAL FUND BALANCES	96,085,954

Agenda Item C-b



### Memo

Date:May 17, 2023To:Olivenhain Municipal Water District Board of DirectorsFrom:Rainy K. Selamat, Finance ManagerVia:Kimberly A. Thorner, General ManagerSubject:CONSIDER ADOPTION OF A MOTION APPROVING THE DISTRICT'S<br/>CONSOLIDATED STATEMENT OF NET POSITION, CONSOLIDATED<br/>STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN NET POSITION,<br/>CONSOLIDATED STATEMENT OF CASH FLOWS, CONSOLIDATED ACTUAL VS<br/>BUDGET SUMMARY, AND CONSTRUCTION IN PROGRESS REPORT

The following unaudited monthly financial reports are enclosed for review and approval by the Board of Directors:

- February 2023 Monthly Statement of Net Position Report.
- February 2023 Statement of Revenues, Expenses, and Changes in Net Position Report.
- February 2023 Consolidated Statement of Cash Flows
- February 2023 Monthly Consolidated Actual VS Budget Summary and explanation of significant variance report.
- February 2023 Construction In Progress Report.

### OLIVENHAIN MUNICIPAL WATER DISTRICT Statement of Net Position (Unaudited) All Funds 2/28/2023

### Assets

Unrestricted assets: Cash and cash equivalents	¢00 212 140
Accounts receivable - water and sewer, net	4,138,965
Interest Receivable	238,459
Other receivables	184,365 157 251
Lease receivable	394,170
Inventories	1,693,343
Prepaid expenses and deposits	1,103,544
Total unrestricted assets	08,222,238
Restricted assets:	
Cash and cash equivalents	14,152,679
Grants receivable	50,731 89,492
Total restricted assets	14,292,902
Total current assets	102,515,140
Noncurrent assets:	
Capital assets, nondepreciable Capital assets, depreciable/amortizable, not	47,660,464
Capital assets, depreciable/amonizable, net	377 170 369
Prepaid bond insurance	18,386
Lease receivable	9,955,712
I otal noncurrent assets	387,144,467
lotar assets	489,659,607
Deferred Outflows of Resources	
Deferred amount on refunding	(910,667)
Deterred amount from pension	(2,731,692)
rotal deferred outnows of resources	(3,642,359)
Liabilities	
Current Liabilities	
Liabilities payable from unrestricted assets:	
Accounts payable	4,483,295
Customer deposits	372,460
Payable related to work in progress	90,755
Compensated absences, current portion	996,839
Wastewater Revenue Bonds 2021A	207 240
Wastewater Refunding Revenue Bonds 2021B	569,840
Water Revenue Refunding Bonds 2016A	
Water Revenue Relanding Donas 2010A	560,000
Water Revenue Refunding Bonds 2015A	560,000 1,845,000
Water Revenue Refunding Bonds 2010A Special Assessment Debt with Government Commi Notes Pavable	560,000 1,845,000 883,019 827,001
Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total liabilities payable from unrestricted assets	560,000 1,845,000 883,019 <u>827,001</u> 11,250,014
Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total liabilities payable from unrestricted assets	560,000 1,845,000 883,019 827,001 11,250,014
Water Revenue Refunding Bonds 2010A Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total liabilities payable from unrestricted assets	560,000 1,845,000 883,019 827,001 11,250,014
Water Revenue Refunding Bonds 2010A Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total liabilities payable from unrestricted assets Liabilities payable from restricted assets: Interest payable Total liabilities payable from restricted assets	560,000 1,845,000 883,019 <u>827,001</u> <u>11,250,014</u> <u>371,870</u> <u>371,870</u>
Water Revenue Refunding Bonds 2010A Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total liabilities payable from unrestricted assets Liabilities payable from restricted assets: Interest payable Total liabilities payable from restricted assets Total current liabilities	560,000 1,845,000 883,019 827,001 11,250,014 371,870 371,870 11,621,884
Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total liabilities payable from unrestricted assets Liabilities payable from restricted assets: Interest payable Total liabilities payable from restricted assets Total current liabilities	560,000 1,845,000 883,019 827,001 11,250,014 371,870 371,870 11,621,884
Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total liabilities payable from unrestricted assets Liabilities payable from restricted assets: Interest payable Total liabilities payable from restricted assets Total current liabilities	560,000 1,845,000 883,019 827,001 11,250,014 371,870 371,870 11,621,884
Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total liabilities payable from unrestricted assets Liabilities payable from restricted assets: Interest payable Total liabilities payable from restricted assets Total current liabilities Noncurrent liabilities Noncurrent liabilities Noncurrent liabilities	560,000 1,845,000 883,019 <u>827,001</u> 11,250,014 <u>371,870</u> <u>371,870</u> <u>11,621,884</u> 1,002,306 7,819,768
Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total liabilities payable from unrestricted assets Liabilities payable from restricted assets: Interest payable Total liabilities payable from restricted assets Total current liabilities Noncurrent liabilities Compensated absences Net pension liability Long-term debt, excluding current portion:	560,000 1,845,000 883,019 827,001 11,250,014 371,870 371,870 11,621,884 1,002,306 7,819,768
Water Revenue Refunding Bonds 2010A Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total liabilities payable from unrestricted assets Liabilities payable from restricted assets: Interest payable Total liabilities payable from restricted assets Total current liabilities Noncurrent liabilities Noncurrent liabilities Noncurrent liabilities Noncurrent liability Long-term debt, excluding current portion: Wastewater Revenue Bonds 2021A	560,000 1,845,000 883,019 827,001 11,250,014 371,870 371,870 11,621,884 1,002,306 7,819,768 4,589,160
Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total liabilities payable from unrestricted assets Liabilities payable from restricted assets: Interest payable Total liabilities payable from restricted assets Total current liabilities Noncurrent liabilities Compensated absences Net pension liability Long-term debt, excluding current portion: Wastewater Revenue Bonds 2021A Wastewater Refunding Revenue Bonds 2021B	560,000 1,845,000 883,019 827,001 11,250,014 371,870 371,870 11,621,884 1,002,306 7,819,768 4,589,160 2,944,060 12,020,522
Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total liabilities payable from unrestricted assets Liabilities payable from restricted assets: Interest payable Total liabilities payable from restricted assets Total current liabilities Noncurrent liabilities Compensated absences Net pension liability Long-term debt, excluding current portion: Wastewater Revenue Bonds 2021A Wastewater Refunding Revenue Bonds 2021B Water Revenue Refunding Bonds 2016A Water Revenue Refunding Bonds 2016A	560,000 1,845,000 883,019 827,001 11,250,014 371,870 371,870 11,621,884 1,002,306 7,819,768 4,589,160 2,944,060 13,068,598 11,547,492
Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total liabilities payable from unrestricted assets Liabilities payable from restricted assets: Interest payable Total liabilities payable from restricted assets Total current liabilities Noncurrent liabilities Compensated absences Net pension liability Long-term debt, excluding current portion: Wastewater Revenue Bonds 2021A Wastewater Refunding Revenue Bonds 2021B Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi	560,000 1,845,000 883,019 827,001 11,250,014 371,870 371,870 11,621,884 1,002,306 7,819,768 4,589,160 2,944,060 13,068,598 11,547,483 3,711,672
Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total liabilities payable from unrestricted assets Liabilities payable from restricted assets: Interest payable Total liabilities payable from restricted assets Total current liabilities Noncurrent liabilities Compensated absences Net pension liability Long-term debt, excluding current portion: Wastewater Revenue Bonds 2021A Wastewater Refunding Revenue Bonds 2021B Water Revenue Refunding Bonds 2016A Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable	560,000 1,845,000 883,019 827,001 11,250,014 371,870 371,870 11,621,884 1,002,306 7,819,768 4,589,160 2,944,060 13,068,598 11,547,483 3,711,672 9,929,472
Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total liabilities payable from unrestricted assets Liabilities payable from restricted assets: Interest payable Total liabilities payable from restricted assets Total current liabilities Noncurrent liabilities Noncurrent liabilities Noncurrent liability Long-term debt, excluding current portion: Wastewater Revenue Bonds 2021A Wastewater Revenue Bonds 2021B Water Revenue Refunding Bonds 2016A Water Revenue Refunding Bonds 2015A Special Assessment Debt with Government Commi Notes Payable Total noncurrent liabilities	560,000 1,845,000 883,019 827,001 11,250,014 371,870 371,870 11,621,884 1,002,306 7,819,768 4,589,160 2,944,060 13,068,598 11,547,483 3,711,672 9,929,472 54,612,519

O	LIVENHAIN MUNICIPAL WATER DISTRICT Statement of Net Position (Unaudited) All Funds 2/28/2023
Deferred Inflows of Resources Deferred amounts on pension Deferred amounts on leases	6,995,887 9,796,852
Total deferred inflows of resources	16,792,739
Net Position	
Investment in Capital Assets, net of related debt Restricted Net Position Unrestricted Net Position Total Net Position	331,773,245 9,546,277 <u>68,955,301</u> 410,274,824

### OLIVENHAIN MUNICIPAL WATER DISTRICT Statement of Revenues, Expenses and Changes in Net Position (Unaudited) All Funds For the Eight Months Ending 2/28/2023

	2023
Operating Revenues:	
Water Sales	\$36,951,001
Sewer Charges	3.262.852
Other Water Operating revenues	482,485
Total Operating Revenues	40,696,338
Operating Expenses	
Cost of Purchased Water Sold	20,237,468
Pumping and Water Treatment	2,993,200
Transmission and Distribution	3,219,242
Sewer Collection and Treatment	1,366,303
Elfin Forest Recreation Operations	276,182
Facilities Maintenance	819,485
Customer Service	1,281,624
General and Administrative	5,178,559
Depreciation and Amortization	7,347,600
Total Operating Expenses	42,719,664
Operating Income (Loss)	(2,023,326)
Nonoperating Revenues (Expenses)	
Investment income	1,157,344
Property taxes	2,776,512
Capacity charges	965,509
Benefit assessments	639,578
Other nonoperating revenues	563,199
Interest expense, net	(820,330)
Other nonoperating expenses	(420,866)
Total nonoperating revenues (expenses)	4,860,947
Income before capital contributions	2,837,621
Capital contributions	111,818
Change in net position	2,949,438
Net Position, Beginning of year	407,325,385
Net Position, End of year	410,274,824
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### OLIVENHAIN MUNICIPAL WATER DISTRICT CONSOLIDATED STATEMENT OF CASH FLOWS (UNAUDITED) AS OF FEBRUARY 28, 2023

CASH FLOWS FROM OPERATING ACTIVITIES:	
Receipts from water and sewer customers	\$ 46,131,521
Payments for water	(22,794,982)
Payments for services and supplies	(5,921,336)
Payments for employee wages, benefits and related costs	(10,078,777)
Net cash provided by operating activities	7,336,425
CASH FLOWS FROM NONCAPITAL AND RELATED FINANCING ACTIVITIES:	
Property taxes and benefit assessments received	3,404,651
Net cash provided by noncapital and related financing activities	3,404,651
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES:	
Acquisition and construction of capital assets	(9,382,709)
Proceeds from Grants	253,028
Principal paid on long-term debt	(1,545,131)
Interest paid on long-term debt	(580,669)
Capacity charges received	965,509
Other capital financing receipts (expenses)	250,222
Net cash used by capital and related financing activities	(10,039,750)
CASH FLOWS FROM INVESTING ACTIVITIES:	
Investment income received	1,063,012
Net cash provided (used) by investing activities	1,063,012
Net increase (decrease) in cash and cash equivalents	1,764,338
Cash and cash equivalents, beginning of year	55,947,025
Cash and cash equivalents, end of period	\$57,711,363
FINANCIAL STATEMENT PRESENTATION:	
Cash and cash equivalents - current assets	45,890,403
Cash and cash equivalents - restricted assets	11,820,960
Total cash and cash equivalents	\$ 57,711,363

CASH AND CASH EQUIVALENTS RECONCILIATION			
		Balance Includes Mkt Securities	Without Mkt Securities
Unrestricted cash	2/28/2023	80,312,140	45,890,403
Restricted cash	2/28/2023	14,152,679 🗸	11,820,960
Total cash and cash equivalents			57,711,363

#### OLIVENHAIN MUNICIPAL WATER DISTRICT Consolidated Actual vs Budget Summary For the Eight Months Ending 2/28/2023

	Approved Budget	Actual YTD	Budget YTD	Variance Amt	Variance %	Notes
Operating Revenues						
Commodity Water Sales	\$43,373,000.00	\$26,314,894.93	\$28,641,000.00	(\$2,326,105.07)	(8.1%)	1
Water Fees and Services	17,376,000.00	11,118,591.77	11,479,600.00	(361,008.23)	(3.1%)	2
Sewer Revenue	5,598,000.00	3,262,851.74	3,388,200.00	(125,348.26)	(3.7%)	3
Total Operating Revenues	66,347,000.00	40,696,338.44	43,508,800.00	(2,812,461.56)	(6.5%)	
Operating Expenses						
Purchased Water - Variable	23 798 000 00	14 588 508 62	15 503 640 00	1 005 131 38	E 1%	4
Purchased Water - Fixed	8 443 000 00	5 649 959 60	5 630 600 00	(19 350 60)	(0.4/0	
General Manager Dent	2 044 000 00	1 302 812 88	1 362 000.00	(10,359.00)	(0.3%)	4
Engineering Dent	2,044,000.00	1,302,012.00	1,302,000.00	39,107.12	4.3%	4
Einance Dept	2,420,000.00	1,323,090.72	1,020,000.00	290,701.20	10.3%	4
Customer Service Dept	1,033,000.00	1,042,100.07	1,088,880.00	46,693.93	4.3%	4
Human Resources Dent	3,003,000.00	1,781,585.11	2,003,088.00	221,502.89	11.1%	4
Mater Operations and Meintenance Daut	11 774 500 00	528,999.36	522,304.00	(0,695,36)	(1.3%)	4
Parke Dant	11,774,500.00	7,316,327.11	7,848,552.00	532,224.89	6.8%	4
Parks Dept	478,000.00	302,511.23	319,728.00	17,216.77	5.4%	4
Other Operating Expenses	50,000.00		33,600.00	33,600.00	100.0%	
Sewer Operations and Maintenance Dept	2,974,000.00	1,958,951.74	1,983,376.00	24,424.26	1.2%	4
Recycled Water Operations Dept	1,287,000.00	790,687.17	859,760.00	69,072.83	8.0%	4
Paygo Transfers						
Water Operations	6,400,000.00	4,264,000.00	4,264,000.00		0.0%	
Sanitation Operations	1,590,000.00	1,064,000.00	1,064,000.00		0.0%	
Recycled Operations	2,200,000.00	1,464,000.00	1,464,000.00		0.0%	
Capitalized Operations Expenditures	(1,843,000.00)	(657,763.37)	(1,232,560.00)	(574,796.63)	46.6%	5
Total Operating Expenses	67,042,500.00	42,719,664.24	44,425,568.00	1,705,903.76	3.8%	
Net Operating Income (Loss)	(695,500.00)	(2,023,325.80)	(916,768.00)	(1,106,557.80)		
Nonoperating Revenues						
Water Funds	6.033.000.00	4 004 030 09	3 102 560 00	901 470 09	29.1%	6
Debt Service Funds	1 044 000 00	767 422 43	641 140 00	126 282 43	19.7%	7
Sewer Funds	32 000 00	69 701 55	21 600 00	120,202.45	222 7%	
Recycled Water Funds	52,000.00	89 405 98	35.040.00	54 365 08	155 2%	
Total Nonoperating Revenue	7,161,000.00	4,930,560.05	3,800,340.00	1,130,220.05	29.7%	
Nononerating Expanse						
Connecting Expense	00.000.00	05 504 75	10 0 10	(F 304	(20.20)	
Capacity ree runds Dobt Service Funds	30,000.00	25,561.70	19,840.00	(5,721.70)	(28.8%)	
Debi Service Funds	1,569,000.00	8/5,627.37	1,046,000.00	1/0,372.63	16.3%	
Fotable Water Funds	610,000.00	340,006.51	406,400.00	66,393.49	16.3%	9
lotal Nohoperating Expense	2,209,000.00	1,241,195.58	1,472,240.00	231,044.42	15.7%	
nc before Cap Fees and Capital Contributions	4,256,500.00	1,666,038.67	1,411,332.00	254,706.67		
Capacity Fee Funds	356,000.00	1,171,582.06				
Capital contributions	1,897,000.00	111,817.81				
Change in Net Position	-	2,949,438.54				
	-					

### OLIVENHAIN MUNICIPAL WATER DISTRICT Actual vs Budget Variance For the Eight Months Ending 2/28/2023

- 1. Water Sales revenue was lower than Budget YTD by approximately \$2.3 million resulting in an unfavorable variance of 8.1%. The negative variance is primarily due to lower water consumption than budgeted due to excessive amounts of rainfall throughout the winter months. Consequently, purchased water variable expenses were also lower than the Budget YTD for a favorable variance of \$1 million or 6.4%.
- 2. Water Fees and Services revenue were lower than Budget YTD primarily due to delays in selling excess treatment services to Vallecitos Water District (VWD) from the David C. McCollom Water Treatment Plant. The delays were due to the actual VWD's planned system shutdown being longer than assumed in the Budget YTD amount.
- 3. Sewer Revenue was lower than Budget YTD for an unfavorable variance due to the timing of receipts from the County. 4S Ranch and Rancho Cielo Sanitation Districts' sewer service fees are collected on the County's tax roll when customers pay their property tax to the County. Actual YTD sewer service revenue will be closer to the Budget YTD amount as the year progresses.
- 4. Actual departmental expenses varied from the Budget YTD amounts due to the timing of actual operating expenses. The Budget YTD amounts assume expenditures are incurred evenly throughout the year.
- 5. Actual Capitalized Operating Expenses were lower than the Budget YTD amount due to the timing of capitalized labor spent on District projects. The Budget YTD amount assumes expenditures are incurred evenly throughout the year.
- Actual Non-operating Revenues Water Funds were greater than Budget YTD for a positive variance due to a higher amount of interest income earned on investments from increased yields on short-term investments, the timing of property tax revenues received from the County, and miscellaneous (non-recurring) income from non-operating activities such as the SDCWA refunds of \$499,000.
- 7. Actual Non-operating Revenues Debt Service Funds, Sewer Funds, and Recycled Water Funds were greater than Budget YTD for a positive variance due to a higher amount of interest income earned on investments from increased yields on short-term investments.
- 8. Actual Non-operating Expenses Debt Service Funds were lower than the Budget YTD amount for a positive variance because amortization of the issuance premium is not included in the 2015A Bonds interest expense.
- Actual Non-operating Expenses Potable Water Funds were lower than the Budget YTD amount for a positive variance due to a lower amount of Rate Reimbursement Credits issued to customers than anticipated in the budget due to decreased consumption as stated in note 1 above.

### Construction Work In Progress Report as of 2/28/2023

Project Name	Budget	Appropriation to Date	Expenditures &	(Over) / Under	
			Encumbrance		
Replace Neighborhood 1 SPS	\$7,732,000	\$7,732,000	\$7,223,533	\$508,467	
Manchester Recyc PL Exten.	\$5,225,000	\$5,225,000	\$4,561,123	\$663,877	
San Dieguito Desalination	\$42,837,000	\$4,562,000	\$4,493,159	\$68,841	
HOA Pipeline Ext - CB, VP, SH	\$2,645,000	\$2,145,000	\$232,764	\$1,912,236	
RSFe Rd Unit A North PL	\$2,294,000	\$1,450,000	\$340,958	\$1,109,042	
Replace Pipelines	\$8,983,000	\$1,305,000	\$193,568	\$1,111,432	
Replace valves	\$8,856,000	\$1,085,000	\$619,972	\$465,028	
Eixed Rese AMI	\$1,040,000	\$1,040,000	\$274,194	\$765,806	
Replace DOMM/TR Membranen	\$2,416,000	\$853,000	\$520,838	\$332,162	
Hydropower Turbine Refurb	\$8,970,000	\$800,000	\$771,662	\$28,338	
DCMWTP PH Control System	\$200,000	\$800,000	\$773,300	\$26,700	
Replace Headworks Manual Svs	\$3 160 000	\$737,000	\$090,000	940,434 \$259,175	
DCMWTP Condition Assessment	\$585,000	\$019,000	\$576.083	3230,173 \$2,017	
Parking & Access Improvements	\$575,000	\$532,000	\$97,0,905	\$439,505	
Residuals Handling Bldg Canopy	\$438.000	\$438,000	\$76,615	\$361 385	
Pot & Recycled Master Plan	\$583,000	\$438,000	\$423,702	\$14 298	
Lone Jack PRS	\$385.000	\$385.000	\$398 144	(513 144)	(1) See note below
Replace Potable Meters	\$4,921,000	\$315.000	\$255,709	\$59 291	
DCMWTP Analyzer Replace.	\$727,000	\$305.000	\$292.367	\$12,633	
Steel Mains Protection	\$3,375,000	\$281,000	\$224,373	\$56.627	
DCMWTP 2nd Stage Memb. Train	\$845,000	\$270,000	\$11,231	\$258,769	
District-Wide Scada Upgrades	\$256,000	\$256,000	-	\$256,000	
Backup Generator SFV RW Pump	\$250,000	\$250,000	-	\$250,000	
Ext. 153 Flow Meter	\$385,000	\$230,000	\$62,708	\$167,292	
4SWRF Emergency Wiring Replmnt	\$240,000	\$224,000	\$63,773	\$160,227	
Network User Enhancements	\$200,000	\$200,000	\$199,159	\$841	
Village Park PRS	\$960,000	\$200,000	\$114,361	\$85,639	
Gardendale PRS	\$960,000	\$200,000	\$110,650	\$89,350	
Cielo SPS Flow Meters	\$443,000	\$193,000	\$453	\$192,547	
District-Wide PLC replacements	\$1,066,000	\$180,000	\$174,051	\$5,949	
District-Wide PLC Repl (WW)	\$901,000	\$180,000	\$173,108	\$6,892	
Rancho Cielo Pipeline Replmnt	\$831,000	\$173,000	-	\$173,000	
Collection System SPS Rehab	\$912,000	\$169,000	-	\$169,000	
Replace WW Pumps/ Motors/Equip	\$2,024,000	\$169,000	\$74,116	\$94,884	
Reache La Cime/Alice Conver Bl	\$1,175,000	\$165,000	\$25,335	\$139,665	
Colom 14" Pipela Cond. Assess	\$300,000	\$165,000	\$63,152	\$101,848	
Benjace Meter Anoder	\$150,000	\$150,000	-	\$150,000	
Encipites Blud Insp. & Repair	\$1,754,000	\$146,000	\$60,792	\$59,208	
4S Ranch Pine Replacement	\$882,000	\$145,000	-	\$145,000	
Chlorine Gen Rm Lining Rehab	\$125,000	\$135,000	\$1.839	\$133,000	
District-Wide Facility Securit	\$240,000	\$120,000	\$29,368	\$90,632	
SWPPP Facility Improvements	\$100.000	\$100,000	\$26,280	\$73,720	
Gaty II Safety Improvements	\$590,000	\$99.000	\$2,717	\$96,283	
Replace Pot. Pumps and Motors	\$1,022,000	\$94.000	\$58.272	\$35.728	
Palms I and II Reservoirs	\$1,307,000	\$73,000	\$72,785	\$215	
4S WRF Scada Upgrades	\$64,000	\$64,000	-	\$64,000	
Recycled Conversions	\$719,000	\$60,000	\$57,283	\$2,717	
Replace PRS Valves	\$602,600	\$56,600	\$11,845	\$44,755	
EFRR Parking Lot Repair	\$55,250	\$55,250	\$53,486	\$1,764	
Landscape HQ Courtyards	\$54,000	\$54,000	\$50,126	\$3,874	
Rancho Cielo Manhole Lining	\$586,000	\$48,000	-	\$48,000	
Pot. Office Furniture/Equip.	\$47,000	\$47,000	\$12,357	\$34,643	
Rehab Concrete Tanks	\$904,000	\$45,000	\$69,193	(\$24,193)	(2) See note below
vvanket RW Reservoir Rehab	\$150,000	\$43,000	-	\$43,000	
145 Physical Security Upgrades	\$210,000	\$40,000	•	\$40,000	
Durivy IP Backpulse Pipeln Repair	\$34,000	\$34,000	\$32,191	\$1,809	
Privsical Security Opgrades	\$250,000	\$25,000	\$1,847	\$23,153	
Meter Replacement Recycled	\$231,000	\$25,000	\$1,615	\$23,385	
Weiter Replacement, Recycled	\$241,000	\$21,000	\$11,648	\$9,352	
4S System Manhole Lining	\$98,400	\$∠0,400 ¢17,000	\$20,395	\$5	
WW Master Plan	¢200,000 \$110,000	\$17,000 \$10,000	- 61 053	\$17,000 \$9.140	
То	tal: \$130 224 250	\$10,000	\$1,000	0, 148 \$11 638 442	
L	ψ100,224,200	\$35,105,230	459,010,031	#11,030,413	

Notes: (1) Overage is due to more staff labor on the project than anticipated to complete the project in a timely manner. Overage is within the manager approval limit. (2) Project overage due to encumbrance from prior fiscal year that was not rolled forward. More work carried over from the prior fiscal than staff anticipated. Overage within manager approval limit.

Agenda Item C-c



### Memo

Date: May 17, 2023

To: Olivenhain Municipal Water District Board of Directors

From: Kimberly A. Thorner, General Manager

Subject: CONSIDER ADOPTION OF A RESOLUTION HONORING VISTA IRRIGATION DISTRICT'S 100-YEAR ANNIVERSARY

### Purpose

The purpose of this agenda item is to honor Vista Irrigation District's 100-year anniversary and to celebrate a "Century of Service and Stewardship."

### Recommendation

Staff recommends the board show its support and honor Vista Irrigation District's 100year anniversary by adopting this resolution.

### Alternative(s)

The board may choose not to support and honor Vista Irrigation District's 100-year anniversary.

### Background

On September 11, 1923, Vista Irrigation District (VID) was created to provide water to the farms and orchards of the growing community of Vista. VID provides water to the city of Vista, and portions of San Marcos, Escondido, Oceanside, and unincorporated areas of the county.

In June 1946, VID purchased San Diego Water Company, which included the 43,000-acre Warner Ranch, a former Spanish Land Grant, and encompassed Henshaw Dam and Lake Henshaw, and became a member of the San Diego County Water Authority in February 1954.

Today, VID serves roughly 29,000 accounts, the majority of which are residential, and a population of roughly 134,000. A total of 16,444 acre feet, or over 5.4 billion gallons of water was distributed and sold within VID during 2021-2022.

OMWD and VID have partnered on numerous occasions on combined trainings and as previously part of the North San Diego Water Reuse Coalition. It is through collaborations like these that benefit both agencies and the communities we serve.

The dedicated efforts of the Board of Directors of the Vista Irrigation District and staff have played a major role in maintaining the quality of life and contributing to the economic growth in the communities it serves, including the City of Vista, portions of the cities of Escondido, Oceanside and San Marcos and unincorporated areas of the County of San Diego.

### Fiscal Impact

There are no costs associated with this item.

### Discussion

The board's adoption of this resolution would demonstrate its support of Vista Irrigation District and honors their 100-year anniversary.

Attachments: Resolution 2023-xx

### RESOLUTION NO. 2023-xx

### RESOLUTION OF THE BOARD OF DIRECTORS OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT CONGRATULATING VISTA IRRIGATION DISTRICT ON ITS 100TH ANNIVERSARY

WHEREAS, on September 11, 2023, the Vista Irrigation District will celebrate 100 years of providing a reliable supply of high quality water that meets the needs of its customers in an economically and environmentally responsible manner; and

WHEREAS, an election was held on August 28, 1923, and 100% of the eligible voters participated with the outcome of the election being 104 votes for and 4 votes against formation of Vista Irrigation District; and

WHEREAS, on September 11, 1923, Vista Irrigation District was created to provide water to the farms and orchards of the growing community of Vista; and

WHEREAS, following the arrival of the first water from Lake Henshaw on February 27, 1926, crops of all kinds were planted, and the Vista area became known as the "Avocado Capital of the World"; and

WHEREAS, in June 1946, the Vista Irrigation District purchased San Diego Water Company, which included the 43,000-acre Warner Ranch, a former Spanish Land Grant, and encompassed Henshaw Dam and Lake Henshaw, securing a less expensive water supply for its customers; and

WHEREAS, in the midst of a drought, Vista Irrigation District sought to secure other sources of water and became a member of the San Diego County Water Authority in February 1954, providing access to water from Colorado River and northern California; and

WHEREAS, the Vista Irrigation District had the foresight to secure a local water supply and an imported water supply to draw upon during drought, ensuring that its water supply would never run dry; and

WHEREAS, the dedicated efforts of the Board of Directors of the Vista Irrigation District and staff have played a major role in maintaining the quality of life and contributing to the economic growth in the communities it serves, including the City of Vista, portions of the cities of Escondido, Oceanside and San Marcos and unincorporated areas of the County of San Diego.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Olivenhain Municipal Water District recognizes and congratulates Vista Irrigation District on its 100 years of service and stewardship.

PASSED, ADOPTED, AND APPROVED at a regular meeting of the Board of Directors of Olivenhain Municipal Water District held on May 17, 2023.

Christy Guerin, President Board of Directors Olivenhain Municipal Water District

ATTEST:

Lawrence A. Watt, Secretary Board of Directors Olivenhain Municipal Water District

Agenda Item C-d



### Memo

Date: May 17, 2023

To: Olivenhain Municipal Water District Board of Directors

From: Lindsey Stephenson, Engineering Manager

Via: Kimberly A. Thorner, General Manager

Subject: CONSIDER APPROVAL OF A GRANT OF ACCESS ROAD EASEMENT TO SAN DIEGO GAS & ELECTRIC OVER OMWD'S GATY II PROPERTY AND CHLORINATION BUILDING SITE AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF OMWD

### Purpose

The purpose of this agenda item is to consider approval of a Grant of Access Road Easement to San Diego Gas & Electric (SDG&E) over OMWD's Gaty II property and Chlorination Building site and authorize the General Manager to sign on behalf of OMWD. OMWD General Counsel has reviewed the Grant of Access Road Easement Document.

### Recommendation

Staff recommends approval of the proposed Grant of Access Road Easement to SDG&E.

### Alternative

The Board could elect not to approve the proposed Grant of Access Road Easement to SDG&E. If the Board chooses not to approve this item, Shea Homes will be required to find alternate access for SDG&E to their tower. Also, OMWD will not be provided the missing easement over Lot 30 for the 36" pipeline, nor benefit from the improved access to the Chlorination Building.

### Background

Approximately two years ago, OMWD was approached by a developer, Shea Homes, LP (Shea Homes), regarding an alternate access road easement for SDG&E across OMWD's Chlorination Building Site just east of the Gaty II Reservoir in Director Division 1 (San Antonio), at the north end of Rancho Summit Drive, as depicted on the enlarged plan of the location map. Construction of homes for the One Oak Development along the east side of Rancho Summit Drive blocked the old SDG&E access to SDG&E's tower in this area, and Shea Homes was required to provide alternate access to SDG&E.

Shea Homes approached OMWD with a request for an SDG&E access road easement over the Chlorination Building site. OMWD Engineering and Operations Departments met with Shea Homes' consulting engineer over the course of several months to develop a plan for a proposed access road across the Chlorination Building site. During preparation of the Grant of Access Road Easement, it was determined that SDG&E did not have access from Rancho Summit Drive to the Chlorination Building Site. The proposed easement provides for access from Rancho Summit Drive to the Chlorination Building Site over a portion of the access road to the Gaty II Reservoir.

Just prior to Shea Homes approaching OMWD regarding the SDG&E access road easement, OMWD had determined a portion of an existing 36" pipeline in this area was not covered by an easement. Once OMWD became aware of this issue, Shea Homes was contacted to request the easement. The easement required for the pipeline fell across two separate parcels. The first portion was over 3947 Rancho Summit Drive (Lot 22). The owner of that parcel granted the easement to OMWD, and the document was recorded on June 17, 2021. The second parcel (Lot 30) is an existing Open Space parcel owned by Shea Homes that will eventually be granted to The Escondido Creek Conservancy. The parcel is still currently owned by Shea Homes, and Shea Homes suggested they would grant the easement for the 36" pipeline over Lot 30 if OMWD would work with them on an access road easement for SDG&E.

### **Fiscal Impact**

There is no fiscal impact to OMWD by approving the Grant of Access Road Easement. All costs for preparation and recordation of the easement are being paid by Shea Homes. Also, Shea Homes will cover the cost for construction of the SDG&E access road, which also improves access to the Chlorination Building for OMWD staff.
#### Discussion

The terms of the proposed Grant of Access Road Easement were agreed to by OMWD and SDG&E with SDG&E preparing the legal description and plat for the easement. A copy of the Grant of Access Road Easement to SDG&E is attached for review along with a copy of the proposed Grant of Water Easement from Shea Homes for the 36" pipeline. If the Board elects to approve this item, both easements will be executed by the appropriate parties and concurrently recorded at the County Recorder's Office.

Staff is available to answer questions.

Attachment(s): Location Map OMWD Grant of Access Road Easement to SDG&E Shea Homes Grant of Water Easement to OMWD SDG&E Access Road Construction Plan



LOCATION MAP GRANT OF ACCESS ROAD EASEMENT TO SAN DIEGO GAS & ELECTRIC OVER THE DISTRICT'S GATY II PROPERTY AND CHLORINATION BUILDING SITE PAGE 1 OF 2



## GRANT OF ACCESS ROAD EASEMENT TO SAN DIEGO GAS & ELECTRIC OVER THE DISTRICT'S GATY II PROPERTY AND CHLORINATION BUILDING SITE PLAN

Recording Requested by San Diego Gas & Electric Company

When Recorded, mail to:

San Diego Gas & Electric Company 8335 Century Park Court, Suite 100 San Diego, CA 92123-1569 Attn: Real Estate Records – CP11D

Project No. Const. No. A.P. No. 264-591-12-00 & 264-591-13-00 SPACE ABOVE FOR RECORDER'S USE TRANSFER TAX\_\_\_\_\_

SAN DIEGO GAS & ELECTRIC COMPANY

## **GRANT OF ACCESS ROAD EASEMENT**

The Olivenhain Municipal Water District, (hereinafter "OWNER") hereby grants to San Diego Gas & Electric Company, (hereinafter "SDG&E") the following access road easement in, upon, over, under, and across OWNER's property as described in Exhibit "A" attached hereto and made a part hereof. The access road easement shall be approximately 16 feet in width; the approximate location is shown and delineated on Exhibit "B", attached hereto and made a part thereof.

OWNER grants SDG&E the right to construct the access road within the access road easement according to plans approved by OWNER and as shown on Exhibit "B". OWNER also grants to SDG&E the right for necessary cuts/fills and for drainage facilities within and adjacent property to said access road easement as shown on Exhibit "B".

If roads are constructed which, in SDG&E's sole opinion will provide substitute access as convenient and adequate as that conveyed herein, SDG&E agrees to quitclaim, subject to possible review and approval by the California Public Utilities Commission, any portion of the access road easement granted herein which is no longer required.

OWNER hereby reserves the right to construct, reconstruct, replace, repair, relocate, operate, and maintain pipeline(s) and related facilities currently located within the limits of the access road easement as determined necessary or appropriate by OWNER from time to time. In the event of any of the above, OWNER will restore the access road to its prior condition.

SDG&E will maintain the access road as necessary for its use under this easement, but SDG&E shall not be required to contribute to joint maintenance efforts other than as stated above in the event OWNER requires reconstruction, relocation, or replacement of their facilities within the access road easement. OWNER grants to SDG&E the right to trim, cut and/or remove brush, trees, foliage, and roots along, upon, from and within, adjacent and outside this road easement whenever SDG&E considers it necessary for the convenient or safe use of the access road easement.

OWNER shall be entitled to use the access road easement at such locations and elevations upon, along, over, and under the easement as OWNER may now or hereafter determine in its sole discretion without any additional compensation therefor.

SDG&E shall be permitted to install gates and relocate existing fencing and gates to accommodate the access road as shown on Exhibit "B." At no time shall SDG&E hinder OWNER access to the property.

SDG&E shall not erect or construct or permit to be erected or constructed any building or structure of any kind on, over, or under any portion of the access road easement, nor shall SDG&E plant any tree or trees or plant any other vegetation and shall not increase or decrease or permit to be increased or decreased the existing ground elevations, or drill any holes or wells on any portion of the access road easement.

SDG&E, its agents or contractors, shall be responsible for any damage to OWNER's existing facilities occasioned by or arising from the construction, use, and maintenance of SDG&E's access road within OWNER's property.

SDG&E shall, at all times, indemnify, save and hold harmless OWNER from and against and pay in full, all loss, damage or expense that OWNER my sustain, incur or become liable for, resulting from the active negligence or active intentional acts of SDG&E, its contractors, officers, agents, or employees.

OWNER shall, at all times, indemnify, save and hold harmless SDG&E from and against and pay in full, all loss, damage or expense that SDG&E my sustain, incur or become liable for, resulting from the active negligence or active intentional acts of OWNER, its contractors, officers, agents, or employees.

In the event of any dispute involving this Agreement, whether or not litigation is commenced, or if any arbitration proceeding, administrative proceeding or litigation in law or in equity, including an action for declaratory relief, is brought to invalidate, enforce or interpret the provisions or performance of said easement the prevailing party shall be entitled to an award of all attorney's fees and the costs of the proceeding, which shall be determined by the court of the presiding officer having authority to make this determination.

This access road easement shall be binding upon and inure to the benefit of the heirs, agents, successors, and/or assigns of the OWNER and SDG&E.

The OWNER has executed said Easement this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

#### **OLIVENHAIN MUNICIPAL WATER DISTRICT**

Kimberly A. Thorner, General Manager

#### APN 264-591-12-00, 264-591-13-00

That portion of Lot 3 in Section 4, Township 13 South, Range 3 West, San Bernardino Meridian, in the County of San Diego, State of California, according to the Official Plat thereof approved by the Surveyor General's Office, San Francisco, California on October 22, 1903, being more particularly described as follows:

COMMENCING at a found 2 inch iron pipe with disc stamped "RCE 29375" marking the Northwesterly terminus of that certain line designated as "South 63°59'03" East, 132.70 feet" per City of Encinitas Tract No. 89-031, according to Map thereof No. 14032 filed in the Office of the County Recorder of said San Diego County on September 7, 2000 as File No. 2000-0481702, said point bears South 53°14'13" East, 476.08 feet (calculated record South 53°14'09" East, 476.06 feet per said Map No. 14032) from a found 2 inch iron pipe with disc stamped "RCE 29375" marking the Northeast Corner of Lot 28 per said Map No. 14032; thence from said point of commencement South 26°05'47" West, 162.80 feet to the TRUE POINT OF BEGINNING; thence North 65°36'40" East, 97.25 feet to the beginning of a tangent 28.00 foot radius curve concave Northwesterly; thence Northeasterly along the arc of said curve through a central angle of 15°39'24" an arc distance of 7.65 feet; thence North 49°57'15" East, 42.40 feet to the beginning of a tangent 28.00 foot radius curve concave Northwesterly; thence Northeasterly along the arc of said curve through a central angle of 37°24'03" an arc distance of 18.28 feet; thence North 12°33'12" East, 9.70 feet to the beginning of a tangent 28.00 foot radius curve concave Southeasterly; thence Northeasterly along the arc of said curve through a central angle of 09°16'05" an arc distance of 4.53 feet; thence North 21º49'17" East, 10.88 feet to said certain line designated as "South 63°59'03" East, 132.70 feet" per said Map No. 14032; thence along said line South 63°59'07" East, 37.74 feet to the beginning of a non-tangent 28.00 foot radius curve concave Southeasterly, a radial line to which bears North 03°50'16" East; thence leaving said line Southwesterly along the arc of said curve through a central angle of 72°16'04" an arc distance of 35.32 feet; thence South 21°34'12" West, 0.79 feet to the beginning of a tangent 40.00 foot radius curve concave Northwesterly; thence Southwesterly along the arc of said curve through a central angle of 28°23'03" an arc distance of 19.82 feet; thence South 49°57'15" West, 43.39 feet to the beginning of a tangent 44.00 foot radius curve concave Northwesterly; thence Southwesterly along the arc of said curve through a central angle of 15°39'24" an arc distance of 12.02 feet; thence South 65°36'40" West, 56.94 feet to the beginning of a tangent 28.00 foot radius curve concave Southeasterly; thence Southwesterly along the arc of said curve through a central angle of 76°45'44" an arc distance of 37.51 feet to the Northerly line of Lot 33 also known as Rancho Summit Drive per said Map No. 14032; thence along said Northerly line of Lot 33 South 86º09'11" West, 19.27 feet; thence leaving said Northerly line of Lot 33 North 20°26'58" West, 2.18 feet; thence North 31°26'52" West, 4.32 feet; thence North 20°42'31" West, 7.91 feet; thence North 07°56'00" West, 17.17 feet to the TRUE POINT OF **BEGINNING.** 

Total ROW area: 0.09 Acres more or less.

EXHIBIT "A"

Prepared by:

TSAC Engineering

Adam R. Weirich, PLS

02 • 07 • 23 Date



J:\22000 - SDGE Land Survey MSA\86\_Land Services\451076\_23565\18874\Survey\Legals\Legal Description-02-07-2023.docx Page 2 of 2



TSAC: J: \22000 - SDGE Land Survey MSA\86\_Land Services\451076\_23565\18874\cadd\Survey\451076-18874.dwg P0INTS FILE: J: \22000 - SDGE Land Survey MSA\86\_Land Services\451076\_23565\18874\Survey\Master\451076\_1csv



TSAC: J: \22000 - SDGE Land Survey MSA\86\_and Services\451076\_23565\18874\cadd\Survey\451076-18874.dmg P0INTS FILE: J: \22000 - SDGE Land Survey MSA\86\_and Services\451076\_23565\18874\Survey\Master\451076.csv

#### **RECORDING REQUESTED BY:**

OLIVENHAIN MUNICIPAL WATER DISTRICT

#### AND WHEN RECORDED MAIL TO:

OLIVENHAIN MUNICIPAL WATER DISTRICT 1966 OLIVENHAIN ROAD ENCINITAS, CALIFORNIA 92024-9761

This space for Recorder's use

 Title Order No.
 CA21217443

 Tax Parcel No's.
 264-590-19-00, portion

## **GRANT OF WATER EASEMENT**

Easement No. 1700

#### NO DOCUMENTARY TRANSFER TAX NO FEE

SHEA HOMES LIMITED PARTNERSHIP, a California limited partnership, (hereinafter "GRANTOR") hereby grant to the OLIVENHAIN MUNICIPAL WATER DISTRICT, a public agency (hereinafter "GRANTEE"), its successors, or assigns, the following described non-exclusive easement, in gross, for a right-of-way in, upon, over, under and across the lands described below, and to erect, construct, reconstruct, replace, repair, maintain, and use a pipeline or pipelines for any and all purposes, together with any other facilities, fixtures and appurtenances, including, but not limited to, facilities for power transmission and communication purposes, at such locations and elevations, upon, along, over and under the right-of-way described herein as GRANTEE may now or hereafter determine in its sole discretion without any additional compensation therefor, together with the right of ingress and egress from the easement by a practical route or routes in, upon, over, or across the land described below, together with the right to use said easement for access to GRANTEE's rights of way situated in adjacent lands, without any additional compensation therefor.

The land encompassing said easement is situated in the County of San Diego, State of California, and is more particularly described as follows, to wit:

# LOT 30 OF CITY OF ENCINITAS TRACT NO. 89-031, IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 14032, FILED IN THE OFFICE OF SAID COUNTY SEPTEMBER 7, 2000

Said easement of right-of-way in the aforesaid lands are more particularly described as follows, to wit:

#### See Exhibit 'A' (legal description) and Exhibit 'B' (plat) attached hereto and made a part hereof.

GRANTOR, its heirs, successors, or assigns, shall not erect or construct or permit to be erected or constructed, any building, structure or improvement of any kind on, over or under any portion of the easement, nor shall GRANTOR, its heirs, successors, or assigns, plant any tree or trees or plant any other vegetation or flora, nor dig or drill any hole or wells on any portion of the easement.

In the event GRANTOR or its heirs, successors, and assigns places, or permits to be placed, any encroachment on any portion of the easement, GRANTEE shall have the right to remove the encroachment after five (5) days written notice to GRANTOR, and GRANTOR or its heirs, successors, and assigns agrees to pay all fees and costs, including staff and engineering costs and attorney's fees, incurred by GRANTEE in removing the encroachment. All fees and costs incurred by GRANTEE, including staff and engineering costs and attorney's fees, shall earn interest at the rates set by California law for interest on judgments.

GRANTEE may, in its sole discretion, erect, maintain, or use gates in all fences which now cross or later cross any portion of the easement. GRANTEE shall also be entitled to trim, cut, or clear away any trees, brush, or other vegetation or flora from time to time as GRANTEE determines in its sole discretion without any additional compensation.

GRANTEE shall be entitled to partition, assign, joint venture, or share all or any portion of said easement with any other person or entity, including, but not limited to, any person or entity supplying services or facilities to the public as GRANTEE may determine in its sole discretion without paying any additional compensation to GRANTOR or GRANTOR's heirs, successors, or assigns, therefor.

GRANTOR, its heirs, successors, or assigns, agrees that no other easement or easement shall be granted on, under, or over said easement without obtaining the prior written consent of GRANTEE.

GRANTEE may at any time increase its use of the easement, change the location of pipelines or other facilities within the boundaries of the easement right-of-way, or modify the size of existing pipelines or other improvements as it may determine in its sole discretion from time to time without paying any additional compensation to GRANTOR or GRANTOR's heirs, successors, or assigns, provided GRANTEE does not expand its use of the easement beyond the easement boundaries described herein.

It is also understood and agreed by the parties that the GRANTOR and the GRANTOR's heirs, successors, or assigns, shall not increase or decrease or permit to be increased or decreased the ground elevations within the above-described easement which exist at the time this document is executed, without obtaining the prior written consent of the GRANTEE.

In the event of any dispute involving this Agreement, whether or not litigation is commenced, or if any arbitration proceeding, administrative proceeding or litigation in law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions or performance of said easement, the prevailing party shall be entitled to an award of all attorney's fees and the costs of the proceeding, which shall be determined by the court of the presiding officer having authority to make this determination.

GRANTOR expressly warrants and represents that GRANTOR has the power to grant said easement in accordance with its terms.

GRANTOR has executed said Easement this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

#### SHEA HOMES LIMITED PARTNERSHIP,

A California limited partnership

By:

By:

R/W NO.: <u>CA21217443</u> DRAWN BY: <u>Aguirre & Associates</u> CHECKED BY: <u>OMWD</u> PROJ. No.: <u>N/A</u> DATE: December 31, 2021

#### EXHIBIT "A" LEGAL DESCRIPTION PARCEL 'B'

ALL THAT PORTION OF LOT 30 OF CITY OF ENCINITAS TRACT NO. 89-031, ACCORDING TO MAP THEREOF NO. 14032, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY SEPTEMBER 7, 2000, IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE WESTERLY CORNER COMMON TO LOT 22 AND SAID LOT 30 OF SAID MAP 14032;

- 1. THENCE ALONG THE LINE COMMON TO SAID LOTS 22 AND 30 SOUTH 64°13'32" EAST 53.43 FEET;
- 2. THENCE LEAVING SAID COMMON LINE NORTH 06°04'37" EAST 112.31 FEET TO THE WESTERLY LINE OF SAID LOT 30;
- 3. THENCE ALONG SAID WESTERLY LINE SOUTH 34°09'23" WEST 106.88 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 2,825 SQ. FT., MORE OR LESS

SEE EXHIBIT "B" ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF.

SIGNATURE \_

what A Dawing

MICHAEL A. HAVENER PLS 7354 <u>12-30-2021</u> DATE













Agenda Item C-e



# Memo

Date: May 17, 2023

To: Olivenhain Municipal Water District Board of Directors

From: Paul Martinez, Engineering Technician I

Via: Kimberly A. Thorner, General Manager

Subject: CONSIDER ACCEPTANCE OF THE AVENIDA APICE WATER SERVICE REESTABLISHMENT (TAYLOR MORRISON) INTO OMWD'S SYSTEM AND ORDER A NOTICE OF COMPLETION FILED

### Purpose

The purpose of this agenda item is to consider acceptance of the transfer of the potable water facilities constructed by Taylor Morrison (Developer) into OMWD's system and authorize the filing of a Notice of Completion with the San Diego County Recorder.

### Recommendation

Staff recommends acceptance of the potable water facilities into OMWD's system.

## Alternative(s)

None; the project is complete, and facilities were constructed to OMWD's standards and specifications per the Development Construction Agreement.

#### Background

The Avenida Apice Water Service Installation Project is located on Avenida Apice, north of Via Rancho Cielo in Director Division 1 (San Antonio). The project consisted of the reestablishment and installation of three 1-inch water services.

OMWD entered into an agreement with the Developer in February of 2022 to construct the facilities and dedicate said facilities to OMWD. The facilities are now complete and have been built in accordance with OMWD standards and specifications. The warranty period will terminate one (1) year following the acceptance of the facilities by OMWD's Board.

### **Fiscal Impact**

There is no fiscal impact to accepting the facilities into OMWD's system. The new assets will be reported to Finance for capitalization.

### Discussion

Staff is available to answer questions.

Attachments: Location map Notice of Completion

# LOCATION MAP AVENIDA APICE WATER SERVICE REESTABLISHMENT DISTRICT PROJECT NO. W590298



# RECORDING REQUESTED BY & WHEN RECORDED RETURN TO:

Olivenhain Municipal Water District 1966 Olivenhain Road Encinitas, California, 92024-5699

(This space for recorder's use)

## NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN that the facilities shown on improvement plans for Parcel 264-670-10-00, 264-670-11-00, & 264-670-12-00 of Map No. 14920, recorded on December, 3<sup>rd</sup> 2004 located in the County of San Diego, State of California for which Taylor Morrison, ("Developer") contracted with the OLIVENHAIN MUNICIPAL WATER DISTRICT ("Owner," in fee, of the facilities), headquartered at 1966 Olivenhain Road, Encinitas, CA 92024, have been completed in accordance with the plans and specifications as of April 20th, 2023. The facilities have been accepted by the Board of Directors of the OLIVENHAIN MUNICIPAL WATER DISTRICT on this 17<sup>th</sup> day of May 2023.

In witness whereof this Notice of Completion has been executed under authority from the Board of Directors of said OLIVENHAIN MUNICIPAL WATER DISTRICT by Kimberly A. Thorner, General Manager.

KIMBERLY A. THORNER, being first duly sworn, deposes and says that she is General Manager of the OLIVENHAIN MUNICIPAL WATER DISTRICT and is familiar with the facts stated in the foregoing Notice of Completion executed for and on behalf of said Agency, that she has read the foregoing Notice of Completion and knows the contents thereof and that the same are true.

OLIVENHAIN MUNICIPAL WATER DISTRICT

Date: \_\_\_\_\_ , 20\_\_\_

By:\_

Kimberly A. Thorner General Manager

District Project No. W590298 - Avenida Apice WS Reestablishment

Agenda Item C-f



# Memo

Date: May 17, 2023

To: Olivenhain Municipal Water District Board of Directors

From: Geoff Fulks, Operations Manager

Via: Kimberly A. Thorner, General Manager

Subject: CONSIDER FINAL UPDATE OF THE 4S WATER RECLAMATION FACILITY WIRING AND CHEMICAL FEED EMERGENCY REPLACEMENT PROJECTS, ACCEPT INTO THE DISTRICT'S SYSTEM AND ORDER THE NOTICES OF COMPLETION FILED

#### Purpose

The purpose of this agenda item is to provide a final update on the 4S Water Reclamation Facility Wiring and Chemical Feed Emergency Replacement Project No. D700043 and accept the projects into the District's system and authorize the filing of the Notices of Completion with the San Diego County Recorder.

### Recommendation

Staff recommends acceptance of the 4S Water Reclamation Facility Wiring and Chemical Feed Emergency Replacement Projects (Projects) into the District's system.

### Alternative(s)

There are no alternatives to accepting the projects into the District's system. The new systems had been installed to the District's plans and specifications and construction is complete.

#### Background

The District owns and operates the 4S Ranch Water Reclamation Facility (4S WRF), located in Director Division 4 (Hahn), which treats incoming wastewater flows from 4S Ranch and Rancho Cielo via multiple unit processes producing tertiary recycled water for use in the District's service area. On December 27<sup>th</sup>, staff discovered process irregularities in Headworks at the 4S WRF. Staff immediately investigated and discovered water in an electrical vault with an elevated level of chlorine residual. A leak was discovered in the chlorine feed system containment piping that passes near the electrical vault and this leak, aided by recent rains, migrated into the vault. Unfortunately, the chlorine was able to partially dissolve a grounding rod in the bottom of the vault allowing water to infiltrate the electrical vault. The chlorinated water was then able to penetrate electrical conduits damaging the insulation of the wiring and causing shorts that significantly affected operation of numerous processes at Headworks. Critical to these processes are the control wires which allow for automation and operational data acquisition. The chlorine line feeds the Headworks odor scrubber, a vital piece of equipment used to eliminate odors and is permitted through the San Diego County Air Pollution Control District.

The General Manager declared an emergency on January 3, 2023. Pursuant to the Olivenhain Municipal Water District's (OMWD) Administrative and Ethics Code Section 3.2.1. On January 18, 2023, the Board reviewed the General Manager's emergency action and found that an emergency exists within the meaning of Public Resources Code Sections 21080(b)(2) and California Public Contract Code Section 1102 requiring the commencement of immediate emergency repair work. Prior to this final May 17th update, Staff updated the Board at the regularly scheduled board meetings on January 18th, February 15th, March 15th, and April 19th.

The Board also determined that pursuant to CEQA, the 4S Water Reclamation Facility Wiring and Chemical Feed Emergency Replacement Project is considered an Emergency Project under Public Resources Code 21080(b)(2) and Statutorily Exempt under CEQA guidelines Section 15269(b) and (c). Staff filed the Notice of Exemption with the San Diego County Clerk.

#### **Fiscal Impact**

There is no fiscal impact to accepting the facilities into OMWD's system, and the new assets will be reported to Finance for capitalization.

#### Discussion

Due to the potential catastrophic consequences of losing process control and operation of the 4S WRF, District staff mobilized to highline the chemical feed line and required immediate assistance from Southern Contracting (Southern) to highline the process wiring. Southern responded that they had the availability and scope to assist, on a not to exceed time and materials basis, to highline and replace the wiring. Public Contract Code Section 22035 authorizes the District, "In cases of emergency ... may proceed at once to replace or repair any public facility without ... giving notice for bids to let contracts." Staff contacted multiple contractors to assist with chemical feed repairs and Jennette Construction (Jennette) responded that they had the availability and scope to replace the chemical feed system on a not to exceed, time and materials basis.

Southern completed pulling new process wires and the 4S WRF is operating as designed with automated controls. The wiring highline that was initially implemented has been removed and Southern's work is complete.

The District requested that Jennette lay down an additional spare conduit as a preventative measure for any future replacements. Changes to the construction scope were made and documented through Construction Change Order No. 1, which was approved under the General Manager's approval authority on March 1, 2023. Due to numerous unknown underground conflicts, Jennette had to re-route the conduits and provide additional conduit protection documented through Construction Change Order No. 2, which was approved under the General Manager's approval authority on May 9, 2023. Jennette's work is now complete and the chemical feed highline that was initially implemented has been removed.

	Authorization	Amount
Southern	Contract	\$73,733.60
Jennette	Contract	\$62,500
Jennette	CCO#1	\$6,700
Jennette	CCO#2	\$8,678
	Total	\$151,611.60

A summary of the construction contracts is presented below.

As the Projects are now complete, staff recommends acceptance of the Projects into the District's system and filing the Notices of Completion with the San Diego County Recorder.

Staff is available to answer questions.

Attachment(s): Notice of Completions Location Map

# RECORDING REQUESTED BY & WHEN RECORDED RETURN TO:

Olivenhain Municipal Water District 1966 Olivenhain Road Encinitas, California, 92024-5699

(This space for recorder's use)

## NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN that the facilities for the 4S Water Reclamation Facility Wiring and Chemical Feed Emergency Replacement Project located at 16595 Dove Canyon Road, San Diego, CA 92127, and also known as Tax Assessor Parcel No. 678-600-06-00, in the County of San Diego, State of California for which OLIVENHAIN MUNICIPAL WATER DISTRICT ("Owner," in fee), headquartered at 1966 Olivenhain Road, Encinitas, CA 92024, contracted with SOUTHERN CONTRACTING COMPANY, headquartered at 559 N. Twin Oaks Valley Road, San Marcos, CA 92069 have been completed in accordance with the plans and specifications as of May 17, 2023. The facilities have been accepted by the Board of Directors of the OLIVENHAIN MUNIC-IPAL WATER DISTRICT on this 17th day of May, 2023.

In witness whereof this Notice of Completion has been executed under authority from the Board of Directors of said OLIVENHAIN MUNICIPAL WATER DISTRICT by Kimberly A. Thorner, General Manager.

KIMBERLY A. THORNER, being first duly sworn, deposes and says that she is General Manager of the OLIVENHAIN MUNICIPAL WATER DISTRICT and is familiar with the facts stated in the foregoing Notice of Completion executed for and on behalf of said Agency, that she has read the foregoing Notice of Completion and knows the contents thereof and that the same are true. OLIVENHAIN MUNICIPAL WATER DISTRICT

Date:, 2	023
----------	-----

By:\_\_

Kimberly A. Thorner General Manager

(Seal)

District Project No. D700043 – DCMWTP 4S Water Reclamation Facility Wiring and Chemical Feed Emergency Replacement Project

# RECORDING REQUESTED BY & WHEN RECORDED RETURN TO:

Olivenhain Municipal Water District 1966 Olivenhain Road Encinitas, California, 92024-5699

(This space for recorder's use)

## NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN that the facilities for the 4S Water Reclamation Facility Wiring and Chemical Feed Emergency Replacement Project located at 16595 Dove Canyon Road, San Diego, CA 92127, and also known as Tax Assessor Parcel No. 678-600-06-00, in the County of San Diego, State of California for which OLIVENHAIN MUNICIPAL WATER DISTRICT ("Owner," in fee), headquartered at 1966 Olivenhain Road, Encinitas, CA 92024, contracted with JENNETTE COMPANY INCORPORATED, headquartered at 9235 Trade Place, Suite B, San Diego, CA 92126 have been completed in accordance with the plans and specifications as of May 17, 2023. The facilities have been accepted by the Board of Directors of the OLIVENHAIN MUNICIPAL WA-TER DISTRICT on this 17th day of May, 2023.

In witness whereof this Notice of Completion has been executed under authority from the Board of Directors of said OLIVENHAIN MUNICIPAL WATER DISTRICT by Kimberly A. Thorner, General Manager.

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Date:, 2	023
----------	-----

By:\_\_

Kimberly A. Thorner General Manager

(Seal)

District Project No. D700043 – DCMWTP 4S Water Reclamation Facility Wiring and Chemical Feed Emergency Replacement Project

## DISTRICT PROJECT NO. D700043

## 4S WATER RECLAMATION FACILITY EMERGENCY WIRING AND CHEMICAL FEED REPLACEMENT PROJECT



Agenda Item C-g



# Memo

Date: May 17, 2023

To: Olivenhain Municipal Water District Board of Directors

From: John Onkka, Water Reclamation Facilities Supervisor

Via: Kimberly A. Thorner, General Manager

Subject: PROVIDE SANITARY SEWER SYSTEMS WASTEWATER DISCHARGE REQUIREMENTS (WDR) UPDATE TO THE BOARD OF DIRECTORS OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT

#### Purpose

The purpose of this item is to consider and present an update to the Sewer Systems Wastewater Discharge Requirements (WDR) to comply with the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems and State Water Resources Control Board General Order No. 2006-0003-DWQ, Order No. R9-2007-0005 and the recently reissued General Order No. 2022-0103-DWQ.

#### Recommendation

This is an informational item; no action is required.

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Alternative(s)
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Not applicable.

### Background

In 2006, the State Water Resources Control Board (SWRCB) issued General Order No. 2006-0003 to all sewer collection agencies within California. The goal of this blanket order was to reduce sanitary sewer spills into California's protected waters and apply

consistent regulatory oversight and management requirements for the operation and maintenance of sewer collection systems on a statewide level.

Order No. 2006-0003 includes the requirement for all sewer collection agencies to develop their own comprehensive Sewer Systems Management Plan (SSMP). To comply with this mandate, in 2010, OMWD's board adopted an initial SSMP prepared by Infrastructure Engineering Corporation (IEC). In 2015, the Board was updated on the first SSMP audit prepared by IEC. In 2020, OMWD hired Dexter Wilson Engineering to conduct the SSMP audit and a comprehensive update. In December of 2022, the SWRCB reissued General Order No. 2022-0103-DWQ.

#### **Fiscal Impact**

This item does not have a direct fiscal impact. Costs to implement the programs contained within the SSMP are included in the wastewater annual budget.

#### Discussion

The main requirement of the new General Order is a revision to the Spill Emergency Response Plan (SERP). It also includes certifying OMWD's continuing regulatory coverage from General Order 2006-0003-DWQ to General Order 2022-0103-DWQ. This action was completed on April 5, 2023. OMWD is also required to electronically submit its updated SSMP into California's Integrated Water Quality System (CIWQS) website. In addition to the SERP update, Staff took the opportunity to update personnel changes and the OMWD organizational chart. Updates are reflected in the SSMP Change Log (Appendix B), and the Sanitary Sewer Maintenance Plan (Appendix E). The new General Order does not require Board action. OMWD will re-certify its SSMP in March 2025.

Updating the SSMP ensures OMWD maintains compliance with state and local mandates pertaining to the management of the sewer system. In addition, the SSMP update supports OMWD's mission to provide wastewater collection services and reclamation in an environmentally responsible manner as well as to exceed all federal, state and local regulatory requirements for providing potable water, water reclamation, and recycled water.

Staff are available to answer questions.

Attachments: Sewer System Management Plan May 2023 General Order 2022-103-DWQ General Order 2006-003-DWQ General Order R9-2007-0005

#### SEWER SYSTEM MANAGEMENT PLAN UPDATE

May 11, 2020

For the

Olivenhain Municipal Water District 1966 Olivenhain Road Encinitas, CA 92024 WDID: 9SSO10644

Certified

Kimberly A. Thorner, General Manager

Prepared by:

Dexter Wilson Engineering, Inc. 2234 Faraday Avenue Carlsbad, CA 92008

DWE Job No. 142-002



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#### EXECUTIVE SUMMARY AND DISTRICT OVERVIEW

The Olivenhain Municipal Water District (District) was incorporated in 1959 and is organized and operating under Water Code Sections 71000 et seq of the State of California. In 1960, residents of the District voted to become a member of the San Diego County Water Authority. At over 48 square miles, the District serves approximately 86,000 total customers in Encinitas, Carlsbad, San Diego, San Marcos, Solana Beach, and neighboring communities.

During the late 1980s, the first portion of 4S Ranch was developed. In order to serve the sanitation needs of this development, the County of San Diego built a small wastewater treatment plant to serve the area. In 1998, the District annexed the sanitation district from the County. Since that time, the District has provided wastewater collection and treatment services for the 4S Ranch and Rancho Cielo communities.

The District owns and maintains 65 miles of gravity sewer and 20 miles of sewer force main which convey flow to the District's 4S Ranch Water Reclamation Facility for treatment and disposal via recycled water. In sum, the District currently provides sewer collection and treatment services to an approximate population of over 20,000. The District is approximately 95 percent built out based on current flow studies.

The District has five Operators plus one Supervisor who perform wastewater related work. All District maintenance, facilities, administrative equipment, personnel, service, billing, regulatory, accountants/finance, receptionists, analysts, engineers, inspectors, plan checkers and other overhead are shared with other departments of the District (e.g. potable water and recycled water).

This SSMP update has been crafted based on the May 2, 2006 Statewide General Waste Discharge Requirement (Statewide WDR) and the July 30, 2013 revision to the Monitoring and Reporting Program of the Statewide WDR. The SSMP has been certified by the Legally Responsible Official (LRO) and adopted by the District Board (Appendix A). This update and recertification satisfies the WDR/MRP requirement for recertification by May 18, 2020. In April of 2023, OMWD certified its continuing regulatory coverage to General Order 2022-0103-DWQ. This SSMP will be audited at a minimum of every two years. The next SSMP recertification deadline is May 18, 2025.

All changes to this SSMP will be logged in Appendix B.

All audits of this SSMP will be logged in Appendix C.

The SSMP are posted on the District's webpage at <u>https://www.olivenhain.com</u>.

#### SECTION I – GOALS

#### **Background and Regulatory Requirements**

The Statewide General Waste Discharge Requirements (Statewide WDRs) governing sanitary sewers specify that the goal of each Sewer System Management Plan (SSMP) is to provide a plan and schedule to properly manage, operate, and maintain all parts of the sanitary sewer system.

#### **District Goals**

The District goals for the SSMP are:

- 1. The District's mission statement is to provide wastewater treatment in the most costeffective and environmentally responsible method.
- 2. As stated in the Declaration of Policy within Article 28 of the District's Administrative and Ethics Code, "It is the policy of the Olivenhain Municipal Water District to provide for the maximum public benefit from the use of Sanitation District facilities. This shall be accomplished by regulating sewer use and wastewater discharges, by providing equitable distribution of District's costs and by providing procedures that will allow the District to comply with the requirements placed upon the District by other regulatory agencies. The revenues to be derived from the application of this policy shall be used to defray all costs of providing sewerage service by the District, including, but not limited to, administration, operation, monitoring, maintenance, financing, capital construction, replacement and recovery, and provisions for necessary reserves."

As part of the 2020 SSMP update process, the District identified and developed specific tasks to accomplish surrounding the SSMP. These tasks can be found in Appendix D.

#### SECTION II - DESCRIPTION OF ORGANIZATION

#### **Background and Regulatory Requirements**

The Statewide WDRs governing sanitary sewers specify that the Sewer System Management Plan (SSMP) must identify the appropriate responsible representative, identify the organization and lines of authority, and provide a chain of communication for reporting SSOs from receipt of a complaint and include the person responsible for reporting SSOs.

#### Name of Responsible or Authorized Representative

The Legally Responsible Official (LRO) is the District's Water Reclamation Facilities Supervisor, John Onkka, as well as the District's General Manager, Kimberly Thorner.

#### **District Organizational Chart**

The overall District Organization Chart (Org Chart) is presented below.



#### **Roles and Responsibilities**

The roles and responsibilities of each position in the organization chart are listed here.

#### **Board of Directors** (Publicly Elected Officials)

Difficials) Establishes policies, reviews and accepts formal plans, sets overall District direction, authorizes funds for projects/plans/programs, general overview of upper management, conducts public meetings and hearings, approves SSMP.

#### General Manager

(Kimberly Thorner)

Responsible for providing overall leadership and direction for all of the District activities including: park and recreation, water and wastewater, recycled water and hydroelectric, operations, administration, engineering, finance, human resources, public relations and capital projects. Responsible for creation and implementation of District Strategic Plan and Mission statement. Advises and makes recommendations to Board of Directors.

#### **Operations Manager**

(Geoffrey Fulks)

Under general direction of the General Manager, this position is responsible for planning, directing, implementing and administering all of the following areas within the Operations Department: system and facilities: construction maintenance and maintenance: systems operation and supply maintenance; fleet maintenance, treatment plant, recycled and wastewater operations and easement Responsible for Emergency maintenance. and Disaster Preparedness Plan. Responsible for departmental safety compliance.

#### Water Reclamation Facilities Supervisor (John Onkka) Under gener

Under general supervision, this position is responsible for ensuring the District's compliance with all local, state and federal regulations relating to recycled wastewater and water production, distribution and use. Responsible for the planning, administration and implementation of the District's wastewater programs. Responsible for effectively utilizing District resources. This position is the responsible representative of the District, as described in Section J of SWRCB Order No. 2006-0003. In the event of a sanitary sewer overflow, this position is responsible for contacting the Utility field crew for containment and renting a vactor truck for clean-up. As the responsible representative of the District, this position is then responsible for all appropriate online reporting.

<b>District</b> <b>Engineer</b> (Lindsey Stephenson)	Under general direction of the General Manager, this position is responsible for District and developer projects within the Engineering Department. Supports the acquisition of land and rights-of-way for District projects and work related to appraisals, acquisitions, and management of real property rights for pipelines, storage reservoirs, and building sites. Responsible for coordination with developers on projects to be constructed within the District and granted to District as part of the District system.
<b>Reclamation Operator</b> (5 Field Staff)	Under general supervision, this at will position operates and maintains the District's wastewater collection, treatment and reclamation systems. This includes but is not limited to lift stations, treatment and reclamation plants, chlorinators and related facilities.
<b>Contract Services</b> (Various)	Under the oversight of the Water Reclamation Facilities Supervisor, contract services are engaged to execute preventative maintenance activities and report condition of assets (line cleaning, CCTV inspection, and FOG inspections). Contract vendors also provide emergency response assistance as directed by the District.

ENROLLEE CONTACTS RESPONSIBLE FOR SSMP			
SSMP Element	Responsible Party (Position)	Responsible Party (Name)	
1-Goals	General Manager	Kimberly Thorner	
2 – Organization	General Manager	Kimberly Thorner	
3 – Legal Authority	General Manager	Kimberly Thorner	
4 – O&M Program	Water Reclamation Facilities Supervisor (with Contract Services)	John Onkka	
5 – Design & Performance Provisions	Engineering Manager	Lindsey Stephenson	
6 – Spill Emergency Response Program	Reclamation Operator	Gabriel Hernandez	
7 – FOG Control Program	Reclamation Operator (with Contract Services)	Gabriel Hernandez	
8-SECAP	Engineering Manager	Lindsey Stephenson	
9 – Monitoring, Measurement, and Program Modifications	Water Reclamation Facilities Supervisor	John Onkka	
10 – SSMP Program Audits	Water Reclamation Facilities Supervisor	John Onkka	
11 – Communication	Water Reclamation Facilities Supervisor	John Onkka	
Change Log	Water Reclamation Facilities Supervisor	John Onkka	
Appendices	Water Reclamation Facilities Supervisor	John Onkka	

KEY DISTRICT CONTACTS			
Name	Title	Phone Number	Email
Geoffrey	Operations	Cell – (442) 222-9434	gfulks@olivenhain.com
Fulks	Manager	Work - (760) 632-4647	gruiks@onvennam.com
John Onkka	Water Reclamation	Cell – (760) 613-8322	jonkka@olivenhain.com
зопп Опкка	Facilities Supervisor	Work – (858) 485-5045	
Lindsey	District Engineer	Cell – (760) 415-7454	lstephenson@olivenhain.com
Stephenson	District Engineer	Work - (760) 632-4640	
Gabriel	Chief Reclamation	Cell – (619) 851-2115	ahornondoz@oliyonhoin oom
Hernandez	Operator	Work - (858) 451-7837	gnernandez@olivennain.com
Affordable Drain	Contract Hydrocleaning and CCTV	General – (858) 689-4000	
		Corey – (858) 583-9950	
		Duane – (619) 818-6795	
DMax	Contract FOG Inspections	General – (858) 586-6600	
# <u>Reporting SSOs</u>

The chain of communication for reporting SSOs within the District primarily falls under the supervision of the Water Reclamation Facilities Supervisor. Details on the chain of communication, as well as additional spill response detail, is provided in the District's Spill Emergency Response Plan in Section 6.

# SECTION III – LEGAL AUTHORITY

# **Background and Regulatory Requirements**

The Statewide WDRs governing sanitary sewers specify that each agency must demonstrate, through sanitary sewer system use ordinances, service agreements, or other legally binding procedures, that it possesses sufficient legal authority to prevent illicit discharges, require proper construction, ensure access to facilities, limit discharges of FOG and debris, and enforce any violation of its ordinances.

# **District Approach**

The District operates under: 1) Federal Water Pollution Control Act, commonly known as the Clean Water Act (33 U.S.C. Section 1251 et seq); 2) California Porter Cologne Water Quality Act (California Water Code section 13000 et seq.); 3) California Health & Safety Code sections 25100 to 25250; 4) Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.); and 5) California Government Code, Sections 54739-54740) which grant to the District the authority to regulate and/or prohibit, by the adoption of an ordinance, and by issuance of control mechanisms, the discharge of any waste, directly or indirectly, to the District sewerage facilities.

The District's Administrative and Ethics Code (specifically Article 28) and Rules and Regulations provide the District's specific requirements and prohibitions.

Further, by District Resolution most recently updated in February 2017, the District has adopted Standard Drawings and Specifications which requires that all sewers and connections conform to said requirements for design, construction, and rehabilitation. More specifically, the table below summarizes the location of the District's specific legal authority within existing ordinances.

DISTRICT LEGAL AUTHORITY OVERVIEW					
Requirement	Reference				
Public Sewers					
Ability to prevent illicit discharges into the wastewater collection system	2009 Rules and Regulations for Use of District Sewerage Facilities Section 3.1				
Ability to require that sewers and connections be properly designed and constructed	2017 District Standard Drawings and Specifications				
Laterals					
Ensure access for maintenance, inspection, or repairs for portions of the service lateral owned or maintained by the Enrollee *	2016 Administration and Ethics Code Article 28, Sec 28.13 (Lateral Ownership) & 2009 Rules and Regulations for Use of District Sewerage Facilities Section 5.10 (Access)				
FOG Source Control					
Ability to limit the discharge of FOG and other debris that may cause blockages	2009 Rules and Regulations for Use of District Sewerage Facilities Section 3.1 and 3.7				
Enforcement					
Ability to enforce any violation of the Enrollee's sewer ordinances	2009 Rules and Regulations for Use of District Sewerage Facilities Section 6				

\* Laterals are installed, operated, and maintained by the property owner

All above referced documents (Administrative and Ethics Code – Article 28, Rules and Regulations, Standard Drawings and Specifications) are available on the District's website <u>https://www.olivenhain.com</u>.

# SECTION IV – OPERATIONS AND MAINTENANCE

# **Background and Regulatory Requirements**

The Statewide WDRs governing sanitary sewers specify the development and implementation of an operation and maintenance program as an element of each Wastewater Collection Agency's Sanitary Sewer Management Plan (SSMP). When appropriate and applicable to the agency's system, the plan must include mapping activities, routine preventative operation and maintenance activities, rehabilitation and replacement plans, training, and equipment and replacement parts inventories.

# <u>Overview</u>

The District has a relatively young collection system with most infrastructure installation occurring between 1998 to 2012. The District has developed a Preventative Maintenance program that is appropriate for protecting and extending the life of this young system. The District targets to clean and closed-circuit television (CCTV) inspect the sewer system every five years via a private collection system maintenance firm. The District's current strategy for cleaning is to focus on the oldest section of the system first and work towards the newest. District staff compares current tapes with the previous tapes, to determine if areas are in need of repair or replacement.

During video review, special attention is given to areas needing more frequent cleaning – known as hot spots. Hot spots are cleaned / inspected as needed.

Due to the small size of the District's collection system, the economy of scale to own and operate a vactor truck and large amount of replacement parts does not exist. The District maintains a list of vendors who can provide services and parts for the collection system, both in emergency and in non-emergency situations.

The District maintains a summary document for regular maintenance activities. This document is titled the *Sanitary Sewer Maintenance Master Plan* (provided in Appendix E) and is updated as needed as the collection system's components change and expand.

#### **Mapping Activities**

The District maintains an up-to-date Geographic Information System (GIS) database of the sanitary sewer system, including all gravity line segments and manholes, pumping facilities, forcemains, valves, and storm drains. The database is updated regularly with engineering plans and capital improvements by an outside vendor. This database is utilized as the basis of system maps of the District's wastewater facilities. In addition to the sanitary sewer infrastructure data, the system maps contain easement and access information for the collection system.

In addition to GIS, the District's field maps are in the process of being updated with the most current stormwater facility information.

# **Preventive Maintenance Program**

# **Gravity Sewer Mains**

The District is responsible for the ongoing maintenance and repair of the sewer main lines. This includes routine and emergency cleaning by contracted service providers. The management of the routine collection system cleaning follows best industry practices. Sewer lines are cleaned typically by hydrorodding techniques and debris is collected and disposed of at the 4S Ranch Wastewater Reclamation Facility. In order to minimize mobilization costs and best manage the cleaning program, the District has contracted with a private collection system maintenance firm to clean and televise approximately 20 percent of the District's sewer collection system annually.

The current strategy for cleaning is to focus on the oldest section of the system first and work towards the newest. As the cleaning and videoing progresses, trouble sections or hot-spots are identified. These hot-spots are evaluated to determine:

- 1. The cause of the problem: (Upstream dischargers, flat spots, sags, off-set joints, etc.)
- 2. The frequency of maintenance required to prevent an obstruction and subsequent sewer overflow
- 3. The feasibility of correcting the problem via source control techniques, or capital improvement projects.

Ultimately, the entire system will be cleaned and the District will be able to document and prioritize the hot-spots and potential capital projects necessary within the system. As new areas are added to the system, the District will incorporate those areas into the maintenance master plan.

Managing hot-spots is done by utilizing the District's computerized maintenance management software (CMMS). By using this software, the District can input a description of the hot-spots, including location and required maintenance method. In addition, the appropriate maintenance frequency is included. When due, this system will generate a work order directing the District to perform the necessary maintenance, and also allows the District to document the findings for record. Hot-spot management is a dynamic process. The monitoring frequency my increase or decrease depending on the conditions, and completion of capital improvement projects.

#### Pump Stations

There are presently 14 sewer lift stations operating within the District sewer sanitation districts. District personnel routinely check each lift station and perform preventative maintenance as required. All lift stations are also monitored by the District's supervisory control and data acquisition (SCADA) system. Operators are notified of any operational problems, via a cell phone and are able to make operational changes using a laptop computer.

# **Rehabilitation and Replacement Plan**

The District integrated the rehabilitation and replacement of all District maintained sewer systems into the District's 10-Year Capital Improvement Plan (CIP). This plan identifies the areas for improvement each fiscal year, the timeline for completion, and the priority for each individual project. The CIP is based upon a report entitled *Final Capital Improvement Plan* for 4S and Rancho Cielo Wastewater Systems dated September 2015.

The CIP is the primary guide in the decision making process to rehabilitate and replace the sewer lines and pump station components within the District. The specific purpose and objectives of the plan are to:

- To develop long-range infrastructure planning and budgeting for District wastewater systems;
- Support long-term financial planning including wastewater rate adjustments;
- Provide a detailed technical analysis to back up the defined proposed projects;
- Develop a Capital Improvement Plan (CIP) based on condition deficiencies.

Updates to the 2015 CIP are captured in the District's annual budget which includes a 10 year CIP for wastewater infrastructure.

The rehabilitation and replacement program that the District uses for the collection system is based upon data gathered during the cleaning and video process. During the cleaning cycles, sections of the collection system may be found to be in a deteriorated condition. An indication of deteriorated sections would include rocks, roots, and other material observed in the debris removal process. When observed, these areas are televised to document the specific area of failure. Depending on the severity of the problem, the District may elect to immediately address those areas or place them within their capital repairs projects for future years. Until the improvement projects are completed, they will be placed on a hot-spot list, and monitored on an accelerated frequency to ensure a free-flowing condition.

As mentioned earlier in this section, the District maintains a *Sanitary Sewer Maintenance Master Plan*. The plan addressed the following areas:

- Sewer collection system access
- Ongoing collection system maintenance
- Recommended capital sewer collection system replacement
- Sewage lift station maintenance
- Spill response
- Spill reporting

Although the spill response and spill reporting sections have been superseded by the District's updated Spill Emergency Response Plan (SERP), the *Sanitary Sewer Maintenance Master Plan* continues to provide a road map for preventative maintenance and repair and replacement of the collection system. This document is updated to reflect changes to the District's collection system, and to the SERP.

# <u>Training Program</u>

The District provides training to all sewer maintenance personnel on a regular basis and recommends becoming certified by a professional organization, such as the California Water Environment Association, to demonstrate a certain level of job-related knowledge, skills, and abilities. Training programs include simulated activities, such as, simulated spill response and containment, bypass pumping, traffic control, confined space, and any other trainings deemed necessary by the District. Other forms of training include: on-the-job training in the field, general tailgate safety meetings held monthly, a yearly review of the District's SSMP and SERP, first aid/CPR, assigned online safety classes and opportunities to attend seminars and/or conferences for additional training opportunities.

The training schedule is provided in Appendix F.

# **Equipment and Parts Inventories**

These lists are included in Appendix F.

# **SECTION V – DESIGN AND PERFORMANCE PROVISIONS**

# **Background and Regulatory Requirements**

The Statewide WDRs governing sanitary sewers specify the development and implementation of design and performance provisions as an element of each Wastewater Collection Agency's Sanitary Sewer Management Plan (SSMP). Specifically, design and construction standards and each project's specifications must be in place for the installation of new facilities and for the rehabilitation and repair of existing facilities. Additionally, procedures and standards for each project should be in place for inspecting and testing the installation of new sewers, pumps, and other appurtenances and for rehabilitation and repair projects.

# <u>Compliance Summary</u>

The District adopted Standard Drawings and Specifications to govern the design, construction, testing, and rehabilitation of its wastewater infrastructure.

The District's Ordinance 305 and Administrative and Ethics Code Sec. 28.4 states in part, "Establishment of Rules and Regulations. The General Manager or her or his designated representative is authorized and directed to draft and amend from time to time the Rules and Regulations for the use of Sanitation District Sewerage Facilities within the Olivenhain Municipal Water District. All such Rules and Regulations shall be approved by the Board of Directors of the District."

# <u>Design</u>

All gravity sewer line systems within the District are designed to meet District standards. Pipe sizes are determined by the ultimate service area and available slope. All gravity sewer line plans are designed by registered civil engineers and reviewed and approved by the Engineering Manager prior to construction. Design and District engineering services are provided by the Engineering Manager.

# **Construction**

All gravity sewer line systems are constructed by qualified contractors, who must have a Class A general contractor's license when working within the public road right-of-way. The contractor's work is inspected by the District and tested for trench compaction and pipeline integrity in compliance with the Standard Specifications and Drawings for the Construction of Water, Recycled Water, and Sewer Facilities. Live connections to the gravity sewer system are not permitted until final approval by the District is given and record drawings have been filed.

# Connections

All connection requests for private residences and commercial establishments are reviewed by the District. No connections are allowed until a valid wastewater discharge permit has been issued by the District.

# Inflow and Infiltration

Based on historical data and assessment within the collection system and pump stations, inflow and infiltration has not been a significant issue for the District. During heavy rain events inflow and infiltration is problematic. There are several manholes identified by the District that potentially could have inflow and infiltration issues. Several manholes have been lined by the District; however, this was primarily due to  $H_2S$  corrosivity issues and not inflow and infiltration. Inflow and infiltration in the Rancho Cielo area will be studied within the coming year.

# SECTION VI – SPILL EMERGENCY RESPONSE PLAN

# **Background and Regulatory Requirements**

The Statewide WDRs governing sanitary sewers specify the development and implementation of a spill emergency response plan as an element of each Wastewater Collection Agency's Sanitary Sewer Management Plan (SSMP). This element identifies the agency's practices to protect public health and the environment in the event of a spill. State Water Resources Control Board Order No. WQ2022-0103-DWQ updated the Spill Emergency Response Plan parameters.

# **District** Actions

The District has developed and implemented an Spill Emergency Response Plan (SERP) which: standardizes the District's response actions to the report of a possible sanitary sewer spill; identifies the safety precautions and industry practices to ensure public and environmental health and safety; and identifies the internal and external notification and reporting requirements. Key required components of this SSMP element are discussed in the following sections.

An essential component of the SERP is the identification of the proper notification procedures to the appropriate parties, starting with the person who actually receives the initial reporting call; this includes notifications to District management as well as regulatory agencies and other external agencies. The District's list of emergency contractor(s) is provided in the SERP.

In addition to general spill response practices, the plan identifies specific additional steps which should be followed for a particular spill type and procedures to contain and prevent/limit discharge to surface waters. The plan also identifies procedures to address emergency operations, such as traffic and crowd control, while adhering to District safety procedures.

Whenever there is a risk of contamination from a sewage spill to surface waters or an area of public contact, the District will initiate posting of the contaminated area with signs warning of the contamination. Upon notification, the District will remove the posted signs.

To further minimize or correct any adverse impact, the plan procedures specify that any wash-water, debris, and contaminated soil are collected and properly disposed of.

Finally, the Water Reclamation Facilities Supervisor, in concert with the appropriate agencies and contractors, would direct sampling protocols, if necessary, to determine the environmental impact and remediation of the spill. The District maintains a sampling procedure which would be modified to incorporate the concerns of any regulatory authorities, as necessary, as part of the spill response. For spills greater than 50,000 gallons, the Water Quality Monitoring Program reporting would be implemented to provide the appropriate sampling and documentation.

Training on the SERP is provided annually to District staff and emergency contractors. Training on the SERP is also a part of the new hire process for all staff in the field.

The SERP is attached to this section.

# OLIVENHAIN MUNICIPAL WATER DISTRICT

SPILL EMERGENCY RESPONSE PLAN

Modified 4/25/2023



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#### SECTION 1: PURPOSE

Olivenhain Municipal Water District (District) owns and operates a wastewater collection system that consists of pumping stations, gravity sewer mains, and force mains. These facilities are well maintained and normally should not result in any spills. However, the possibility does exist.

This procedure provides a plan for public health and safety. This may require that certain actions be taken to minimize the health hazards resulting from accidental sewage discharges. This policy provides guidance to District employees in procedures to be used. This Spill Emergency Response Plan (SERP) is written and executed per the direction from the California Water Resources Control Board (SWRCB) Order No. 2022-0103-DWQ.

This document is also in accordance with the Fiscal Year 2008 NIMS Compliance Objectives. Specifically, it is in agreement with the planning objectives of the preparedness National Incident Management System (NIMS) compliance component. This objective aims to revise and update emergency operations plans to incorporate NIMS and National Response Framework (NRF) components, principles and policies. Additionally, NIMS compliance objective #7 wants to include planning, training, response, exercises, equipment, evaluation, and corrective actions in the emergency operations plan.

#### SECTION 2: BACKGROUND

There is a need to standardize procedures to be followed when spills occur. These procedures provide for a coordinated effort by trained personnel, so that all necessary actions are taken to help facilitate a timely and technically correct response.

#### SECTION 3: POLICY

The basic District policy is that in the event of a spill, every effort consistent with safety should be made to return the system to operation. A very close second priority is to contain the spill. In some instances this could be the primary consideration, depending upon location, magnitude of spill, and availability of alternatives. Nothing in these procedures supersedes, or in any other way, relaxes District safety procedures. Personal safety supersedes satisfying the requirements of the SERP, for example the requirement to obtain photographs of the incident.

#### SECTION 4: DEFINITIONS

In order for personnel to accurately assess the probable impact on public safety and the safety of District employees, and to determine the proper level of response, the potential for outside costs associated with cleanup, potential claims for property damage and to accurately report spills to regulatory agencies the following definitions will apply.

- **4.1 CATEGORY 1 SPILL**: A Category 1 spill is a spill that results in a discharge to a drainage channel and/or surface water; or results in a discharge to a storm drainpipe that was not fully captured and returned to the sanitary sewer system.
- **4.2** CATEGORY 2 SPILL: A Category 2 spill is a spill of 1,000 gallons or greater that does not discharge to a surface water.
- **4.3** CATEGORY 3 SPILL: A Category 3 spill is a spill between 50 and 999 gallons that does not discharge to a surface water.
- **4.4** CATEGORY 4 SPILL: A Category 4 spill is a spill of less than 50 gallons that does not discharge to a surface water.

**4.5 SAFETY**: Whenever District utility field crews respond to a reported spill they may encounter an emergency situation that requires immediate action. Remember, safety is paramount, and even during this type of incident, safe operations always take precedence over meeting schedules or getting the job done or any other commonly used short cut that may abridge proper safety practices.

Safety considerations include not only the safety of the general public, but also the safety of public works personnel. They also include traffic control and proper positioning of vehicle to avoid traffic accidents, as well as bystander safety and safety for citizens and the environment from the results of a spill.

#### SECTION 5: INITIAL NOTIFICATION AND RESPONSE

In the event of a sewer spill any employee observing a spill shall immediately contact wastewater department, who shall then contact the Water Reclamation Facilities Supervisor and provide a verbal report. If, for any reason, the Water Reclamation Facilities Supervisor cannot be reached, the Operations Manager can alternately be alerted of the spill. The Water Reclamation Facilities Supervisor shall notify sewer system maintenance utility field crew and notify a vactor truck contractor to assist in cleanup if needed. Upon arrival to the spill site, section 7 describes field crew procedures for stopping and containing spills. If notified, the media may arrive to cover the event. In the event there is media coverage, District personnel will follow the established District guidelines regarding public relations. In the event of a spill after District business hours, District's dispatch entity will immediately contact the OMWD On-Call personnel. The On-Call personnel will then inform the Water Reclamation Facilities Supervisor of the spill. Contacts can be made as follows.

Chief Plant Operator Gabriel Hernandez Office 858-451-7837 ext. 504 Mobile 619-851-2115

Water Reclamation Facilities Supervisor John Onkka Office 858-485-5045 Mobile 760-613-8322

Operations Manager Geoffrey Fulks Office 760-632-4647 Mobile 442-222-9434

#### SECTION 6: <u>REPORTING</u>

Based on the size and nature of the spill, the District shall report the spill to the following agencies within the required time frames.

- **6.1** Complete all required reports with pertinent details, including estimates of spill volume. Turn in reports and photos to Water Reclamation Facilities Supervisor by the start of the next workday.
- **6.2** The Water Reclamation Facilities Supervisor is the responsible representative for the District, as described in Section J of the SWRCB Order No. 2022-0103-DWQ, entitled "Statewide General Waste Discharge Requirements General Order for Sanitary Sewer Systems."
- **6.3** Category 1 spills (see section 4 for definition) must be reported as soon as: (1) the District has knowledge of the discharge, (2) reporting is possible, and (3) reporting can be provided without substantially impeding cleanup or other emergency measures. Initial/draft reporting of spills must be reported to the CIWQS Sanitary Sewer System Database as soon as possible but no later than 3 business days after the

District is made aware of the spill. Minimum information that must be contained in the Draft Spill Report must include all information identified in Section D (ix), Monitoring and Reporting Program, of SWRCB Order No. 2022-0103-DWQ and section 6.7.3 seen below. A final certified report must be completed through the CIWQS Sanitary Sewer System Database, within 15 calendar days of the conclusion of the spill response and remediation. For a Category 1 spill in which 50,000 gallons or greater are discharged to surface waters, submit Technical Report within 45 calendar days after the spill end date and conduct water quality sampling within 18 hours after initial spill notification.

**6.4** For any Category 1 discharges of sewage that result in a discharge to a drainage channel or a surface water, the District shall, as soon as possible but not later than 2 hours after becoming aware of the discharge, notify the State Office of Emergency Services, the local health officer or directors of environmental health with jurisdiction over affected water bodies, and the San Diego Regional Water Quality Control Board.

OFFICE OF EMERGENCY SERVICES (800) 852-7550 (916) 262-1677 FAX

SAN DIEGO COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH P.O. BOX 129261 SAN DIEGO, CA 92112-9261 Office: (858) 505-6700 Fax: (858) 505-6788

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION 2375 NORTHSIDE DRIVE, SUITE 100 SAN DIEGO, CA 92108 Office: (619) 516-1990 Fax: (619) 516-1994

- **6.5** Category 2 spills must be reported as soon as possible but not later than 2 hours after becoming aware of the discharge to the State Office of Emergency Services as well as to the San Diego Water Quality Control Board within 24 hours after the District becomes aware of the spill, notification is possible, and notification can be provided without substantially impeding cleanup or other emergency measures. Minimum information that must be contained in the 24-hour report must include all information identified in section C.2 of R9-2007-0005 and section 6.7.1 below. The District will also report the discharge to the CIWQS Sanitary Sewer System Database within 30 days after the end of the calendar month in which the spill occurs. All Category 2 spills will also be reported to the CIWQS Sanitary Sewer System Database within 30 days after the spill occurs.
- **6.6** The District shall report and certify all Category 3 and 4 spills and spill volume to the online CIWQS Sanitary Sewer System Database within 30 calendar days after the end of the month in which the spills occurred.
- 6.7 In the event of a private lateral sewer discharge resulting in a spill that reached surface waters or storm drainpipe the District shall, as soon as possible but not later than 2 hours after becoming aware of the discharge, notify the State Office of Emergency Services, the local health officer or directors of environmental health with jurisdiction over affected water bodies, and the San Diego Regional Water Quality Control Board. If the private lateral discharge didn't reach surface water or storm drainpipe but it was greater than 1,000 gallons, the District will provide notification of the discharge to the San Diego Regional Water Quality Control Board by phone, email, or fax within 24 hours after the District becomes aware of the spill, notification is possible, and notification can be provided without substantially impeding cleanup or other emergency measures. The District will also report all private lateral discharges to the CIWQS Sanitary Sewer System Database within 30 days after the end of the calendar month in

which the Lateral Sewage Discharge occurs. The District identifies the sewage discharge as occurring and caused by a private lateral, and the responsible party (other than the District) is identified, if known. Minimum information that must be contained in the report is seen below in section 6.7.2.

- **6.8** At a minimum, the following mandatory information must be included prior to finalizing and certifying a spill report for each category of spill:
  - **6.8.1** Category 2 spills:
    - a. Location of spill by entering GPS coordinates;
    - b. Whether or not the spill was located within 1,000 feet of a drainage channel and/or surface water;
    - c. Estimated spill volume in gallons;
    - d. Description of how the spill volume was estimated
    - e. Spill source (manhole, cleanout, etc.);
    - f. Spill cause (mainline blockage, roots, etc.);
    - g. Description of the failed pipelines and age of the pipe material;
    - h. Time of spill notification or discovery;
    - i. Estimated operator arrival time;
    - j. Spill destination;
    - k. Spill impact;
    - 1. Association with storm event;
    - m. Description of spill response activities;
    - n. Estimated spill end time; and
    - o. Detailed narrative of investigation
  - **6.8.2** Private Lateral Sewage Discharges:
    - a. All information listed above (if applicable and known), as well as;
    - b. Identification of sewage discharge as a private lateral sewage discharge; and
    - c. Responsible party contact information (if known).
  - 6.8.3 Category 1 spills:
    - a. All information listed for Category 2 spills, as well as;
    - b. Estimated spill volume that reached surface water, drainage channel, or not recovered from a storm drain;
    - c. Estimated spill amount recovered;
    - d. Response and corrective action taken;
    - e. Name and type of receiving water body;
    - f. If samples were taken, identify sample locations and parameters that samples were analyzed for (if applicable);
    - g. Identification of whether or not health warnings were posted;
    - h. Beaches impacted (if applicable). If no beach was impacted, NA must be selected;
    - i. Whether or not there is an ongoing investigation; and
    - j. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the spill and a schedule of major milestones for those steps.

Additional information for Category 1 spills greater than 50,000 gallons:

- k. Complete and detailed explanation of how and when the spill was discovered;
- 1. Photographs illustrating the spill origin, the extent and reach of the spill, drainage conveyance system entrance and exit, receiving water, and post-cleanup site conditions;
- m. Diagram showing the spill failure point, appearance point(s), the spill flow path, and ultimate destinations;
- n. Copy of original field crew records used to document the spill;
- o. Historical maintenance records for the failure location;
- p. Evaluation of spill impact(s), including a description of short-term and long-term impact(s) to beneficial uses of the surface water
- q. Water Quality Monitoring
- r. Final corrective action(s) completed and a schedule for planned corrective Actions;

- s. Explanation of how the Sewer System Management Plan Spill Emergency Response Plan was implemented to respond to and mitigate the spill;
- t. Chronological narrative description of all actions taken by the Enrollee to terminate the spill;

**6.8.4** Category 3 spills

a. Report and certify all Category 3 spills to the online CIWQS Sanitary Sewer System Database within 30 calendar days after the end of the month in which the spills occurred. After the Legally Responsible Official certifies the spills, the online CIWQS Sanitary Sewer System Database will issue a spill event identification number for each spill.

- 6.8.5 Category 4 spillsa. Report and certify the estimated total spill volume exiting the sanitary sewer system, and the total number of all Category 4 spills to the online CIWQS Sanitary Sewer System Database, within 30 calendar days after the end of the month in which the spills occurred.
- **6.9** A copy of this report shall also be submitted within 30 days to the San Diego Unified Port District if materials are released into tideland areas.

SAN DIEGO UNIFIED PORT DISTRICT P.O. BOX 488 SAN DIEGO, CA 92112 ATTENTION: ENVIRONMENTAL MANAGEMENT

#### SECTION 7: PROCEDURES

This section will provide general guidelines for actions to be taken in response to a sewer spill after the initial notification and response has already been completed. Upon arrival, the utility field crew will assess the spill and follow the appropriate procedure. This section will be divided into four parts: mainline blockage, private mainline or lateral blockage, force main leak, and pump station failure.

For all spills, the Incident Command Post (ICP) shall be at the site of the spill, in a safe location at the scene. The Incident Base (IB) shall be the District offices. Staging and mobilizing shall be done from District offices or from the 4S Water Reclamation Plant.

#### 7.1 MAINLINE

- 7.1.1 If the initial report does not include sufficient information, contact the person who reported the spill and obtain information on location and nature of problem.
- **7.1.2** Upon arrival at the reported location a determination must be made as to the source of the spill . Is it coming from a District owned mainline, or an individual building lateral, or private sewer? (A map of the District sewer system is provided in each sewer vehicle.)
- **7.1.3** If it is determined that the spill is originating from a District owned mainline sewer, secure the area by placing proper traffic control around the work site, contain the spill with sandbags of fill material, and/or bypass the affected manholes in an expeditious fashion. Bypassing may be done by highlining or by the uses of temporary pipeline around the affected area to transport the water to a parallel main. Inspect flow conditions in the upstream and downstream manholes to determine location of blockage. Once blockage is located relieve the blockage as soon as possible. Remove spilled sewage from any storm drains and/or drainage facilities as much as feasible.

- **7.1.4** Once the blockage has been relieved or problem corrected, every attempt should be made to clean and return the area to original condition. Estimate the amount of sewage that has escaped the system, and file all reports with supervisor by the following workday.
- **7.1.5** If there is property damage, notify a supervisor immediately, or if after working hours notify a supervisor by the following workday. Take necessary photographs of the affected area for District records.

#### 7.2 PRIVATE MAINLINE OR LATERAL

- **7.2.1** If it is determined that the spill is originating from a private main or individual building lateral the owner or property manager must be notified and informed that they are responsible for corrective action and must call a licensed private contractor immediately. If needed, the District can provide contact information for vactor truck contractors.
- **7.2.2** The property owner shall report all major spills from private lines within 24 hours to the County Department of Health Services. Please refer to Section 14 of this document for emergency contact information.

#### 7.3 FORCE MAIN LEAK

- **7.3.1** In the event that an spill has occurred due to a leak from a force main this will be bypassed while emergency repairs are made to the pipeline. This bypassing may be done by high-lining or by the uses of temporary pipeline around the affected area to transport the water to a parallel main. The use of a pump will be necessary to convey flow.
- **7.3.2** Repairs may be done by District personnel or by a private contractor depending on the nature of the damage to the pipeline, location of leak, volume of water and the depth of the pipeline.
- **7.3.3** Due to the lack of service connections to a force main it is highly unlikely that any flooding of personal property would occur as a result of a force main leak. The threat to the environment and the public health may still exist and therefore procedures similar to those for a mainline blockage spill may be required.

#### 7.4 PUMP STATION FAILURE

- **7.4.1** Each pump station is fitted with an alarm system that will alert the District dispatchers in the event of a system failure. District personnel, or after hours stand-by crews shall respond immediately when a report of an alarm is received.
- **7.4.2** Upon arrival to the pump station from which the alarm has originated a determination must be made to the cause of the failure. Once a determination has been made as to the cause of the alarm then take the necessary steps to return the station to proper operation. Mobilize the necessary personnel and equipment to correct the problem and notify a supervisor of the situation.
- 7.4.3 If a spill has occurred use instructions similar to those for a mainline blockage.

#### SECTION 8: LIABILITY

- **8.1** Do not volunteer or disown District liability. Instead, District personnel should use neutral comments. Be polite and sympathetic to the property owners concerns. Assure them regardless of who is at fault you are there to assist them.
- 8.2 The Water Reclamation Facilities Supervisor will advise the occupant, property owner, or property

manager of the procedure for filing a claim for damages with the District Clerks office (only if there damage to real estate or personal property). A professional restoration service may be offered at the discretion of the Water Reclamation Facilities Supervisor.

#### SECTION 9: <u>RESPONSIBILITIES</u>

- 9.1 In the event of a spill, the following Incident Command System (ICS) designations shall be used:
  - Water Reclamation Facilities Supervisor-Incident Commander (IC)
  - Water Reclamation Facilities Supervisor– Public Information Officer (PIO)
  - Operations Manager Safety Officer (SO)
  - General Manager Liaison Officer (LNO)
  - All Other General Staff
- **9.2** The Water Reclamation Facilities Supervisor is responsible for ensuring that all personnel are provided with a copy of this response plan. All personnel are responsible for following these guidelines and completing all the proper reports with all pertinent information.
- **9.3** Reports must be submitted immediately to a supervisor. If the spill occurs during off-hours the person responsible shall complete all required reports and notify a supervisor by the following workday.
- **9.4** The Water Reclamation Facilities Supervisor is the responsible representative for the District, as described in Section J of the SWRCB Order No. 2022-0103-DWQ, entitled "Statewide General Waste Discharge Requirements for Sanitary Sewer System." Accordingly, the Water Reclamation Facilities Supervisor must complete the required CIWQS Sanitary Sewer System Database referenced in Section 5.
- 9.5 Apart from the CIWQS Sanitary Sewer System Database, Water Reclamation Facilities Supervisor shall

be responsible for notifying regulatory agencies of spills within the required time frame.

#### SECTION 10: EMERGENCY TRAFFIC AND CROWD CONTROL

In the event that the spill is located in a high traffic area, the Senior Crew Chief will utilize assistance from the San Diego County Sheriff's Department at (858) 521-5200.

#### SECTION 11: POSTING REOUIREMENTS

- **11.1** Once it has been established that the public health may be at risk, it becomes necessary to post signs warning of contamination in appropriate locations.
- **11.2** Posting of contamination signs will be done in all cases whether there is standing water or the ground is saturated.
- **11.3** Signs will be placed in locations with high visibility as so that they can be seen from all routes that the public might take to enter an area.
- **11.4** Signs will remain posted for a period of not less than five days, or as otherwise determined by the Water Reclamation Facilities Supervisor.

#### SECTION 12: TRAINING

All personnel and pertinent contractors shall review this procedure at tailgate training sessions no less than semi- annually. A "table-top" practice response to a sewer spill should be implemented no less than annually.

## SECTION 13: NIMS COMPLIANCE

All NIMS compliance objectives for the SERP are listed below with a description of the District's compliance for each objective:

#### 13.1 Command and Management

Personnel and responsibilities are given in Section 9 of this document. Designated areas are described in Section 7.

#### 13.2 Preparedness

Training and preparedness are described in Section 12 of this document.

#### 13.3 Resource Management

The District uses the services of contractors listed in Section 14 of this document.

#### **13.4** Communication and Information Management

Intra-district communication is handled by phone lists given in Section 14. Coordination outside of the District is handled on a case-by-case basis.

#### SECTION 14: ATTACHMENTS

- 14.1 Local Vactor Truck Contractors
- 14.2 Emergency Contact List for Sanitary Sewer Spill
- **14.3** SERP Flow Chart/Checklist

# 14.1 - Local Vactor Truck Contractors

The District has secured the following local contractors to be available to respond to wastewater emergencies:

- 1. National Plant Services A specialty contractor that cleans sewer lines.
- 2. Atlas Pumping Services A specialized trucking company that can transport sewage, and clean the spill site. Collected debris can be taken to 4S Ranch treatment plant or to a manhole. Atlas Pumping Services is located in Lakeside.
- 3. Affordable Pumping Services Sewage pumping and transportation.
- 4. Downstream Services, Inc. A firm specializing in cleaning, repairing, and rehabilitating pipelines.
- 5. Godwin Pumps Located in Mira Loma, this firm can rent and sell pumps for cleaning and bypass.
- 6. Traffic Supply Solutions Traffic control specialists who can prepare traffic plans and deliver and set up traffic control equipment.
- 7. Ocean Blue Inc. Hazardous waste cleanup contractor. They are located in San Diego near the port.

\*See Section 14.2 for contact information of vendors

# 14.2 - OMWD Spill Response Emergency Contact List

#### Public Agency Notification

For any Category I discharges of sewage that result in a discharge to a drainage channel or a surface water, the District shall, as soon as possible but not later than two (2) hours after becoming aware of the discharge, notify the State Office of Emergency Services, the local health officer or directors of environmental health with jurisdiction over affected water bodies, and the San Diego Regional Water Quality Control Board.

Public Agency Notification	Office Phone	After Hours	Miscellaneous
California Office of Emergency Services	800-852-7550	858-822-8344	916-262-1677 Fax
California Regional Water Quality Control Board: San Diego (R9)	619-516-1990		619-516-1994 Fax
San Diego County Dept. of Health Services	858-495-5579	858-505-6657	619-338-2377 Fax

# 14.2 - Continued

Name	Title	Direct	Work Cell Phone
Gabriel Hernand	ez Chief Plant Operator	858-451-7837 ext. 504	619-851-2115
Jason Emerick	Operator III	858-451-7837 ext. 505	619-994-3962
Raymond Motas	Operator III	858-451-7837 ext. 503	760-415-3422
William Broadhe	ad Operator III	858-451-7837 ext. 506	760-415-8230
Jymy Briseno	Operator I	858-451-7837 ext. 502	760-407-4326
Erik Harp	IT Supervisor	760-632-4202	760-415-6242
Rudy Petrovski	ICT II	760-632-4646	760-415-7221
Dan Nevitt	ICT II	N/A	760-579-3842
GeronimoRodriguez	ICT I	N/A	760-859-7393
Brian Keeler	ICT I	N/A	760-519-6524
John Onkka	Water Reclamation Faciliti Supervisor	es 858-485-5045	760-613-8322
Geoffrey Fulks	<b>Operations Manager</b>	760-632-4647	442-222-9434
Tim Schuette	Safety Officer	760-632-4217	442-888-0836
Kimberly Thorner	General Manager	760-753-6466	760-415-6158

# Spill Response Vendor Emergency Contact List

Contractor Contact	Office Phone	After Hours Contact	Work Cell Phone
National Plant Services	562-436-7600		
Affordable Pipeline Services	858-689-4000	Corey	858-583-9950
Atlas Pumping	619-443-7867	Bill	619-971-6208
Downstream Services	760-746-2544		
Traffic Supply Solutions	760-884-3735	Oscar Salcedo	760-212-1470
Godwin Pumps		Nate Warren	951-317-8250
		Andy Dunfee	858-243-5208
Ocean Blue Inc.	619-450-6553		
Electrical Contacts:	Office Phone	After Hours Contact	Work Cell Phone
Contractor Contact			
SDG&E Outages	800-611-7343		
Global Power Group	866-547-6937		
	619-579-1221		

# 14.3 - SERP Flow Chart / Checklist



# SECTION VII – FATS, OILS, AND GREASE CONTROL PROGRAM

# **Background and Regulatory Requirements**

The Statewide WDRs governing sanitary sewers specify Fats, Oils, and Grease (FOG) Control Programs as an element of each Wastewater Collection Agency's SSMP. This element requires each agency to evaluate its service area to determine whether a FOG control program is needed and to develop a FOG control program if appropriate.

# **District Actions**

The District's Rules and Regulations for Use of District Sewerage Facilities Section 3.1 and Section 3.7 contain language-describing prohibitions on the discharge of any materials or obstructions that have the potential to clog, obstruct or fill the sewer or will interfere with or prevent the effective use of the sewer system. Specifically, Section 3.7 outlines the District's FOG Program. Additionally, there is language prohibiting the discharge of various toxic substances, rain water, and surface water. District Administrative and Ethics Code Section 28 establishes the legal authority to enforce infrastructure improvements in locations with chronic FOG issues.

The District adheres to the California Plumbing Code. Stated within the code, Section 1014.8 stipulates the requirements for grease interceptors for commercial kitchens. At this time, grease interceptors are not required for individual dwelling units or for any private living quarters.

The District has a list of "hot spots" that are logged and tracked by an operator with the majority being caused other problems besides FOG (e.g. roots and debris). Those that are subject to excess FOG and are cleaned more frequently, if necessary. Current authority to inspect grease-producing facilities and enforcement is governed by District Administrative and Ethics Code Article 28. FOG inspections are currently being conducted by an outside consultant on a set quarterly schedule, and then adjusted as needed based on the discharge and compliance.

In part, these codes authorize the District to enforce all provisions of pertinent codes and for such purpose shall have the powers of a peace officer. Additionally, all actions taken by the District staff will provide for the recovery of capital and operation costs of such facilities.

Source control measures for all identified FOG "hot spots" may consist of:

- Distribution of the District's FOG fact sheet for restaurant and homeowner grease control;
- Restaurants could be required to install grease traps, grease interceptors, or oil/water separator via the District's FOG Program; or
- Inspections by District staff and/or contracted employees, as necessary.

# **District Documents Referenced By This Section**

- District Administrative and Ethics Code Section 28
- CPC Chapter 10

# SECTION VIII – SYSTEM EVALUATION AND CAPACITY ASSURANCE PLAN

# **Background and Regulatory Requirements**

The Statewide WDRs governing sanitary sewers specify that each Wastewater Collection Agency shall prepare and implement a capital improvement plan (CIP) that will provide hydraulic capacity of key sanitary sewer system elements for dry weather peak flow conditions, as well as the appropriate design storm or wet weather event as part of the SSMP.

# **District Actions**

#### Overall System and Treatment Capacity Evaluation

Flows generated within the District are treated at the 4S Ranch Water Reclamation Facility (4S Ranch WRF). The 4S Ranch WRF is the sole treatment facility for the District and has a treatment capacity of 2 million gallons per day. There is sufficient treatment capacity at the 4S WRF to accommodate the District's projected buildout flows. This was confirmed in the District's 4S Ranch/Rancho Cielo Sewer Build-Out Study and Capacity Assurance Plan which includes future flow projections and hydraulic modeling of the collection system.

In 2015, the District updated its Capital Improvement Plan (Master Plan). An annual contribution in the overall CIP was allocated for collection system pipe rehabilitation and replacement. CIP projects at the pump stations are detailed as well. The plan further identifies the specific capital improvement projects necessary to address the improvements along with triggers related to the timing of their implementation. The current system capacity is sufficient to convey the current peak sewer flows.

#### Pump Station Evaluation

A list of all 14 lift stations in the District is shown below with each of their respective pump flow rate and head.

Dump Station	Flow Rate,	Pump Head,
i unp station	gpm	ft.
Neighborhood 1	1,360	225
Neighborhood 3	1,600	209
Firehouse	750	120
Mid-Point	1,700	185
Del Dios	1,000	217
Camino San Puente #1	60	150
Camino San Puente #2	60	150

Pump Station	Flow Rate,	Pump Head,
I ump Station	gpm	ft.
Camino San Puente #3	60	150
Camino San Puente #4	60	150
Cerro Del Sol #1	100	
Cerro Del Sol #2	200	
Avenida Apiece	60	
Avenida Orilla	60	
Santa Luz	120	193

# <u>Design Criteria</u>

All design criteria for current and future sewer projects will adhere to the District Standard Drawings and Specifications and as stated in the District's Rules and Regulations. For planning purposes, the District utilizes a 280 gpd/EDU generation rate for Rancho Cielo and a 250 gpd/EDU generation rate for 4S Ranch per District flow studies.

# **Capacity Enhancement Measures**

The Master Plan contains a list of each project identified as necessary to maintain the capacity of segments within the sewer system and in order to ensure continued high-quality service to District customers. If no improvements are required in the short term, then long-term improvements will be planned according to development and metered sewer flows.

#### Schedule

Per the Master Plan update there are CIP projects currently identified for the District for long range planning (10-year and 20-year). The CIP projects are identified for the District's collection system, pump stations, as well as the 4S Ranch WRF. The 10 Year CIP from the Master Plan is continually updated as part of the District's annual budget process.

## SECTION IX – MONITORING, MEASUREMENT, AND PROGRAM MODIFICATIONS

# **Background and Regulatory Requirements**

The Statewide WDRs governing sanitary sewers specify that each Wastewater Collection Agency shall:

- maintain relevant information that can be used to establish and prioritize appropriate SSMP activities,
- monitor the implementation and measure the effectiveness of each element of the SSMP,
- assess the success of the preventative maintenance program,
- update program elements, as appropriate based on monitoring or performance evaluations, and
- identify and illustrate SSO trends, including frequency, location, and volume.

Maintaining the applicability of the SSMP to District activities necessitates ongoing evaluation of the activities the District performs, their success, and improvement if necessary.

#### **District Actions**

#### Preventative Maintenance Program Evaluation

The graphs below illustrate the District's spill history over the last decade, not including private lines or laterals. Exhibit A illustrates the spill locations and Appendix G presents the spill summary list. The exact location of two spills are not known and are omitted on Exhibit A.







# Monitoring, Measuring, and Modifying the SSMP Sections

Upon completion of the SSMP, the District will evaluate the SSMP elements and make program modifications as necessary. To ensure that all elements of the SSMP are implemented, relevant, and effective, the District will complete the SSMP Section IX Spreadsheet. The spreadsheet was developed by the District during the course of SSMP development with the specific purpose of evaluating the SSMP and will be conducted concurrent with future SSMP Audits. The spreadsheet can be found on the next pages. Changes to the spreadsheet will be documented in future audits of this SSMP.

# **District Documents Referenced By This Section**

- SSMP Section IX Spreadsheet
- Exhibit A (SSO Locations 2010-2019)

OMWD SSMP < Year>						
Monitoring, Measurement, and Pro	ogram Modification Spreads	heet				
Action		2020				
SSOs		Count	Gallons	Responsible Person	Date Completed	Documentation
Enter all SSOs into GIS					•	
Number of SSOs	Dry Weather					
	Wet Weather					
	Total					
Volume Distribution of SSOs	<100 gallons					
	100 to 999 gallons					
	1,000 to 9,999 gallons					
	>10,000 gallons					
Volume of SSOs contained						
Volume that contacted water ways						
Volume that closed down beaches						
SSO by cause	Root					
	Grease					
	Debris					
	Pipe Failure					
	Pump Station Failure					
	Capacity					
	Other					
Preventative Maintenance (PM)		Co	unt	Responsible	Date	
		Eeet	Miles	Person	Completed	Documentation
Preventative gravity main	Small Diameter (6" to 12")	1001	Willog			
	Large Diameter (>12")					
	Total					
Post-work gravity main inspections	Small Diameter (6" to 12")					
· · · · · · · · · · · · · · · · · · ·	Large Diameter (>12")					
	Total					
Gravity main cleaned	Small Diameter (6" to 12")					
	Large Diameter (>12")					
	Total					
Chemical root control						
Valves exercised						
Manholes inspected						
Easements inspected						
Interceptors inspected						
CCTV inspections	Pipeline					
	Manholes					
Pipe repairs						
Pipe replacements						
Manhole cover replacements						
Meter repairs						
Meter replacements						
•						
How many new dischargers were added this year with FOG						
How many have grease interceptors or other FOG control devices?						
What percentage of known FOG pro	blem areas were cleaned?					

Preventative Maintenance (PM), cont.		Co	unt	Responsible	Date	Documentation
How many now EOC problem areas	wore added this year?	гееі	IVIIIES	Feison	Completed	
The many new 100 problem areas	were added this year?					
Preventative Maintenance (PM) Exp	enditure					
	enditure					
Review and Update		Yes	s/No	Responsible	Date	Documentation
				Person	Completed	
Review and Update GIS	Facilities					
	FOG information					
	SSOs					
	Cleaning activities					
	CCTV inspections					
Review and Update Hydraulic Model	Existing flows					
	Future flow projections					
Review and Update Organizational (	Chart					
Update Staff and Personnel Contact	Information					
Review and Update Regulatory Agency and Potential Affected						
Agency Contact						
Review and Update SSMP Change	Log and Appendices					
Training		Yes	s/No	Responsible Person	Date Completed	Documentation
CWEA O&M Vol. 1 Training						
CWEA O&M Vol. 2 Training						
SERP and Spill Response						
First Aid						
Other						



# **SECTION X – PROGRAM AUDITS**

# **Background and Regulatory Requirements**

The Statewide WDRs governing sanitary sewers specify that the District shall conduct periodic internal audits, appropriate to the size of the system and the number of SSOs. These audits must occur at a minimum of every two years and a report must be prepared and kept on file. The audit shall focus on evaluating the effectiveness of the SSMP and the District's compliance with the SSMP requirements, including the identification of any deficiencies in the SSMP and the steps to correct them.

# **District Actions**

Every year following the completion of this SSMP, the District will conduct an audit (internally or externally) of the SSMP using the Section IX Spreadsheet and X Checklist. Information used to monitor and measure the success of the SSMP will be used to prepare the audit and any program modifications will be documented at this time. The Appendix B Change Log will be updated as necessary. The audit will include the identification of any significant changes to components of the SSMP, the referenced compliance documents, implementation efforts over the past two years, CIP projects for the past two years and upcoming two years, and strategies to correct deficiencies. The findings of the audit will be reported to the Board and the audit report will be posted on the District's website for public review.
SSMP Audit Checklist					
Section	Requirement	SSMP Current	SSMP Implemented		
I - Goals	Reduce, prevent, and mitigate SSOs				
	Designate Legal Responsible Oversight				
II - Organization	Organizational Chart				
	Contact info for SSMP implementation				
	Prevent illicit discharges				
III Logal	Require proper design and construction				
Authority	Ensure access to facilities				
rathority	Limit FOG				
	Enforce violations				
	Up to date mapping				
TV OPM	Describe routine PM program				
IV - U&M Program	Rehabilitation and replacement plan				
Tiogram	Proper training				
	Equipment and replacement part inventories				
	Design and construction standards for new facilities				
	Design and construction standards for rehab and				
V - Design and	replacement facilities				
Performance	Procedures and standards for inspection and				
Provisions	testing of new facilities				
	Procedures and standards for inspection and				
	testing of rehab facilities				
	Notification procedures				
VI Contill	Response plan				
VI - Spill Emorgoney	Appropriate training				
Response Plan	Procedures for emergency operations				
neoponice i fait	Program to contain and prevent SSOs from				
	reaching waters				
VII - FOG Control Program	Determine if applicable				
VIII Conton	Capacity evaluation up to date				
Conseity	Design criteria in place				
Assurance	Capacity enhancement measures				
Assurance	Schedule				
	Maintain relevant info				
	Monitor implementation				
IX - MMM	Assess success of PM program				
	Update program elements				
	Identify and illustrate SSO trends				
	Conduct annual audit				
X - SSMP Audits	Prepare audit report				
	Record changes made/corrective action taken				
XI -	Communicate regarding preparation				
Communication	Communicate regarding performance				
Program	Communicate with surrounding agencies				

### SECTION XI – COMMUNICATIONS

### **Background and Regulatory Requirements**

The Statewide WDRs governing sanitary sewers specify that the District shall communicate on a regular basis with the public on the development, implementation, and performance of its SSMP. The communication system shall provide the public the opportunity to provide input to the District as the program is developed and implemented. The District shall also have a plan of communication with systems that are tributary to the District's sanitary sewer system.

### **District Actions**

### <u>Website</u>

The District's website <u>https://www.olivenhain.com</u> provides information on the District ranging from sewer studies and rules and regulations to general information of how to access pertinent codes and ordinances which state current fees and charges. Additionally, the District's website provides access to Board agendas and minutes which provides access to SSMP activities when they come before the Board.

### **Opportunity for Public Comment**

The District's website provides the community with avenues to contact the District with any questions they may have regarding the SSMP.

The District reports SSOs electronically to the California Integrated Water Quality System (CIWQS). The electronic SSO data, which has a public information section as well as information regarding regulatory actions, is available at:

http://www.waterboards.ca.gov/water\_issues/programs/ciwqs/publicreports.shtml

#### Interactions with Neighboring Agencies

Neighboring sewer agencies adjacent to the District are the City of San Diego and the Rancho Santa Fe Community Services District. The District also has a shared resources agreement with the San Elijo Joint Powers Authority for continued training.

### APPENDIX A

### OFFICIAL ADOPTION OF THE 2020 SSMP UPDATE BY THE OLIVENHAIN MUNICIPAL WATER DISTRICT

### RESOLUTION NO. 2020-07

### RESOLUTION OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT BOARD OF DIRECTORS ADOPTING THE 2020 SEWER SYSTEM MANAGEMENT PLAN

WHEREAS, on May 2, 2006, the State Water Resource Control Board adopted Order No. 2006-0003-DWQ requiring all federal, and state agencies, municipalities, counties, districts, and other public entities that own or operate sanitary sewer systems greater than one mile in length that collect and/or convey untreated or partially treated wastewater to a publicly owned treatment facility in the State of California, to comply with the terms of this order; and

WHEREAS, such order requires each municipality to prepare and implement a Sewer System Management Plan (SSMP) that will include provisions to provide proper and efficient management, operation, and maintenance of sanitary sewer systems, while taking into consideration risk management and health benefits; and

WHEREAS, the SSMP must be reviewed and updated consistent with the requirements as described in the Order; and

WHEREAS, District staff has reviewed and updated the SSMP and continues to comply with the Order; and

WHEREAS, the Statewide General Waste Discharge Requirements stipulate that the District maintains continuous coverage by a Legally Responsible Official (LRO) registered with the State Water Board, for purposes of managing and certifying the activities of the District's sewer collection system; and

WHEREAS, Kimberly A. Thorner is the District's LRO and desires to expand the designation of LRO classification to assure full coverage of sewer system activities.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of Olivenhain Municipal Water District does RESOLVE as follows:

SECTION 1. The Board of Directors of Olivenhain Municipal Water District approves and adopts the updated Sewer System Management Plan as required by the State Water Resources Control Board Order No. 2006-0003-DWQ Statewide General Waste Discharge Requirements for Sanitary Sewer Systems.

SECTION 2. The Board of Directors of Olivenhain Municipal Water District acknowledges Kimberly A. Thorner's designation of the following as an additional 4S Ranch and Rancho Cielo Sewer Systems LRO for State Water Resources Control Board Sanitary Sewer System Waste Discharge Regulations:

• John Onkka, Water Reclamation Facility Supervisor

RESOLUTION NO. 2020-07 continued

PASSED, ADOPTED AND APPROVED at a regular meeting of the Board of Directors of Olivenhain Municipal Water District held on Wednesday, May 20, 2020.

Edmund K. Sprague, President Board of Directors Olivenhain Municipal Water District

ATTEST:

Kimberly A. Thorner Assistant Secretary General Manager Olivenhain Municipal Water District

### APPENDIX B

SSMP CHANGE LOG

OLIVENHAIN MUNICIPAL WATER DISTRICT SEWER SYSTEM MANAGEMENT PLAN CHANGE LOG				
Date	SSMP Element/ Section	Description of Change/Revision Made	Change* Authorized By:	
4/26/2023	6	Updated OERP to SERP per new General Order WQ 2022-0103 DWQ	LRO	
4/23/2023	2	OMWD Organizational Chart	LRO	
4/23/2023	Appendix E	Sanitary Sewer Maintenance Plan	LRO	

### APPENDIX C

### AUDITS OF THE SSMP

### (PLACEHOLDER FOR FUTURE AUDITS OF THE 2020 SSMP)

### **APPENDIX E**

### SANITARY SEWER MAINTENANCE PLAN

# OLIVENHAIN MUNICIPAL WATER DISTRICT

# SANITARY SEWER MAINTENANCE MASTER PLAN

Modified 4/23/2023



## **OLIVENHAIN MUNICIPAL WATER DISTRICT**

### SANITARY SEWER MAINTENANCE MASTER PLAN

- **Goal:** In an attempt to protect the environment and serve the customers of the Olivenhain Municipal Water District, (District) has developed a sanitary sewer maintenance master plan. The intent of this master plan is to ensure, at all times, free-flowing conditions within the sewer collection system owned by the District. Within this master plan, the necessary aspects of maintenance have been addressed under the following areas.
  - 1. Sewer collection system access
  - 2. On-going collection system maintenance
  - 3. Recommend capital sewer collection system replacement
  - 4. Sewage lift station maintenance
  - 5. Spill response
  - 6. Spill reporting

### SEWER COLLECTION SYSTEM ACCESS

System access is the most important aspect of a properly maintained sewer collection system. System access must be addressed in the following phases of development:

- Plan Review- District Engineering staff review plans to ensure that the District is aware of any proposed encroachment on any District owned/maintained sewer main line.
- Encroachment Permits- In the event that the District allows an encroachment into a sewer easement, property owners must obtain an encroachment permit and conditions are placed on the property owner. These conditions limit the type of structures and vegetation allowed within the easement. The District does not allow the placement of any vegetation that can ultimately cause root intrusion into the sewer system or block access. Further, the District limits the type of structures that can be placed within an easement to prevent compromising the pipeline

infrastructure or limiting access to the sewer pipelines by District personnel.

• Annual inspection of sewer easements- It is the intent of the District to conduct visual inspections of the sewer easement areas on an annual basis in order to identify and correct any encroachment issues. Identified encroachments are documented in the field, and evaluated by the Engineering staff for appropriate action.

### **ON-GOING COLLECTION SYSTEM MAINTENANCE**

The District has developed a collection system maintenance strategy, which incorporates annual sewer line cleaning and videoing.

The management of the routine collection system cleaning follows best industry practices. Sewer lines are cleaned typically by hydrorodding techniques and debris is collected and disposed of at the 4S Ranch Wastewater Treatment Plant. In order to minimize mobilization costs and best manage the cleaning program, the District has contracted with a private collection system maintenance firm to clean and televise approximately 20% of the District's sewer collection system annually.

The current strategy for cleaning is to focus on the oldest section of the system first and work towards the newest. As the cleaning and videoing progresses, trouble sections or hot-spots are identified. These hot-spots are evaluated to determine:

- 1. The cause of the problem: (Upstream dischargers, flat spots, sags, off-set joints, etc.)
- 2. The frequency of maintenance required to prevent an obstruction and subsequent sewer overflow
- 3. The feasibility of correcting the problem via source control techniques, or capital improvement projects.

Ultimately, the entire system will be cleaned and the District will be able to document and prioritize the hot-spots and potential capital projects necessary within the system. As new areas are added to the system, the District will incorporate those areas into the maintenance master plan.

Managing hot-spots is done by utilizing the District's Computerized Maintenance Management System (CMMS) program. By using this software, the District can input a description of the hot-spot, including location and required maintenance method. In addition, the appropriate maintenance frequency is included. When due, this system will generate a work order directing the District to perform the necessary maintenance, and also allows the District to document the findings for record. Hot-spot management is a dynamic process. The monitoring frequency my increase or decrease depending on the conditions, and completion of capital improvement projects. The CMMS will allow that flexibility.

### **RECOMMEND CAPITAL SEWER COLLECTION SYSTEM REPLACEMENT**

During the cleaning cycles, sections of the collection systems may be found to be in a deteriorated condition. An indication of deteriorated sections would include rocks, roots, and other material that is observed in the debris removed. When observed, these areas will be televised to document the specific area of failure. Depending on the severity of the problem observed, the District may elect to immediately address those areas or place them within their capital repairs projects for future years.

Until the improvement projects are completed, they will be placed on a hot-spot list, and monitored on an accelerated frequency to ensure a free-flowing condition. In addition, based on the soil type and moisture content, the District has verified through video that portions of the sewer system have sagged and offer a potential for a line blockage. As the District continues to locate these areas, they will be added to the hot spot list and inspected at an appropriate frequency to insure a free-flowing condition.

### MONITORING SEWAGE LIFT STATIONS

There are presently fourteen (14) sewer lift stations operating within the District sewer sanitation districts. These lift stations are briefly described below.

The District's Neighborhood 1 sewer lift station has been in operation since 2002. This pump station was designed with a wetwell and a ground level pump station. Located within the wetwell are two submersible pumps. These submersible pumps are paired with horizontal pumps in the ground level pump station. The submersible pump moves the wastewater from within the wetwell and pushes it into the horizontal pump. The horizontal pump then pumps the water to the treatment facility. The two submersible pumps have 75 hp motors and are capable of pumping to 1,360 gallons per minute to 123 feet of head. The horizontal pumps use 125 hp motors to pump 1,360 gallons per minute to a 223 feet. The horizontal pumps utilize VFD's, while the submersible pumps are constant speed. The wetwell is operated in a "draw" and "fill" mode. Like the 4S Ranch Sewer Lift Station, Neighborhood 1 sewer lift station has a generator to supply power in case of an electrical failure. The station also has an adjacent concrete lined basin to contain spills if the pumps are unable to operate.

The District's Neighborhood 3 sewer lift station has been in operation since 2003. This pump station was designed with a wetwell and a ground level pump station. Located within the wetwell are two submersible pumps. These submersible pumps are paired with horizontal pumps in the ground level pump station. The submersible pump moves the wastewater from within the wetwell and pushes it into the horizontal pump. The horizontal pump then pumps the water to the treatment facility. The two submersible pumps have 75 hp motors and are capable of pumping to 1,360 gallons per minute to 123 feet of head. The horizontal pumps use 125 hp motors to pump 1,360 gallons per minute to a 223 feet. The horizontal pumps utilize VFD's, while the submersible pumps are constant speed. The wetwell is operated in a "draw" and "fill" mode. This sewer lift station also has a generator to supply power in case of an electrical failure.

The District's Mid-Point sewer lift station has been in operation since 2007. This pump station was designed with a wetwell and a ground level pump station. Located within the wetwell are three vertical submersible pumps. The submersible pump moves the wastewater from within the wetwell and pushes it out to the 4S Treatment plant. The three submersible pumps have 75 hp motors and are capable of pumping to 850 gallons per minute to 193 feet of head. The submersible pumps are constant speed. The wetwell is operated in a "draw" and "fill" mode. This sewer lift station also has a generator to supply power in case of an electrical failure.

The District's Del Dios sewer lift station has been in operation since 2005. This pump station was designed with a wetwell and a ground level pump station. Located within the wetwell are two submersible pumps. These submersible pumps are paired with horizontal pumps in the ground level pump station. The submersible pump moves the wastewater from within the wetwell and pushes it into the horizontal pump. The horizontal pump then pumps the water to the Mid-Point pump station. The two submersible pumps have 75 hp motors and are capable of pumping to 1,360 gallons per minute to 123 feet of head. The horizontal pumps use 125 hp motors to pump 1,014 gallons per minute to a 217 feet. The horizontal pumps utilize VFD's, while the submersible pumps are constant speed. The wetwell is operated in a "draw" and "fill" mode. This sewer lift station also has a generator to supply power in case of an electrical failure.

The District's four (4) Camino Sin Puente lift stations have been in operation since 2007. These pump stations were designed with a wetwell and a ground level pump station. Located within each station's wetwell are two submersible pumps. The submersible pump moves the wastewater from within the wetwell and pushes it to the 4S Treatment Plant. The submersible pumps have 7.5 hp motors and are constant speed. The wetwell is operated in a "draw" and "fill" mode.

The District's Santa Luz sewer lift station has been in operation since 2007. This pump station was designed with a wetwell and a ground level pump station. Located within the wetwell are three vertical submersible pumps. The submersible pump moves the wastewater from within the wetwell and pushes it out to the 4S Treatment plant. The three submersible pumps have 75 hp motors and are capable of pumping to 850 gallons per minute to 193 feet of head. The submersible pumps are constant speed. The wetwell is operated in a "draw" and "fill" mode.

Firehouse SPS: Wetwell/Drywell pump station with emergency storage. Wetwell is a 10feet by 8-feet, 22-foot deep, reinforced concrete wetwell. Two drypit non-clog pumps (Fairbanks Morse Model D 5433 WD, 750 gpm @ 120-ft; 50HP) through a common 10" glass-lined ductile iron, 2,830-foot long forcemain. The Fire House SPS is constant speed operating on draw/fill operation. The Fire House SPS operates approximately 3.8 hours per day in draw/fill control sequence with an average of 3.9 pump starts per hour (maximum of 7 pump starts per hour). The Fire House SPS does have a flowmeter, daily flows average between 160,000 to 190,000 gallons per day. The site contains a 144,000 gallon emergency storage pond. Assuming peak hour flowrate of 365 gallons per minute (roughly 3x current average daily flow), the emergency storage pond provides 6.5 hours of emergency storage.

Avenida Orilla SPS: Duplex submersible pump station with emergency storage, which has been in operation since 2016. Wetwell is a 7-foot diameter, 25-foot deep, precast concrete wetwell with T-Lock PVC liner. Two submersible pumps (10 HP Myers Grinder Pumps) pump through 3" discharge pipes, a below grade valve vault, flowmeter and then a common 3" PVC, 1,220-foot long forcemain. The Avenida Orilla SPS operates in a "draw and fill" mode and is currently pumping ten (10) times per day. The site contains an 8,378 gallon emergency storage tank. This station does not have an emergency generator but is wired with a plug for use with a temporary/portable generator unit.

Avenida Apice SPS: Duplex submersible pump station with emergency storage, which has been in operation since 2015. Wetwell is a 7-foot diameter, 19-foot deep, reinforced pre-cast concrete wetwell with T-Lock PVC Liner. Two submersible pumps (3 HP Myers Grinder Pumps) pump through 3" discharge pipes, a below grade valve vault, and then a common 4" PVC, 429-foot long forcemain. The Avenida Apice SPS operates in a "draw and fill" mode and is currently pumping eight (8) times per day. The site contains a 9,574 gallon emergency storage tank. This station does not have an emergency generator but is wired with a plug for use with a temporary/portable generator unit.

Cerro Del Sol #1 SPS: Duplex submersible pump station with emergency storage which has been in operation since 2015. Wetwell is a 7-foot diameter, 24-foot deep, precast concrete wetwell with T-Lock PVC liner. Two submersible pumps (10 HP Myers Grinder Pumps) pump through 3" discharge pipes, a below grade valve vault, and then a common 3" PVC, 930-foot long forcemain. The Cerro Del Sol #1 SPS operates in a "draw and fill" mode and is currently pumping four (4) times per day. The site contains 23,936 gallons of emergency storage in two tanks. This station does not have an emergency generator but is wired with a plug for use with a temporary/portable generator unit.

has been in operation since 2014. Wetwell is a 7-foot diameter, 17.5-foot deep, precast concrete wetwell. Three submersible pumps (10 HP Myers Grinder Pumps) pump through 3" discharge pipes, a below grade valve vault, and then a common 4" PVC, 1,150-foot long forcemain. The Cerro Del Sol #2 SPS is constant speed in draw/fill control sequence with an average of 53 pump starts per day (maximum of 5 pump starts per hour). The Cerro Del Sol #2 SPS does not have a flowmeter – based on pump starts and runtime, it is estimated that it pumps 3000 to 5000 gallons per day. The site does not contain emergency storage, however, in an emergency situation, wastewater will backflow to the Cerro Del Sol #1 emergency storage tank. This station does not have an emergency generator but is wired with a plug for use with a temporary/portable generator unit.

District personnel to routinely check each lift station and perform preventative maintenance as required. All lift stations are also monitored by the District's SCADA system. Operators are notified of any operational problems, via a pager and are able to make operational changes using a laptop computer.

### **RESPONSE TO A SEWER SPILL**

The Olivenhain Municipal Water District has developed a comprehensive, thorough Spill Emergency Response Plan (SERP). This SERP serves to protect health, the environment, and property within the District, and meets all state and local regulatory requirements. In the event of a sewer spill, District staff follow the procedures detailed in the SERP.

### SPILL REPORTING

In the event of a sewer spill, the District must report the spill as described by the State Water Quality Control Board and by Region 9 (San Diego) Water Quality Control Board. The District's SERP details the reporting responsibilities and required timeframes. In addition, the SERP maintains contact information for reporting.

### APPENDIX F

### LIST OF CRITICAL REPLACEMENT PARTS, MAINTENANCE AND SPILL RESPONSE EQUIPMENT LIST, "HOT SPOT" LIST, AND TRAINING SCHEDULE

Operation and maintenance (O&M) manuals for pump station equipment are available. The manuals contain manufacturer information, i.e. part lists, maintenance and troubleshooting procedures. OMWD maintains and tracks inventory on critical items and other non-essential items are ordered as needed. All pump stations were designed to have redundancy in pumps and motors with emergency generators on site or possibilities to connect to a mobile generator.

The following were identified as critical items:

- Fairbanks Morse Pump (40 Hp Motor).
- Fairbanks Morse Pump (75Hp Motor).
- Hydromatic Pump (7.5 Hp)
- Motor, 10Hp 3-Phase (6Ajc8)
- Seal water pump (2 Hp)
- Pump Flow Meter (12-M-1)
- Misc. parts and supplies
- Supplies for Spill Response Trailor

### The 4S WRF Spill Response Trailer is equipped with the following:

- 1ea. 3" trash pump (gas powered)
- 1ea. 4"-3" cam-lock adapter
- 1ea. 3"-4" cam-lock adapter
- 1ea. bag of empty sandbags (for spill containment)
- 1ea. silicon storm drain cover
- 1ea. silicon containment berm
- 4ea. Large (24") retro-reflective stop/slow paddles suitable for day or night use
- 1ea. bolt cutter (master key)
- 1ea. 25' extension cord
- 1ea. 100' extension cord
- 16ea. 28" traffic cones (with dual reflector bands) suitable for day or night use
- 5ea. 3"x50' lay-flat discharge hose with cam-lock couplers
- 8ea. 4"x50' lay-flat discharge hose with cam-lock couplers
- 1ea. 1000 Watt portable gas powered generator

- 1ea. light stand with 2500w lights
- 3ea. sewage spill signs on stakes
- 1ea. hammer
- 1ea. roll of "caution" tape
- 1ea. Generator power cable for CSPSPS, SLSPS, and CDSSPS
- 2ea. 50' ¾"garden hose with standard garden hose ends
- 1ea. fire hydrant to garden hose adapter
- 1ea. 20' 3" hard suction hose
- 5ea. tarps
- 1ea. dolly
- 1ea. fire hydrant wrench
- 1ea. spray nozzle for wash down
- 1ea. Coleman generator
- 2ea. traffic control sign base (folding)
- 2ea. traffic control sign (utility work ahead)

## Manholes with Issues

Manhole Numbers	Locations	Map Pg.	Problem	Comments
1-18	Boys and Girls Club Easement	S18	Roots	Large Pepper Tree Lt Roots Good Flow
1-9	Boys and Girls Club Easement	S18	Rocks	Rocks and Dirt on Shelf
5-21	10992 La Alberca Ave	U16	Hvy Roots	Outside Fence Hvy Roots Needs
1-20	Yard @ Deer Trail Ct. Cul-de-Sac	T18	Vegetation	Bushes Need Trim
1-388	Easement Behind Cayenne Ridge Rd.	U17	Rag Blockage	Partially Obstructed Channel Monitor
5-2	From Abudante Gravity Line	U16	Roots	Behind Plant Needs Sancon
5-4	From Abudante Gravity Line	U16	Roots	Under Tree Needs to be Exposed
2-116	RB Road and Dove Canyon	T15	Grease	
2-117	RB Road and Dove Canyon	T15	Grease	
2-46	Alva Rd. Near Bernardo Point	U14	Roots	Curb Marked w/Spray Paint
2-73	Bluestone St. Cul-de-Sac	U15	Roots	By Gate Needs to be Raised and Sancon
3-60	4S Ranch Pkwy and Craftsman Way	T15	Rags and Grease	
2-1	Goldentop to Firehouse Easement	U15	Roots	
2-2	Goldentop to Firehouse Easement	U15	Roots	
2-3	Goldentop to Firehouse Easement	U15	Roots	

2-4	Goldentop Rd.	U16	Roots	
2-5	Goldentop Rd.	U16	Roots	
2-22	Goldentop Rd.	U16	Roots	
2-44	Alva Road 1st MH up from RB Road	U15	Roots	Curb Marked w/Spray Paint

# Zones 2, 4, 5 Hot Spots

Manhole #	Map Page	Problem	Comments
five-35	U17	Concrete degradation	Top 2 rings need rehab then line
five-34	U17	Possible I & I	Check during rain event
four-2	S15	Heavy Roots	Needs Lining
four-4	S15	Light Roots Conc Degrad.	Needs Lining
two-38	U15	Slow Moving Rocks	Inspect Quarterly
two-2	U15	Hvy Roots	Sancon to Address
two-3	U15	Hvy Roots	Sancon to Address
two-81	U15	Debris in Channel	Inspect Quarterly
two-116	T16	Hvy Grease	Needs Cleaning
two-123	T16	Hvy Grease	Needs Cleaning
two-71	U15	Slow Moving Full Channel	Needs Cleaning
two-72	U15	Slow Moving Grit	Needs Cleaning and Lining
two-42	U15	Hvy Roots	Needs Lining ASAP
two-50	U15	Light Roots	Inspect Quarterly
two-100	T15	Possible I & I	Check during rain event
two-107	T15	Possible I & I	Check during rain event
two-29	U15	Light Roots	Inspect Quarterly
two-14	U16	Light Roots	Inspect Quarterly
two-15	U16	Light Roots	Inspect Quarterly
two-124	T16	Hvy Grease	Needs Cleaning
two-125	T16	Hvy Grease	Needs Cleaning

OMWD Collection Safety Training Topics					
Training Topics	Frequency				
Bloodborne Pathogens	Annual				
Heat Illness	Annual				
Confined Space Refresher	Annual				
CPR/First Aid	Every 2 years				
Hazmat Technician Refresher	Annual				
Lockout Tagout	Annual				
Defensive Driving	Annual				
Fall Protection	Annual				
Ladder Safety	Annual				
Traffic Control	Annual				
Electrical Safety	Annual				
Fire Safety and Extinguisher Training	Annual				
Emergency Response Drill	Annual				
SWPPP (Stormwater Pollution Prevention Plan) Review	Annual				
SSMP (Sanitary Sewer Management Plan) Review	Annual				
OEMP (Overflow Emergency Response Plan) Review	Annual				
SSO Simulated Training	Annual				

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ALL COMPLETED SAFETY TRAINING IS TRACKED BY THE WATER RECLAMATION FACILITY SUPERVISOR AND/OR SAFETY OFFICER.

### APPENDIX G

### SANITARY SEWER OVERFLOW (SSO) SUMMARY

	SSO_	CERT_PERSON_				
WDID	EVENT_ID	NAME	CERT_PERSON_TITLE	CERT_LOCATION	CERT_ID	CERT_DT
9SSO10644	751316	John Onkka	Recycled Water Programs Supervisor	San Diego, CA	792918	2011.02.10 00.00.00
9SSO10644	751793	John Onkka	Recycled Water Programs Supervisor	San Diego, CA 92127	832558	2010.04.26 00.00.00
9SSO10644	753850	John Onkka	Recycled Water Programs Supervisor	4S Ranch WWTP - San Diego	415752	2010.06.24 00.00.00
9SSO10644	788966	John Onkka	Recycled Water Supervisor	San Diego, CA	746892	2012.12.14 00.00.00
9SSO10644	797538	John Onkka	Recycled Water Supervisor	San Diego, CA	522060	2013.08.28 00.00.00
9SSO10644	841247	John Onkka	Water Reclamation Supervisor	San Diego, CA	451079	2017.11.14 00.00.00

			SPILL_VOL_	SPILL_	SPILL_VOL_	SPILL_VOL_	
WDID	SPILL_TYPE	SPILL_LOC_NAME	REACHED_LAND	VOL	RECOVER	REACH_SURF	SPILL_CAUSE
9SSO10644	Category 1	Mid-Pont Pump Station	0	200	195	5	Operator error
9SSO10644	Category 2	Neighborhood #3 Sewer Pump Station	0	7500	5000	0	Pump station failure
9SSO10644	Category 3	4S Ralphs Ranch Road	0	450	450	0	Debri-Rags
9SSO10644	Category 2	Corner of 4S Ranch Parkway and Black Opal Road	0	2200	2200	0	Debri-General
9SSO10644	Category 1	Old Course Road and Bing Crosby Blvd.	0	1800	600	1200	Other (specify below)
9SSO10644	Category 1	Neighborhood #1 SPS Forcemain	17000	20000	15000	3000	Pipe Structural Problem/Failure

### STATE WATER RESOURCES CONTROL BOARD 1001 I Street, Sacramento, California 95814 ORDER WQ 2022-0103-DWQ STATEWIDE WASTE DISCHARGE REQUIREMENTS GENERAL ORDER FOR SANITARY SEWER SYSTEMS

This Order was adopted by the State Water Resources Control Board on December 6, 2022.

This Order shall become effective **180 days after the Adoption Date of this General Order**, on June 5, 2023.

The Enrollee shall comply with the requirements of this Order upon the Effective Date of this General Order.

This General Order does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, protect the Enrollee from liability under federal, state, or local laws, nor create a vested right for the Enrollee to continue the discharge of waste.

### CERTIFICATION

I, Jeanine Townsend, Clerk to the Board, do hereby certify that this Order with all attachments is a full, true, and correct copy of the Order adopted by the State Water Board on December 6, 2022.

- AYE: Chair E. Joaquin Esquivel Vice Chair Dorene D'Adamo Board Member Sean Maguire Board Member Laurel Firestone Board Member Nichole Morgan
- NAY: None
- ABSENT: None
- ABSTAIN: None

surtney Tyler for

Jeanine Townsend Clerk to the Board

### STATEWIDE SANITARY SEWER SYSTEMS GENERAL ORDER

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### 1. INTRODUCTION

This General Order regulates sanitary sewer systems designed to convey sewage. For the purpose of this Order, a sanitary sewer system includes, but is not limited to, pipes, valves, pump stations, manholes, siphons, wet wells, diversion structures and/or other pertinent infrastructure, upstream of a wastewater treatment plant headworks. A sanitary sewer system includes:

- Laterals owned and/or operated by the Enrollee;
- Satellite sewer systems; and/or
- Temporary conveyance and storage facilities, including but not limited to temporary piping, vaults, construction trenches, wet wells, impoundments, tanks and diversion structures.

Sewage is untreated or partially treated domestic, municipal, commercial and/or industrial waste (including sewage sludge), and any mixture of these wastes with inflow or infiltration of stormwater or groundwater, conveyed in a sanitary sewer system. Sewage contains high levels of suspended solids, non-digested organic waste, pathogenic bacteria, viruses, toxic pollutants, nutrients, oxygen-demanding organic compounds, oils, grease, pharmaceuticals, and other harmful pollutants.

For the purpose of this General Order, a spill is a discharge of sewage from any portion of a sanitary sewer system due to a sanitary sewer system overflow, operational failure, and/or infrastructure failure. Sewage and its associated wastewater spilled from a sanitary sewer system may threaten public health, beneficial uses of waters of the State, and the environment.

This General Order serves as statewide waste discharge requirements and supersedes the previous State Water Resources Control Board (State Water Board) Order 2006-0003-DWQ and amendments thereafter. All sections and attachments of this General Order are enforceable by the State Water Board and Regional Water Quality Control Boards (Regional Water Boards). Through this General Order, the State Water Board requires an Enrollee to:

- Comply with federal and state prohibitions of discharge of sewage to waters of the State, including federal waters of the United States;
- Comply with specifications, and notification, monitoring, reporting and recordkeeping requirements in this General Order that implement the federal Clean Water Act, the California Water Code (Water Code), water quality control plans (including Regional Water Board Basin Plans) and policies;
- Proactively operate and maintain resilient sanitary sewer systems to prevent spills;
- Eliminate discharges of sewage to waters of the State through effective implementation of a Sewer System Management Plan;
- Monitor, track, and analyze spills for ongoing system-specific performance improvements; and
- Report noncompliance with this General Order per reporting requirements.

An Enrollee is a public, private, or other non-governmental entity that has obtained approval for regulatory coverage under this General Order, including:

- A state agency, municipality, special district, or other public entity that owns and/or operates one or more sanitary sewer systems:
  - o greater than one (1) mile in length (each individual sanitary sewer system);
  - one (1) mile or less in length where the State Water Board or a Regional Water Board requires regulatory coverage under this Order; or
- A federal agency, private company, or other non-governmental entity that owns and/or operates a sanitary sewer system of any size where the State Water Board or a Regional Water Board requires regulatory coverage under this Order in response to a history of spills, proximity to surface water, or other factors supporting regulatory coverage.

For the purpose of this Order, a sanitary sewer system includes only systems owned and/or operated by the Enrollee.

### 2. **REGULATORY COVERAGE AND APPLICATION REQUIREMENTS**

### 2.1. Requirements for Continuation of Existing Regulatory Coverage

To continue regulatory coverage from previous Order 2006-0003-DWQ under this General Order, **within the 60-days-prior-to the Effective Date of this General Order**, the Legally Responsible Official of an existing Enrollee shall electronically certify the Continuation of Existing Regulatory Coverage form in the online California Integrated Water Quality System (CIWQS) Sanitary Sewer System Database. The Legally Responsible Official will receive an automated CIWQS-issued Notice of Applicability email, confirming continuation of regulatory coverage under this General Order. All regulatory coverage under previous Order 2006-0003-DWQ will cease on the Effective Date of this Order.

An Enrollee continuing existing regulatory coverage is not required to submit a new application package or pay an application fee for enrollment under this General Order. The annual fee due date for continued regulatory coverage from previous Order 2006-0003-DWQ to this General Order remains unchanged.

A previous Enrollee of Order 2006-0003-DWQ that fails to certify the Continuation of Existing Regulatory Coverage form in the online CIWQS database by the Effective Date of this Order is considered a New Applicant, and will not have regulatory coverage for its sanitary sewer system(s) until:

- A new application package for system(s) enrollment is submitted per section 2.2 (Requirements for New Regulatory Coverage) below; and
- The new application package is approved per section 2.2.2 (Approval of Application Package (For New Applicants Only)).

### 2.2. Requirements for New Regulatory Coverage

No later than 60 days prior to commencing and/or assuming operation and maintenance responsibilities of a sanitary sewer system, a duly authorized representative that

### STATEWIDE SANITARY SEWER SYSTEMS GENERAL ORDER

maintains legal authority over the public or private sanitary sewer system is required to enroll under this General Order by submitting a complete application package as specified below and as provided in Attachment B (Application for Enrollment Form) of this General Order.

Unless required by a Regional Water Board, a public agency that owns a combined sewer system subject to the Combined Sewer Overflow Control Policy (33 U.S. Code § 1342(q)), is not required to enroll, under this Order, the portions of its sanitary sewer system(s) that collects combined sanitary wastewater and stormwater.

### 2.2.1. Application Package Requirements

The Application for Enrollment package for new applicants must include the following items:

- **Application for Enrollment Form**. The form in Attachment B of this General Order must be completed, signed, and certified by a Legally Responsible Official, in accordance with section 5.1 (Designation of a Legally Responsible Official) of this General Order. If an electronic Application for Enrollment form is available at the time of application, a new applicant shall submit its application form electronically; and
- **Application Fee**. A fee payable to the "State Water Resources Control Board" in accordance with the Fee Schedule in the California Code of Regulations, Title 23, section 2200, or subsequent fee regulations updates.

The application fee for this General Order is based on the sanitary sewer system's threat to water quality and complexity designations of category 2C or 3C, which is assigned based on the population served by the system. The current Fee Schedule for sanitary sewer systems is listed under subdivision (a)(2) at the following website: <u>Fee Schedule</u> (https://www.waterboards.ca.gov/resources/fees/water\_quality/).

### 2.2.2. Approval of Application Package (For New Applicants Only)

The Deputy Director of the State Water Board, Division of Water Quality (Deputy Director) will consider approval of each complete Application for Enrollment package. The Deputy Director will issue a Notice of Applicability letter which serves as approved regulatory coverage for the new Enrollee.

If the submitted application package is not complete in accordance with section 2.2.1 (Application Package Requirements) of this General Order, the Deputy Director will send a response letter to the applicant outlining the application deficiencies. The applicant will have 60 days from the date of the response letter to correct the application deficiencies and submit the identified items necessary to complete the application package to the State Water Board.

### 2.2.3. Electronic Reporting Account for New Enrollee

Within 30 days after the date of the Approval of Complete Application Package for System Enrollment, a duly authorized representative for the Enrollee shall obtain a CIWQS Sanitary Sewer System Database user account by clicking the "User Registration" button and following the directions on the <u>CIWQS Login Page</u>

### STATEWIDE SANITARY SEWER SYSTEMS GENERAL ORDER

(https://ciwqs.waterboards.ca.gov). If additional assistance is needed to establish an online CIWQS user account, contact State Water Board staff by email at <u>CIWQS@waterboards.ca.gov</u>. The online user account will provide the Enrollee secure access to the online CIWQS database for electronic reporting.

### 2.3. Regulatory Coverage Transfer

Regulatory coverage under this General Order is not transferable to any person or party except after an existing Enrollee submits a written request for a regulatory coverage transfer to the Deputy Director, at least 60 days in advance of any proposed system ownership transfer. The written request must include a written agreement between the existing Enrollee and the new Enrollee containing:

- Acknowledgement that the transfer of ownership is solely of an existing system with an existing waste discharge identification (WDID) number;
- The specific ownership transfer date in which the responsibility and regulatory coverage transfer between the existing Enrollee and the new Enrollee becomes effective; and
- Acknowledgement that the existing Enrollee is liable for violations occurring up to the ownership transfer date and that the new Enrollee is liable for violations occurring on and after the ownership transfer date.

The Deputy Director will consider approval of the written request. If approved, the Deputy Director will issue a Notice of Applicability letter which serves as an approved transfer of regulatory coverage to the new Enrollee.

### 3. FINDINGS

### 3.1. Legal Authorities

### 3.1.1. Federal and State Regulatory Authority

The objective of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the waters of the United States (33 U.S.C. 1251). The Water Code authorizes the State Water Board to implement the Clean Water Act in the State and to protect the quality of all waters of the State (Water Code sections 13000 and 13160).

### 3.1.2. Discharge of Sewage

A discharge of untreated or partially treated sewage is a discharge of waste as defined in Water Code section 13050(d) that could affect the quality of waters of the State and is subject to regulation by waste discharge requirements issued pursuant to Water Code section 13263 and Chapter 9, Division 3, Title 23 of the California Code of Regulations. A discharge of sewage may pollute and alter the quality of the waters of the State to a degree that unreasonably affects the beneficial uses of the receiving water body or facilities that serve those beneficial uses (Water Code section 13050(I)(1)).

### 3.1.3 Water Boards Authority to Require Technical Reports, Monitoring, and Reporting

Water Code sections 13267 and 13383 authorize the Regional Water Boards and the State Water Board to establish monitoring, inspection, entry, reporting, and recordkeeping requirements. Water Code section 13267(b), authorizes the Regional Water Boards to "require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region... or is suspected of having discharged or discharged or discharged or discharges, waste outside of its region that could affect the quality of water within its region shall furnish, under penalty of perjury, technical or monitoring reports which the regional board requires...In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports and shall identify the evidence that supports requiring that person to provide the reports." Water Code section 13267(f) authorizes the State Water Board to require this information if it consults with the Regional Water Boards and determines that it will not duplicate the efforts of the Regional Water Boards. The State Water Board has consulted with the Regional Water Boards and made this determination.

The technical and monitoring reports required by this General Order and Attachment E (Notification, Monitoring, Reporting and Recordkeeping Requirements) are necessary to evaluate and ensure compliance with this General Order. The effort to develop required technical reports will vary depending on the system size and complexity and the needs of the specific technical report. The burden and cost of these reports are reasonable and consistent with the interest of the state in protecting water quality, which is the primary purpose of requiring the reports.

Water Code section 13383(a) authorizes the Water Boards to "establish monitoring, inspection, entry, reporting, and recordkeeping requirements... for any person who discharges, or proposes to discharge, to navigable waters, any person who introduces pollutants into a publicly owned treatment works, any person who owns or operates, or proposes to own or operate, a publicly owned treatment works or other treatment works treating domestic sewage, or any person who uses or disposes, or proposes to use or dispose, of sewage sludge." Section 13383(b) continues, "the state board or the regional boards may require any person subject to this section to establish and maintain monitoring equipment or methods, including, where appropriate, biological monitoring methods, sample effluent as prescribed, and provide other information as may be reasonably required."

Reporting of spills from privately owned sewer laterals and systems pursuant to section 5.15 (Voluntary Reporting of Spills from Privately-Owned Sewer Laterals and/or Private Sanitary Sewer Systems) of this General Order is authorized by Water Code section 13225(c) and encouraged by the State Water Board, wherein a local agency may investigate and report on any technical factors involved in water quality control provided the burden including costs of such reports bears a reasonable relationship to the need for the report and the benefits to be obtained therefrom. The burden of reporting private spills under section 5.15 (Voluntary Reporting of Spills from Privately-Owned Sewer Laterals and/or Private Sanitary Sewer Systems) is minimal and is outweighed by the benefit of providing Regional Water Boards an opportunity to respond to these spills

when an Enrollee, which in many cases has a contractual relationship with the owner of the private system, has knowledge of the spills.

### 3.1.4. Water Board Authority to Prescribe General Waste Discharge Requirements

Water Code section 13263(i) provides that the State Water Board may prescribe general waste discharge requirements for a category of discharges if the State Water Board finds or determines that:

- The discharges are produced by the same or similar operations;
- The discharges involve the same or similar types of waste;
- The discharges require the same or similar treatment standards; and
- The discharges are more appropriately regulated under general waste discharge requirements than individual waste discharge requirements.

Since 2006, the State Water Board has been regulating over 1,100 publicly owned sanitary sewer systems (See section 3.1.5 (Previous Statewide General Waste Discharge Requirements) of this General Order). California also has a large unknown number of unregulated privately owned sanitary sewer systems. All waste conveyed in publicly owned and privately owned sanitary sewer systems (as defined in this General Order) is comprised of untreated or partially treated domestic waste and/or industrial waste. Generally, sanitary sewer systems are designed and operated to convey waste by gravity or under pressure; system-specific design elements and system-specific operations do not change the common nature of the waste, the common threat to public health, or the common impacts on water quality. Spills of waste from a sanitary sewer system prior to reaching the ultimate downstream treatment facility are unauthorized and enforceable by the State Water Board and/or a Regional Water Board. Therefore, spills from sanitary sewer systems are more appropriately regulated under general waste discharge requirements.

As specified in Water Code sections 13263(a) and 13241, the implementation of requirements set forth in this Order is for the reasonable protection of past, present, and probable future beneficial uses of water and the prevention of nuisance. The requirements implement the water quality control plans (Basin Plans) for each Regional Water Board and take into account the environmental characteristics of sewer service areas and hydrographic units within the state. Additionally, the State Water Board has considered water quality conditions that could reasonably be achieved through the coordinated control of all factors that affect water quality, costs associated with compliance with these requirements, the need for developing housing within California, and the need to protect sources of drinking water and other water supplies.

### 3.1.5. Previous Statewide General Waste Discharge Requirements

On May 2, 2006, the State Water Board adopted Order 2006-0003-DWQ serving as Waste Discharge Requirements pursuant to Article 4, Chapter 4, Division 7 of the Water Code (commencing with section 13260) for inadvertent discharges to waters of the State. Order 2006-0003-DWQ prohibited discharges of untreated or partially treated sewage. Order 2006-0003-DWQ also required system-specific management, operation, and maintenance of publicly owned sewer systems greater than one mile in length.
To decrease the impacts on human health and the environment caused by sewage spills, the previous Order required enrollees to develop a rehabilitation and replacement plan that identifies system deficiencies and prioritizes short-term and long-term rehabilitation actions. The previous Order also required enrollees to:

- 1. Maintain information that can be used to establish and prioritize appropriate Sewer System Management Plan activities; and
- 2. Implement a proactive approach to reduce spills.

The previous Order required Sewer System Management Plan elements for "the proper and efficient management, operation, and maintenance of sanitary sewer systems, while taking into consideration risk management."

On July 30, 2013, the State Water Board amended General Order 2006-0003-DWQ with Order WQ 2013-0058-EXEC, Amending Monitoring and Reporting Program for Statewide General Waste Discharge Requirements for Sanitary Sewer Systems.

Many enrollees of Order 2006-0003-DWQ have already implemented proactive measures to reduce sewage spills. Other enrollees, however, still need technical assistance and funding to improve sanitary sewer system operation and maintenance for the reduction of sewage spills.

# 3.1.6. Existing Memorandum of Agreement with California Water Environment Association

The California Water Environment Association is a nonprofit organization dedicated to providing water industry certifications, training, and networking opportunities. The Association's Technical Certification Program provides accredited sanitary sewer system operator certification for collection system operators and maintenance workers.

On February 10, 2016, the State Water Board entered into a collaborative agreement with the Association titled *Memorandum of Agreement Between the California State Water Resources Control Board and the California Water Environment Association - Training Regarding Requirements Set Forth in Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*. The Memorandum sets forth collaborative training necessary for regulated sanitary sewer system personnel to operate and maintain a well operating system and ensure full compliance with statewide sewer system regulations.

On March 15, 2018, the State Water Board and the California Water Environment Association amended the existing Memorandum of Agreement to include collaborative outreach and expand training needs associated with further updates to Water Board regulations for sanitary sewer systems. The State Water Board encourages further Agreement updates as necessary to support improved sewer system operations and the professionalism of collection system operators.

## 3.2. General

## 3.2.1. Waters of the State

Waters of the State include any surface water or groundwater, including saline waters, within the boundaries of the state as defined in Water Code section 13050(e), and are inclusive of waters of the United States.

## 3.2.2. Sanitary Sewer System Spill Threats to Public Health and Beneficial Uses

Sewage contains high levels of suspended solids, pathogenic organisms, toxic pollutants, nutrients, oxygen-demanding organic compounds, oil and grease and other pollutants. Sewage spills may cause a public nuisance, particularly when sewage is discharged to areas with high public exposure such as streets and surface waters used for drinking, irrigation, fishing, recreation, or other public consumption or contact uses.

More specifically, sanitary sewer spills may:

- Adversely affect aquatic life and/or threaten water quality when reaching receiving waters;
- Inadvertently release trash, including plastics;
- Impair the recreational use and aesthetic enjoyment of surface waters by polluting surface water or groundwater;
- Threaten public health through direct public exposure to bacteria, viruses, intestinal parasites, and other microorganisms that can cause serious illness such as gastroenteritis, hepatitis, cryptosporidiosis, and giardiasis;
- Negatively impact ecological receptors and biota within surface waters; and
- Cause nuisance including odors, closure of beaches and recreational areas, and property damage.

Sanitary sewer system spills may pollute receiving waters and threaten beneficial uses of surface water and groundwater. Potentially threatened beneficial uses include, but are not limited to the following (with associated acronym representations as included in statewide water quality control plans and Regional Water Boards' Basin Plans):

- Municipal and Domestic Supply (MUN)
- Water Contact Recreation (REC-1) and Non-Contact Water Recreation (REC-2)
- Cold Freshwater Habitat (COLD)
- Warm Freshwater Habitat (WARM)
- Native American Culture (CUL)
- Wildlife Habitat (WILD)
- Rare, Threatened, or Endangered Species (RARE)
- Spawning, Reproduction, and/or Early Development (SPWN)
- Wetland Habitat (WET)
- Agricultural Supply (AGR)
- Estuarine Habitat (EST)

- Commercial and Sport Fishing (COMM)
- Subsistence Fishing (SUB)
- Tribal Tradition and Culture (CUL)
- Tribal Subsistence Fishing (T-SUB)
- Aquaculture (AQUA)
- Marine Habitat (MAR)
- Preservation of Biological Habitats of Special Significance (BIOL)
- Migration of Aquatic Organisms (MIGR)
- Shellfish Harvesting (SHELL)
- Industrial Process Supply (PROC)
- Industrial Service Supply (IND)
- Hydropower Generation (POW)
- Navigation (NAV)
- Flood Peak Attenuation/Flood Water Storage (FLD)
- Water Quality Enhancement (WQE)
- Fresh Water Replenishment (FRSH)
- Groundwater Recharge (GWR)
- Inland Saline Water Habitat (SAL)

# 3.2.3. Proactive Sanitary Sewer System Management to Eliminate Spill Causes

Finding 3 of the previous Order, 2006-0003-DWQ, states: "Sanitary sewer systems experience periodic failures resulting in discharges that may affect waters of the state. There are many factors (including factors related to geology, design, construction methods and materials, age of the system, population growth, and system operation and maintenance), which affect the likelihood of an SSO [sanitary sewer overflow]. A proactive approach that requires Enrollees to ensure a system-wide operation, maintenance, and management plan is in place will reduce the number and frequency of SSOs within the state. This approach will in turn decrease the risk to human health and the environment caused by SSOs."

Many spills are preventable through proactive attention on sanitary sewer system management using the best practices and technologies available to address major causes of spills, including but not limited to:

- Blockages from sources including but not limited to:
  - o Fats, oils and grease;
  - o Tree roots;
  - $\circ$   $\,$  Rags, wipes and other paper, cloth and plastic products; and
  - o Sediment and debris.
- Sewer system damage and exceedance of sewer system hydraulic capacity from identified <u>system-specific</u> environmental, and climate-change impacts, including but not limited to:

- Sea level rise impacts including flooding, coastal erosion, seawater intrusion, tidal inundation and submerged lands;
- o Increased surface water flows due to higher intensity rain events;
- Flooding;
- o Wildfires and wildfire induced impacts;
- Earthquake induced damage;
- o Landslides; and
- o Subsidence.
- Infrastructure deficiencies and failures, including but not limited to:
  - Pump station mechanical failures;
  - o System age;
  - o Construction material failures;
  - Manhole cover failures;
  - o Structural failures; and
  - Lack of proper operation and maintenance.
- Insufficient system capacity (temporary or sustained), due to factors including but not limited to:
  - o Excessive and/or increased storm or groundwater inflow/infiltration;
  - Insufficient capacity due to population increase and/or new connections from industrial, commercial and other system users; and
  - Stormwater capture projects utilizing a sanitary sewer system to convey stormwater to treatment facilities for reuse.
- Community impacts, including but not limited to:
  - Power outages;
  - o Vandalism; and
  - o Contractor-caused or other third party-caused damages.

# 3.2.4. Underground Sanitary Sewer System Leakage

Portions of some sanitary sewer systems may leak, causing underground exfiltration (exiting) of sewage from the system. Exfiltrated sewage that remains in the underground infrastructure trench and/or the soil matrix, and that does not discharge into waters of the State (surface water or groundwater) may not threaten beneficial uses.

Underground exfiltrated sewage may threaten beneficial uses if discharged to waters of the State. Exfiltrated sewage that discharges to groundwater may impact beneficial uses of groundwater and pollute groundwater supply. Additionally, if in close proximity, exfiltrated sewage may enter into a compromised underground drainage conveyance system that discharges into a water of the United States, or into groundwater that is hydrologically connected to (feeds into) a water of the United States, thus potentially causing: (1) a Clean Water Act violation, (2) threat and impact to beneficial uses, and/or (3) surface water pollution.

# 3.2.5. Proactive Sanitary Sewer System Management to Reduce Inflow and Infiltration

Excessive inflow (stormwater entering) and infiltration (groundwater seepage entering) to sanitary sewer systems is preventable through proactive sewer system management using the best practices and technologies available. The efficiency of the downstream wastewater treatment processes is dependent on the performance of the sanitary sewer system. When the structural integrity of a sanitary sewer system deteriorates, high volumes of inflow and infiltration can enter the sewer system. High levels of inflow and infiltration increase the hydraulic load on the downstream treatment plant, which can reduce treatment efficiency, lead to bypassing a portion of the treatment process, cause illegal discharge of partially treated effluent, or in extreme situations make biological treatment facilities inoperable (e.g., wash out the biological organisms that treat the waste).

# 3.3. Water Quality Control Plans, Policies and Resolutions

The nine Regional Water Boards have adopted region-specific water quality control plans (commonly referred to as Basin Plans) that designate beneficial uses, establish water quality objectives, and contain implementation programs and policies to achieve those objectives. The State Water Board has adopted statewide water quality control plans, policies and resolutions establishing statewide water quality objectives, implementation programs and initiatives.

# 3.3.1. State Water Board Antidegradation Policy

On October 28, 1968, the State Water Board adopted Resolution 68-16, titled Statement of Policy with Respect to Maintaining High Quality of Waters in California, which incorporates the federal antidegradation policy. Resolution 68-16 requires that existing water quality be maintained unless degradation is justified based on specific findings.

The continued prohibition of sewage discharges from sanitary sewer systems into waters of the State aligns with Resolution 68-16. A sewage discharge from sanitary sewers to waters of the State is prohibited by this Order. Therefore, this Order does not allow degradation of waters of the State. In addition, this Order: (1) further expands the existing prohibition of sewage discharges to include waters of the State, in addition to waters of the United States as provided in previous Order 2006-0003-DWQ, and (2) enhances the ability for Water Board enforcement of violations of the established prohibitions.

# 3.3.2. State Water Board Sources of Drinking Water Policy

On May 19,1988, the State Water Board adopted Resolution 88-63 (amended on February 1, 2006), titled Sources of Drinking Water, establishing state policy that all waters of the State, with certain exceptions, are suitable or potentially suitable for municipal or domestic supply.

# 3.3.3. State Water Board Cost of Compliance Resolution

On September 24, 2013, the State Water Board adopted Resolution 2013-0029, titled Directing Actions in Response to Efforts by Stakeholders on Reducing Costs of

Compliance While Maintaining Water Quality Protection. Through this resolution, the State Water Board committed to continued stakeholder engagement in identifying and implementing measures to reduce costs of compliance with regulatory orders while maintaining water quality protection and improving regulatory program outcomes.

# 3.3.4. State Water Board Human Right to Water Resolution

On February 16, 2016, the State Water Board adopted Resolution 2016-0010, titled Adopting the Human Right to Water as a Core Value and Directing its Implementation in Water Board Programs and Activities, addressing the human right to water as a core value and directing Water Board programs to implement requirements to support safe drinking water for all Californians.

On November 16, 2021, the State Water Board adopted Resolution 2021-0050 titled Condemning Racism, Xenophobia, Bigotry, and Racial Injustice, and Strengthening Commitment to Racial Equity, Diversity, Inclusion, Access, and Anti-racism. Among other actions, through Resolution 2021-0050, the State Water Board, in summary as corresponding to this General Order, reaffirms its commitment to its Human Right to Water resolution, upholding that every human being in California deserves safe, clean, affordable, and accessible water for human consumption, cooking, and sanitation purposes. Resolution 2021-0050 provides the State Water Board commitment to:

- Protect public health and beneficial uses of waterbodies in all communities, including communities disproportionately burdened by wastes discharge of waste to land and surface water;
- Restore impaired surface waterbodies and degraded aquifers; and
- Promote multi-benefit water quality projects.

Through Resolution 2021-0050, the State Water Board also commits to expanding implementation of its Climate Change Resolution to address the disproportionate effects of extreme hydrologic conditions and sea-level rise on Black, Indigenous, and people of color communities, prioritizing:

- The right to safe, clean, affordable, and accessible drinking water and sanitation;
- Sustainable management and protection of local groundwater resources;
- Healthy watersheds; and
- Access to surface waterbodies that support subsistence fishing.

On June 7, 2022, the State Water Board adopted a Resolution, titled Authorizing the Executive Director or Designee to Enter into One or More Multi-Year Contracts Up to a Combined Sum of \$4,000,000 for a Statewide Wastewater Needs Assessment, supporting the equitable access to sanitation for all Californians and implementation of Resolutions 2016-0010 and 2021-0050.

This General Order supports the State Water Board priority in collecting a comprehensive set of data for California's wastewater systems, including sanitary sewer systems. Data reported per the requirements of this Order will be used with data from other Water Boards' programs, to further develop criteria and create a statewide risk

framework to prioritize critical funding and infrastructure investments for California's most vulnerable populations, including disadvantaged or severely disadvantaged communities with inadequate or failing sanitation systems and threatened access to healthy drinking water supplies.

# 3.3.5. State Water Board Open Data Resolution

On July 10, 2018, the State Water Board adopted Resolution 2018-0032, titled Adopting Principles of Open Data as a Core Value and Directing Programs and Activities to Implement Strategic Actions to Improve Data Accessibility and Associated Innovation, directing regulatory programs to assure all monitoring and reporting requirements support the State Water Boards' Open Data Initiative.

# 3.3.6. State Water Board Response to Climate Change

On March 7, 2017, the State Water Board adopted Resolution 2017-0012, titled Comprehensive Response to Climate Change, requiring a proactive response to climate change in all California Water Board actions, with the intent to embed climate change consideration into all programs and activities.

# 3.4. California Environmental Quality Act

The adoption of this Order is an action to reissue general waste discharge requirements that is exempt from the California Environmental Quality Act (Public Resources Code section 21000 et seq.) because it is an action taken by a regulatory agency to assure the protection of the environment and the regulatory process involves procedures for protection of the environment (Cal. Code Regs., Title 14, section 15308). In addition, the action to adopt this Order is exempt from CEQA pursuant to Cal. Code Regs., Title 14, section 15301, to the extent that it applies to existing sanitary sewer collection systems that constitute "existing facilities" as that term is used in sections 15301 and 15302, to the extent that it results in the repair or replacement of existing systems involving negligible or no expansion of capacity.

## 3.5. State Water Board Funding Assistance for Compliance with Water Board Water Quality Orders

The State Water Board, Division of Financial Assistance administers the implementation of the State Water Board financial assistance programs, per Board-adopted funding policies. Among other funding areas, the Division administers loan and grant funding for the planning and construction of wastewater and water recycling facilities per funding program-specific policies and guidelines. Applicants may apply for Clean Water State Revolving Fund low-interest loan, Small Community Wastewater grant funding assistance, and other funding available at the time of application, for some of the costs associated with complying with this General Order.

Funding applicants may obtain further information regarding current funding opportunities, and Division of Financial Assistance staff contact information at the following website: <u>Financial Assistance Funding - Grants and Loans | California State</u> <u>Water Resources Control Board</u>.

(https://www.waterboards.ca.gov/water\_issues/programs/grants\_loans/)

Section 13477.6 of the Water Code authorizes the Small Community Grant Fund. The Small Community Grant Fund allows the State Water Board to provide grant funding assistance to small, disadvantaged communities and small severely disadvantaged communities that may not otherwise be able to afford a loan or similar financing for projects to comply with requirements of this General Order. The State Water Board also considers loan forgiveness on a disadvantaged community-specific basis.

For disadvantaged communities' wastewater needs, the State Water Board places priority on the funding of projects that address:

- Public health;
- Violations of waste discharge requirements and National Pollutant Discharge Elimination System (NPDES) permits;
- Providing sewer system service to existing septic tank owners; and
- High priority public health and water quality concerns identified by a Regional Water Board.

## 3.6. Notification to Interested Parties

On January 31, 2022, the State Water Board notified interested parties and persons of its intent to reissue Sanitary Sewer Systems General Order 2006-0003-DWQ by issuing a draft General Order for a 60-day public comment period. State Water Board staff conducted extensive stakeholder outreach and encouraged public participation in the adoption process for this General Order. On March 15, 2022, the State Water Board held a public meeting to hear and consider oral public comments. The State Water Board Board considered all public comments prior to adopting this General Order.

**THEREFORE, IT IS HEREBY ORDERED**, that pursuant to Water Code sections 13263, 13267, and 13383 this General Order supersedes Order 2006-0003-DWQ, Order WQ 2013-0058-EXEC, and any amendments made to these Orders thereafter, except for enforcement purposes and to meet the provisions contained in Division 7 of the Water Code (commencing with section 13000) and regulations adopted thereunder, and the provisions of the Clean Water Act and regulations and guidelines adopted thereunder, the Enrollee shall comply with the requirements in this Order.

# 4. **PROHIBITIONS**

#### 4.1 Discharge of Sewage from a Sanitary Sewer System

Any discharge from a sanitary sewer system that has the potential to discharge to surface waters of the State is prohibited unless it is promptly cleaned up and reported as required in this General Order.

#### 4.2. Discharge of Sewage to Waters of the State

Any discharge from a sanitary sewer system, discharged directly or indirectly through a drainage conveyance system or other route, to waters of the State is prohibited.

## 4.3. Discharge of Sewage Creating a Nuisance

Any discharge from a sanitary sewer system that creates a nuisance or condition of pollution as defined in Water Code section 13050(m) is prohibited.

## 5. SPECIFICATIONS

## 5.1. Designation of a Legally Responsible Official

The Enrollee shall designate a Legally Responsible Official that has authority to ensure the enrolled sanitary sewer system(s) complies with this Order, and is authorized to serve as a duly authorized representative. The Legally Responsible Official must have responsibility over management of the Enrollee's entire sanitary sewer system, and must be authorized to make managerial decisions that govern the operation of the sanitary sewer system, including having the explicit or implicit duty of making major capital improvement recommendations to ensure long-term environmental compliance. The Legally Responsible Official must have or have direct authority over individuals that:

- Possess a recognized degree or certificate related to operations and maintenance of sanitary sewer systems, and/or
- Have professional training and experience related to the management of sanitary sewer systems, demonstrated through extensive knowledge, training and experience.

For example, a sewer system superintendent or manager, an operations manager, a public utilities manager or director, or a district engineer may be designated as a Legally Responsible Official.

The Legally Responsible Official shall complete the electronic <u>CIWQS "User</u> <u>Registration" form</u> (https://ciwqs.waterboards.ca.gov/ciwqs/newUser.jsp). A Legally Responsible Official that represents multiple enrolled systems shall complete the electronic CIWQS "User Registration" form for each system.

The Enrollee shall submit any change to its Legally Responsible Official, and/or change in contact information, to the State Water Board within 30 calendar days of the change by emailing <u>ciwqs@waterboards.ca.gov</u> and copying the appropriate Regional Water Board as provided in Attachment F (Regional Water Quality Control Board Contact Information) of this General Order.

# 5.2. Sewer System Management Plan Development and Implementation

To facilitate adequate local funding and management of its sanitary sewer system(s), the Enrollee shall develop and implement an updated Sewer System Management Plan. The scale and complexity of the Sewer System Management Plan, and specific elements of the Plan, must match the size, scale and complexity of the Enrollee's sanitary sewer system(s). The Sewer System Management Plan must address, at minimum, the required Plan elements in Attachment D (Sewer System Management Plan – Required Elements) of this General Order. To be effective, the Sewer System Management Plan must include procedures for the management, operation, and maintenance of the sanitary sewer system(s). The procedures must: (1) incorporate the

prioritization of system repairs and maintenance to proactively prevent spills, and (2) address the implementation of current standard industry practices through available equipment, technologies, and strategies.

For an existing Enrollee under Order 2006-0003-DWQ that has certified its Continuation of Existing Regulatory Coverage, per section 2.1 (Requirements for Continuation of Existing Regulatory Coverage) of this General Order:

# Within six (6) months of the Adoption Date of this General Order:

• The Legally Responsible Official shall upload the Enrollee's existing Sewer System Management Plan to the online CIWQS Sanitary Sewer System Database.

# For a new Enrollee:

# Within twelve (12) months of the Application for Enrollment approval date:

- The governing entity of the new Enrollee shall approve its Sewer System Management Plan; and
- The Legally Responsible Official shall certify and upload its Sewer System Management Plan to the online CIWQS Sanitary Sewer System Database.

# 5.3. Certification of Sewer System Management Plan and Plan Updates

The Legally Responsible Official shall certify and upload its Sewer System Management Plan and all subsequent updates to the online CIWQS Sanitary Sewer System Database.

## 5.4. Sewer System Management Plan Audits

The Enrollee shall conduct an internal audit of its Sewer System Management Plan, and implementation of its Plan, at a minimum frequency of once every three years. The audit must be conducted for the period after the end of the Enrollee's last required audit period. **Within six months after the end of the required 3-year audit period**, the Legally Responsible Official shall submit an audit report into the online CIWQS Sanitary Sewer System Database per the requirements in section 3.10 (Sewer System Management Plan Audit Reporting Requirements) of Attachment E1 of this General Order.

Audit reports submitted to the CIWQS Sanitary Sewer System Database will be viewable only to Water Boards staff.

The internal audit shall be appropriately scaled to the size of the system(s) and the number of spills. The Enrollee's sewer system operators must be involved in completing the audit. At minimum, the audit must:

- Evaluate the implementation and effectiveness of the Enrollee's Sewer System Management Plan in preventing spills;
- Evaluate the Enrollee's compliance with this General Order;
- Identify Sewer System Management Plan deficiencies in addressing ongoing spills and discharges to waters of the State; and

Identify necessary modifications to the Sewer System Management Plan to correct deficiencies.

The Enrollee shall submit a complete audit report that includes:

- Audit findings and recommended corrective actions;
- A statement that sewer system operators' input on the audit findings has been considered; and
- A proposed schedule for the Enrollee to address the identified deficiencies.

<u>A new Enrollee</u> of this General Order (that did not have a sanitary sewer system enrolled in the previous State Water Board Order 2006-0003-DWQ) shall conduct its first internal Sewer System Management Plan audit for the time period between the date of submittal of its certified Sewer System Management Plan and the third subsequent December 31<sup>st</sup> date. The audit report must be submitted into the online CIWQS Sanitary Sewer System Database **by July 1 of the following calendar year**.

See the following tables for clarification:

	Audit Period	Audit Due Date
New Enrollee	New Enrollee Certified Sewer System Management Plan Submittal Date through the third subsequent December 31 <sup>st</sup> date	
Example	Certified Sewer System Management Plan Submittal Date of August 2, 2025 Audit Period of August 2, 2025 through December 31, 2027	July 1, 2028

#### Initial Audit Period and Audit Due Date for New Enrollees

#### Initial Audit Period for Transition from 2-Year Audit Required in Previous Order 2006-0003-DWQ to 3-Year Audit Required in this General Order

	Audit Period	Audit Due Date	
An Enrollee previously regulated by Order 2006-003-DWQ	A 3-year period starting from the end of last required 2-year Audit Period	Within six months after end of 3-year Audit Period	
Example	Last required Audit Period start date of August 2, 2021;	February 1, 2025	
	Audit Period of August 2, 2021 through August 1, 2024		

## Three-Year Ongoing Audit Period

	Audit Period	Audit Due Date
Each Enrollee	A 3-year period starting from the end of last required Audit Period	Within six months after end of 3-year Audit Period

# 5.5. Six-Year Sewer System Management Plan Update

At a minimum, the Enrollee shall update its Sewer System Management Plan every six (6) years after the date of its last Plan Update due date. (For an Enrollee previously regulated by Order 2006-0003-DWQ, the six-year period shall commence on the due date identified in section 3.11 of Attachment E1 (Notification, Monitoring, Reporting and Recordkeeping Requirements) of this Order. The Updated Sewer System Management Plan must include:

- Elements required in Attachment D (Sewer System Management Plan Required Elements) of this Order;
- Summary of revisions included in the Plan update based on internal audit findings; and
- Other sewer system management-related changes.

The Enrollee's governing entity shall approve the updated Plan. The Legally Responsible Official shall upload and certify the approved updated Plan in the online CIWQS Sanitary Sewer System Database in accordance with section 3.11 (Sewer System Management Plan Reporting Requirements) of Attachment E1 (Notification, Monitoring, Reporting and Recordkeeping Requirements) of this General Order. During the time period in between Plan updates, the Enrollee shall continuously document changes to its Sewer System Management Plan in a change log attached to the Plan.

# 5.6. System Resilience

The Enrollee shall include and implement system-specific procedures in its Sewer System Management Plan to proactively prioritize: (1) operation and maintenance, (2) condition assessments, and (3) repair and rehabilitation, to address ongoing system resilience, as specified in Attachment D (Sewer System Management Plan – Required Elements) of this General Order.

# 5.7. Allocation of Resources

The Enrollee shall:

- Establish and maintain a means to manage all necessary revenues and expenditures related to the sanitary sewer system; and
- Allocate the necessary resources to its sewer system management program for:
  - o Compliance with this General Order,
  - o Full implementation of its updated Sewer System Management Plan,
  - o System operation, maintenance, and repair, and
  - o Spill responses.

## 5.8. Designation of Data Submitters

The Legally Responsible Official may designate one or more individuals as a Data Submitter for reporting of spill data. The Legally Responsible Official shall authorize the designation of Data Submitter(s) through the online <u>CIWQS database</u> (https://ciwqs.waterboards.ca.gov) prior to the individuals establishing a <u>CIWQS user account</u> (https://ciwqs.waterboards.ca.gov/ciwqs/newUser.jsp) and entering spill data into the online CIWQS Sanitary Sewer System Database.

The Legally Responsible Official shall submit any change to its Data Submitter(s), and/or change in Data Submitter contact information, to the State Water Board within 30 calendar days of the change, by emailing <u>ciwqs@waterboards.ca.gov</u> and copying the appropriate Regional Water Board as provided in Attachment F (Regional Water Quality Control Board Contact Information) of this General Order.

# 5.9. Reporting Certification

The Legally Responsible Official shall electronically certify, on the Enrollee's behalf, all applications, reports, the Sewer System Management Plan(s) and corresponding updates, and other information submitted electronically into the online CIWQS Sanitary Sewer System Database, as follows:

*"I certify under penalty of perjury under the laws of the State of California that the electronically submitted information was prepared under my direction or supervision. Based on my inquiry of the person(s) directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate, and complete, and complies with the Statewide Sanitary Sewer Systems General Order. I am aware that there are significant penalties for submitting false information."* 

Hardcopy submittals to the State Water Board must be accompanied by the above certification statement.

## 5.10. System Capacity

The Enrollee shall maintain the system capacity necessary to convey: (1) base flows during dry weather conditions, and (2) wet weather peak flows consistent with designated local historic storms. Design storms must take into account system-specific stormwater contributions via inflow and infiltration, and location-specific depth of groundwater and storm frequencies. The Enrollee shall implement capital improvements to provide adequate hydraulic capacity to:

- Meet or exceed the design criteria as defined in the Enrollee's System Evaluation and Capacity Assurance element of its Sewer System Management Plan; and
- Prevent system capacity-related spills, and adverse impacts to the treatment efficiency of downstream wastewater treatment facilities.

## 5.11. System Performance Analysis

The Enrollee shall include a running 10-year system performance analysis in its Annual Report. The analysis must include two CIWQS-generated graphs presenting the following information:

## <u> Graph 1 – Total Spill Volume per Year:</u>

- <u>X axis</u>: A 10-year period which includes the current calendar year and the nine previous calendar years;
- Y axis: The total spill volume, per Spill Category, for each calendar year.

# Graph 2 – Total Number of Spills per Year:

- <u>X axis</u>: A 10-year period which includes the current calendar year and the nine previous calendar years;
- Y axis: The total number of spills, per Spill Category, for each calendar year.

The current calendar year is the calendar year covered in the Annual Report.

The Enrollee shall generate the graphs in CIWQS, using the existing data in the online CIWQS Sanitary Sewer System Database at the following graph generation link: (<u>https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/PublicReportSSOServlet?reportAction=criteria&reportId=sso\_operation\_report</u>).

#### 5.12. Spill Emergency Response Plan and Remedial Actions

For Existing Enrollees (with regulatory coverage under Order 2006-0003-DWQ):

Within six (6) months of the Adoption Date of this General Order, the Enrollee shall update and implement its Spill Emergency Response Plan, per Attachment D, section 6 (Spill Emergency Response Plan) of this General Order.

## For New Enrollees:

Within six (6) months of the Application for Enrollment approval date, the Enrollee shall develop and implement a Spill Emergency Response Plan, per Attachment D, section 6 (Spill Emergency Response Plan) of this General Order.

The Enrollee shall certify, in its Annual Report, that its Spill Emergency Response Plan is up to date.

The Spill Emergency Response Plan shall include measures to protect public health and the environment. The Enrollee shall respond to spills from its system(s) in a timely manner that minimizes water quality impacts and nuisance by:

- Immediately stopping the spill and preventing/minimizing a discharge to waters of the State;
- Intercepting sewage flows to prevent/minimize spill volume discharged into waters of the State;
- Thoroughly recovering, cleaning up and disposing of sewage and wash down water; and
- Cleaning publicly accessible areas while preventing toxic discharges to waters of the State.

## 5.13. Notification, Monitoring, Reporting and Recordkeeping Requirements

The Enrollee shall comply with notification, monitoring, reporting, and recordkeeping requirements in Attachment E1 of this General Order.

#### 5.13.1. Spill Categories

Individual spill notification, monitoring and reporting must be in accordance with the following spill categories:

#### • Category 1 Spill

A Category 1 spill is a spill of any volume of sewage from or caused by a sanitary sewer system regulated under this General Order that results in a discharge to:

- A surface water, including a surface water body that contains no flow or volume of water; or
- A drainage conveyance system that discharges to surface waters when the sewage is not fully captured and returned to the sanitary sewer system or disposed of properly.

Any spill volume not recovered from a drainage conveyance system is considered a discharge to surface water, unless the drainage conveyance system discharges to a dedicated stormwater infiltration basin or facility.

A spill from an Enrollee-owned and/or operated lateral that discharges to a surface water is a Category 1 spill; the Enrollee shall report all Category 1 spills per section 3.1 of Attachment E1 (Notification, Monitoring, Reporting and Recordkeeping Requirements) of this General Order.

## • Category 2 Spill

A Category 2 spill is a spill of 1,000 gallons or greater, from or caused by a sanitary sewer system regulated under this General Order that does not discharge to a surface water.

A spill of 1,000 gallons or greater that spills out of a lateral and is caused by a failure or blockage in the sanitary sewer system, is a Category 2 spill.

#### Category 3 Spill

A Category 3 spill is a spill of equal to or greater than 50 gallons and less than 1,000 gallons, from or caused by a sanitary sewer system regulated under this General Order that does not discharge to a surface water.

A spill of equal to or greater than 50 gallons and less than 1,000 gallons, that spills out of a lateral and is caused by a failure or blockage in the sanitary sewer system is a Category 3 spill.

## • Category 4 Spill

A Category 4 spill is a spill of less than 50 gallons, from or caused by a sanitary sewer system regulated under this General Order that does not discharge to a surface water.

A spill of less than 50 gallons that spills out of a lateral and is caused by a failure or blockage in the sanitary sewer system is a Category 4 spill.

#### 5.13.2. Annual Report

The Enrollee shall submit an Annual Report (previously termed as Collection System Questionnaire in Order 2006-0003-DWQ) as specified in section 3.9 (Annual Report) of Attachment E1 (Notification, Monitoring, Reporting and Recordkeeping Requirements) of this General Order.

**For new Enrollees: Within 30 days of obtaining a CIWQS account**, a new Enrollee shall submit its initial Annual Report, as specified in section 3.9 (Annual Report) of Attachment E1 (Notification, Monitoring, Reporting and Recordkeeping Requirements) of this General Order.

## 5.14. Electronic Sanitary Sewer System Service Area Boundary Map

For continuing enrollees, starting on July 1, 2025, and no later than December 31, 2025:

# For new enrollees – no earlier than July 1, 2025, or within 12 months of the Application for Enrollment approval date, whichever date is later:

The Legally Responsible Official shall submit, to the State Water Board, geospatial data detailing the locations of the Enrollee's sanitary sewer system service area boundary, per the required content and specifications in section 3.8 (Electronic Sanitary Sewer System Service Area Boundary Map) of Attachment E1 of this General Order, for each system identified by a WDID number.

An Enrollee of a disadvantaged community that may need assistance developing an electronic map to comply with this requirement, may contact State Water Board staff for assistance at <u>SanitarySewer@waterboards.ca.gov</u>.

# 5.15. Voluntary Reporting of Spills from Privately-Owned Sewer Laterals and/or Private Sanitary Sewer Systems

Within 24 hours of becoming aware of a spill (as described below) from a private sewer lateral or private sanitary sewer system that is not owned/operated by the Enrollee, the Enrollee is encouraged to report the following observations to the online CIWQS Sanitary Sewer System Database at the following link: https://ciwqs.waterboards.ca.gov:

- A spill equal or greater than 1,000 gallons that discharges (or has a potential to discharge) to a water of the State, or a drainage conveyance system that discharges to waters of the State; **or**
- Any volume of sewage that discharges (or has a potential to discharge) to surface waters.

In the CIWQS module, the Enrollee is encouraged to identify:

- Time of observation;
- Description of general spill location (for example, street name and cross street names);
- Estimated volume of spill;
- If known, general description of spill destination (for example, flowing into drainage channel, flowing directly into a creek, etc.); and
- If known, name of private system owner/operator.

The CIWQS database will make the name and contact information of the entity voluntarily reporting a private spill, accessible to State and Regional Water Board staff only. The CIWQS database will only make information regarding the actual spill, accessible to the public.

# 5.16. Voluntary Notification of Spills from Privately-Owned Laterals and/or Systems to the California Office of Emergency Services

Upon observing or acquiring knowledge of any of the following from a private sewer lateral or private sanitary sewer system that is not owned/operated by the Enrollee, the Enrollee is encouraged to notify the California Office of Emergency Services (as provided by Health and Safety Code section 5410 et. seq. and Water Code section 13271), or inform the responsible party that State law requires such notification to the Office of Emergency Services by any person that causes or allows a sewage discharge to waters of the State:

- A spill equal to 1,000 gallons or more that discharges (or has a potential to discharge) to waters of the State, or a drainage conveyance system that discharges to waters of the State; or
- A spill of any volume to surface waters.

# 5.17. Unintended Failure to Report

If an Enrollee becomes aware that they unintentionally failed to submit relevant facts in any report required in this General Order, the Enrollee shall promptly notify Regional Water Board and State Water Board staff. Regional Water Board contact information is included in Attachment F of this Order. State Water Board staff shall be contacted by email at <u>SanitarySewer@waterboards.ca.gov</u> for assistance in formally amending the corresponding report(s) in the online CIWQS Sanitary Sewer System Database.

## 5.18. Duty to Report to Water Boards

In accordance with Water Code section 13267 and/or section 13383, upon request by the State Water Board Executive Director (or designee) or a Regional Water Board Executive Officer (or designee), the Enrollee shall provide the requested information which the State or Regional Water Board deems necessary to determine compliance with this General Order.

#### 5.19. Operation and Maintenance

To prevent discharges to the environment, the Enrollee shall maintain in good working order, and operate as designed, any facility or treatment and control system designed to contain sewage and convey it to a treatment plant.

#### 6. **PROVISIONS**

#### 6.1. Enforcement Provisions

The following enforcement provisions are based on existing federal and state regulations, laws and policies, including the federal Clean Water Act, the state Water Code and the State Water Board Enforcement Policy.

# 6.1.1. Enforceability of Clean Water Act and Water Code Violations

Noncompliance with requirements of this General Order or discharging sewage without enrolling in this General Order constitutes a violation of the Water Code and a potential

violation of the Clean Water Act and is grounds for an enforcement action by the State Water Board or the applicable Regional Water Board. Failure to comply with the notification, monitoring, inspection, entry, reporting, and recordkeeping requirements may subject the Enrollee to administrative civil liabilities of up to \$10,000 a day per violation pursuant to Water Code section 13385; up to \$1,000 a day per violation pursuant to Water Code section 13268; or referral to the Attorney General for judicial civil enforcement. Discharging waste not in compliance with the requirements of this General Order or the Clean Water Act may subject the Enrollee to administrative civil liabilities up to \$10,000 a day per violation and additional liability up to \$10 per gallon of discharge not cleaned up after the first 1,000 gallons of discharge; up to \$5,000 a day per violation pursuant to Water Code section 13350 or up to \$20 per gallon of waste discharged; or referral to the Attorney General for judicial civil enforcement.

## 6.1.2. Monetary Penalties

The Water Code provides the State and Regional Water Boards the authority to pursue formal enforcement actions, including imposing administrative liability and civil monetary penalties, for non-compliance with the requirements of this General Order and violations of the Clean Water Act.

## 6.1.3. Falsifying or Failure to Report

The Water Code provides that any person failing or refusing to furnish technical or monitoring program reports, as required under this General Order, or falsifying any information provided in the technical or monitoring reports is subject to administrative liability and civil monetary penalties. Any person who knowingly fails or refuses to furnish technical or monitoring program reports or falsifies any information provided in reports required by this General Order is subject to criminal penalties.

#### 6.1.4. Severability of General Order

The provisions of this General Order are severable; if any provision of this Order, or the application of any provision of this Order to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby.

#### 6.1.5. Indirect Discharges

In the event that a spill enters into a drainage conveyance system, the Enrollee shall take all feasible steps to prevent discharge of sewage into waters of the State by blocking or redirecting the flow in the drainage conveyance system, removing the sewage from the drainage conveyance system, and cleaning the system in a manner that does not inadvertently impact beneficial uses of the receiving water body.

#### 6.1.6. Water Boards' Considerations for Discretionary Enforcement

Consistent with the State Water Board Enforcement Policy, when considering Water Code section 13327 factors, the State Water Board or a Regional Water Board may consider the Enrollee's efforts to contain, control, clean up, and mitigate spills. In assessing the factors, the State Water Board or the applicable Regional Water Board will consider:

- The Enrollee's compliance with this General Order with a focus on compliance with reporting requirements;
- The Enrollee's provision of adequate funding to implement the requirements of this General Order;
- The Enrollee's compliance with providing a complete and updated Sewer System Management Plan;
- The Enrollee's compliance with implementing its Sewer System Management Plan;
- The overall effectiveness of the Enrollee's Sewer System Management Plan with respect to:
  - o System management, operation, and maintenance,
  - Adequate treatment facilities, sanitary sewer system facilities, and/or components with an appropriate design capacity, to reasonably prevent spills (e.g. adequately enlarging treatment or collection facilities to accommodate growth, infiltration and inflow, etc.),
  - Preventive maintenance (including cleaning, root grinding, and fats, oils, and grease control) and source control measures,
  - o Implementation of backup equipment,
  - o Inflow and infiltration prevention and control,
  - Appropriate sanitary sewer system capacity to prevent spills, and
  - The Enrollee's responsiveness to stop and mitigate the impact of the discharge;
- The Enrollee's compliance with identifying the cause of the spill;
- The Enrollee's use of available information and observations to accurately estimate the spill volume and identify the affected or potentially affected receiving waters;
- The Enrollee's thoroughness of cleaning up sewage in drainage conveyance systems after the spill(s);
- The Enrollee's use of water quality and biological monitoring and assessment to determine the short-term and long-term impacts to beneficial uses and the environment;
- The Enrollee's follow up actions to improve system performance;
- The Enrollee's implementation of feasible alternatives to prevent spills, such as:
  - Use of temporary storage or waste retention,
  - o Reduction of system inflow and infiltration,
  - Collection and hauling of waste to a treatment facility,
  - Prevention of and/ or containment of spills due to a design storm event identified in the Enrollee's Sewer System Management Plan,

- Implementation of available equipment, technologies, strategies, and recommended industry practices for maintaining and managing sewer systems to prevent spills, and contain and eliminate discharges to waters of the State; and
- The spill duration and factors beyond the reasonable control of the Enrollee causing the event.

# 6.1.7. Enforcement Discretion Based on Reporting Compliance

Consistent with the State Water Board Enforcement Policy, the State Water Board or a Regional Water Board may consider the Enrollee's efforts to comply with spill reporting requirements when determining compliance with Water Code section 13267 and section 13383. When assessing Water Code section 13227 factors, the State Water Board or the applicable Regional Water Board will consider:

- The Enrollee's diligence to comply with all reporting requirements in this General Order;
- The use of best available information for the Enrollee's reporting of spill start date and start time in which the release of sewage from the sanitary sewer system initiated;
- The Enrollee's reporting of spill end date, and end time to be the date and time in which the release of sewage from the sanitary sewer system was stopped;
- The Enrollee's diligence to accurately estimate and report spill volumes;
- The Enrollee's subsequent verification and/or updates to initial Draft Spill Reports in accordance with this General Order; and
- The Enrollee's timely certification of required spill reports.

Consistent with Water Code section 13267 and section 13383, the State Water Board or a Regional Water Board may require an Enrollee to report the results of a condition assessment of a specified portion of the Enrollee's sanitary sewer system.

# 6.2. Other Regional Water Board Orders

It is the intent of the State Water Board that sanitary sewer systems be regulated in a manner consistent with federal and state regulations. This Order will not be interpreted or applied:

- In a manner inconsistent with the federal Clean Water Act;
- To authorize a spill or discharge that is illegal under either the Clean Water Act, the Water Code, and/or an applicable Basin Plan prohibition or water quality standard;
- To prohibit a Regional Water Board from issuing an individual National Pollutant Discharge Elimination System (NPDES) permit or individual waste discharge requirements superseding an Enrollee's regulatory coverage under this General Order for a sanitary sewer system authorized under the Clean Water Act or Water Code;

- To supersede any more specific or more stringent waste discharge requirements or enforcement orders issued by a Regional Water Board; or
- To supersede any more specific or more stringent state or federal requirements in existing regulation, an administrative/judicial order, or Consent Decree.

# 6.3. Sewer System Management Plan Availability

The Enrollee's updated Sewer System Management Plan must be maintained for public inspection at the Enrollee's offices and facilities and must be available to the public through CIWQS and/or on the Enrollee's website, in accordance with section 3.8 (Sewer System Management Plan Reporting Requirements) of Attachment E1 (Notification, Monitoring, Reporting and Recordkeeping Requirements) of this General Order.

#### 6.4. Entry and Inspection

## 6.4.1. Entry and Availability of Information

The Enrollee shall allow State and Regional Water Board staff, upon presentation of credentials and other documents as may be required by law, to:

- Enter upon the Enrollee's premises where a regulated facility or activity is located or conducted, or where records are kept under the requirements of this General Order;
- Have access to and reproduce any records required to be maintained by this General Order;
- Inspect any facility and/or equipment (including monitoring and control equipment), practices, or operations required in this General Order; and
- Sample or monitor substances or parameters for assuring compliance with this General Order, or as otherwise authorized by the Water Code.

#### 6.4.2. Pre-Inspection Questionnaire

The Enrollee shall provide pre-inspection information to State and Regional Water Board staff through the completion of a Pre-Inspection Questionnaire provided by Water Board staff.

# STATEWIDE SANITARY SEWER SYSTEMS GENERAL ORDER 2022-0103-DWQ

# **ATTACHMENT A - DEFINITIONS**

## Annual Report

An Annual Report (previously termed as Collection System Questionnaire in Order 2006-0003-DWQ) is a mandatory report in which the Enrollee provides a calendar-year update of its efforts to prevent spills.

#### Basin Plan

A Basin Plan is a water quality control plan specific to a Regional Water Quality Control Board (Regional Water Board), that serves as regulations to: (1) define and designate beneficial uses of surface and groundwaters, (2) establish water quality objectives for protection of beneficial uses, and (3) provide implementation measures.

#### **Beneficial Uses**

The term "Beneficial Uses" is a Water Code term, defined as the uses of the waters of the State that may be protected against water quality degradation. Examples of beneficial uses include but are not limited to, municipal, domestic, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.

## California Integrated Water Quality System (CIWQS)

CIWQS is the statewide database that provides for mandatory electronic reporting as required in State and Regional Water Board-issued waste discharge requirements.

#### Data Submitter

A Data Submitter is an individual designated and authorized by the Enrollee's Legally Responsible Official to enter spill data into the online CIWQS Sanitary Sewer System Database. A Data Submitter does not have the authority of a Legally Responsible Official to certify reporting entered into the online CIWQS Sanitary Sewer System Database.

#### **Disadvantaged Community**

A disadvantaged community is a community with a median household income of less than eighty percent (80%) of the statewide annual median household income.

For the purpose of this General Order, there is no differentiation between a small and large disadvantaged community.

#### Drainage Conveyance System

A drainage conveyance system is a publicly- or privately-owned separate storm sewer system, including but not limited to drainage canals, channels, pipelines, pump stations, detention basins, infiltration basins/facilities, or other facilities constructed to transport stormwater and non-stormwater flows.

# Enrollee

An Enrollee is a public, private, or other non-governmental entity that has obtained approval for regulatory coverage under this General Order, including:

- A state agency, municipality, special district, or other public entity that owns and/or operates one or more sanitary sewer systems:
  - greater than one (1) mile in length (each individual sanitary sewer system);
  - one mile or less in length where the State Water Resources Control Board or a Regional Water Quality Control Board requires regulatory coverage under this Order, or
- A federal agency, private company, or other non-governmental entity that owns and/or operates a sanitary sewer system of any size where the State Water Resources Control Board or a Regional Water Quality Control Board requires regulatory coverage under this Order in response to a history of spills, proximity to surface water, or other factors supporting regulatory coverage.

# **Environmentally Sensitive Area**

An environmentally sensitive area is a designated agricultural and/or wildlife area identified to need special natural landscape protection due to its wildlife or historical value.

## Exfiltration

Exfiltration is the underground exiting of sewage from a sanitary sewer system through cracks, offset or separated joints, or failed infrastructure due to corrosion or other factors.

## Flood Control Channel

A flood control channel is a channel used to convey stormwater and non-stormwater flows through and from areas for flood management purposes.

# **Governing Entity**

A governing entity includes but is not limited to the following:

- A publicly elected governing board, council, or commission of a municipal agency;
- A Department or Division director of a federal or state agency that is not governed by a board;
- A governing board or commission of an organization or association; and
- A private system owner/manager that is not governed by a board.

# Hydrologically Connected

Two waterbodies are hydrologically connected when one waterbody flows, or has the potential to flow, into the other waterbody. For the purpose of this General Order, groundwater is

hydrologically connected to a surface water when the groundwater feeds into the surface water. (The surface waterbody in this example is termed a gaining stream as it gains flow from surrounding groundwater.)



# Lateral (including Lower and Upper Lateral)

A lateral is an underground segment of smaller diameter pipe that transports sewage from a customer's building or property (residential, commercial, or industrial) to the Enrollee's main sewer line in a street or easement. Upper and lower lateral boundary definitions are subject to local jurisdictional codes and ordinances, or private system ownership.

A lower lateral is the portion of the lateral located between the sanitary sewer system main, and either the property line, sewer clean out, curb line, established utility easement boundary, or other jurisdictional locations.

An upper lateral is the portion of the lateral from the property line, sewer clean out, curb line, established utility easement boundary, or other jurisdictional locations, to the building or property.

#### Legally Responsible Official

A Legally Responsible Official is an official representative, designated by the Enrollee, with authority to sign and certify submitted information and documents required by this General Order.

#### Nuisance

For the purpose of this General Order, a nuisance, as defined in Water Code section 13050(m), is anything that meets all of the following requirements:

- Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property;
- Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal; and
- Occurs during, or as a result of, the treatment or disposal of wastes.

#### **Private Sewer Lateral**

A private sewer lateral is the privately-owned lateral that transports sewage from private property(ies) into a sanitary sewer system.

#### Private Sanitary Sewer System

A private sanitary sewer system is a sanitary sewer system of any size that is owned and/or operated by a private individual, company, corporation, or organization. A private sanitary sewer system may or may not connect into a publicly owned sanitary sewer system.

#### Potential to Discharge, Potential Discharge

Potential to Discharge, or Potential Discharge, means any exiting of sewage from a sanitary sewer system which can reasonably be expected to discharge into a water of the State based on the size of the sewage spill, proximity to a drainage conveyance system, and the nature of the surrounding environment.

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## **Receiving Water**

A receiving water is a water of the State that receives a discharge of waste.

#### Resilience

Resilience is the ability to recover from or adjust to adversity or change, and grow from disruptions. Resilience can be built through planning, preparing for, mitigating, and adapting to changing conditions.

#### Sanitary Sewer System

A sanitary sewer system is a system that is designed to convey sewage, including but not limited to, pipes, manholes, pump stations, siphons, wet wells, diversion structures and/or other pertinent infrastructure, upstream of a wastewater treatment plant headworks, including:

- Laterals owned and/or operated by the Enrollee;
- Satellite sewer systems; and/or
- Temporary conveyance and storage facilities, including but not limited to temporary piping, vaults, construction trenches, wet wells, impoundments, tanks and diversion structures.

For purpose of this Order, sanitary sewer systems include only systems owned and/or operated by the Enrollee.

#### Satellite Sewer System

A satellite sewer system is a portion of a sanitary sewer system owned or operated by a different owner than the owner of the downstream wastewater treatment facility ultimately treating the sewage.

#### Sewer System Management Plan

A sewer system management plan is a living document an Enrollee develops and implements to effectively manage its sanitary sewer system(s) in accordance with this General Order.

#### Sewage

Sewage, and its associated wastewater, is untreated or partially treated domestic, municipal, commercial and/or industrial waste (including sewage sludge), and any mixture of these wastes with inflow or infiltration of stormwater or groundwater, conveyed in a sanitary sewer system.

#### Spill

A spill is a discharge of sewage from any portion of a sanitary sewer system due to a sanitary sewer system overflow, operational failure, and/or infrastructure failure. Exfiltration of sewage is not considered to be a spill under this General Order if the exfiltrated sewage remains in the subsurface and does not reach a surface water of the State.

#### Training

Training is in-house or external education and guidance needed that provides the knowledge, skills, and abilities to comply with this General Order.

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## Wash Down Water

Wash down water is water used to clean a spill area.

#### Waste

Waste, as defined in Water Code section 13050(d), includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.

## Waste Discharge Identification Number (WDID)

A waste discharge identification number (WDID) identifies each individual sanitary sewer system enrolled under this General Order. A WDID number is assigned to each enrolled system upon an Enrollee's approved regulatory coverage.

#### Waters of the State

Waters of the State are surface waters or groundwater within boundaries of the state as defined in Water Code section 13050(e), in which the State and Regional Water Boards have authority to protect beneficial uses. Waters of the State include, but are not limited to, groundwater aquifers, surface waters, saline waters, natural washes and pools, wetlands, sloughs, and estuaries, regardless of flow or whether water exists during dry conditions. Waters of the State include state include waters of the United States.

#### Waters of the United States

Waters of the United States are surface waters or waterbodies that are subject to federal jurisdiction in accordance with the Clean Water Act.

#### Water Quality Objective

A water quality objective is the limit or maximum amount of pollutant, waste constituent or characteristic, or parameter level established in statewide water quality control plans and Regional Water Boards' Basin Plans, for the reasonable protection of beneficial uses of surface waters and groundwater and the prevention of nuisance.

# ATTACHMENT B – APPLICATION FOR ENROLLMENT

- 1. Enrollment Status: (Mark only one item)
  - □ New Enrollee
  - New Enrollee with previous regulatory coverage under Order 2006-0003-DWQ (that failed to certify continuation of coverage in CIWQS per Order 2022-XXXX-DWQ) Existing WDID Number:

#### 2. Applicant Information:

3.

4.

Legally Responsible Official Submit	tting Applicatio	n	
First and Last Name:			
Title:			
Phone:			
Email:			
System Owner/Operator Name:			
Mailing Address:			
City, State, Zip:			
County:			
Sanitary Sewer System Name:			
Regional Water Quality Control Board(s):			
Signature and Date:			
Applicant Type (Check one):			
🗆 City 🛛 County 🛛 State	Federal	□ Special District	
Government Combination	□ Private	□ Other Non-governmental Entity	
Wastewater Treatment Plant Receiving Sanitary Sewer System Waste:			
Wastewater Treatment Plant Permittee:			
WDID No.:			

# STATEWIDE SANITARY SEWER SYSTEMS GENERAL ORDER 2022-0103-DWQ

5.	Billing Information
	Billing Address:
	City, State, Zip:
	Billing Contact Person and Title:
	Phone and Email Address:

#### 6. Application Fee:

The application fee, as required by Water Code section 13260, is based on the daily population served by the sanitary sewer system. See updated Fee Schedule. (https://www.waterboards.ca.gov/resources/fees/water quality/)

Check one of the following and enter fee amount:

□ Population Served < 50,000 – Total Fee submitted: \$ \_\_\_\_\_

□ Population Served  $\geq$  50,000 – Total Fee submitted: \$

Make the fee payment payable to the State Water Resources Control Board and mail the complete application package to:

> State Water Resources Control Board, Accounting Office P. O. Box 1888 Sacramento, CA 95812-1888

Attention: Statewide Sanitary Sewer System Program

## 7. Application Submittal Certification

I certify under penalty of perjury under the laws of the State of California that to the best of my knowledge and belief, the information in the submitted application package is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: Date:

# ATTACHMENT C - NOTICE OF TERMINATION

#### 1. Enrollee Information

Enrollee Name:
WDID No:
Legally Responsible Official Requesting Termination of Coverage:
First and Last Name:
Title:
Phone:
Email:
Mailing Address:
City, State, Zip:
County:
Sanitary Sewer System Name(s) or Unique Identifier(s):
Regional Water Quality Control Board(s):
Signature and Date:

#### 2. Basis of Termination

Explanation of termination, including subsequent regulatory coverage and subsequent owner/operator of enrolled sanitary sewer system, as applicable:



## 3. Regulatory Coverage Termination Certification

I certify under penalty of perjury under the laws of the State of California that to the best of my knowledge: 1) the sanitary sewer system I officially represent is not required to be regulated under the Statewide Waste Discharge Requirements for Sanitary Sewer Systems Order 2022-XXXX-DWQ, and 2) the information submitted in this Notice of Termination is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment. Additionally, I understand that the submittal of this Notice of Termination does not release sanitary sewer system agencies from liability for any violations of the Clean Water Act.

Print Name:			
Title:			
Signature:		Date:	
For State Water Board Us □ Approved for Terr	se Only nination	□ Denied and Returned to Enrollee	
Deputy Director of Water 0	Quality Signature:		
Date:	Notice of Termin	nation Effective Date:	

# STATEWIDE SANITARY SEWER SYSTEMS GENERAL ORDER 2022-0103-DWQ

# ATTACHMENT D – SEWER SYSTEM MANAGEMENT PLAN – REQUIRED ELEMENTS

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# ATTACHMENT D – SEWER SYSTEM MANAGEMENT PLAN – REQUIRED ELEMENTS

A Sewer System Management Plan (Plan) is a living planning document that documents ongoing local sewer system management program activities, procedures, and decision-making – at the scale necessary to address the size and complexity of the subject sanitary sewer system(s). This Plan may incorporate other programs and other plans by reference, to address short-term and long-term system resilience through:

- Proactive planning and decision-making;
- Local government ordinances;
- Updated operations and maintenance activities and procedures;
- Implementation of capital improvements;
- Sufficient local budget to support staff resources, contractors, equipment, and training; and
- Updated training of staff and contractors.

The Enrollee's development, update, and implementation of a Sewer System Management Plan addressing the requirements of this Attachment is an enforceable component of this General Order. As specified in Provision 6.1 (Enforcement Provisions) of this General Order, consistent with the Water Code and the State Water Board Enforcement Policy, the State Water Board or a Regional Water Board may consider the Enrollee's efforts in implementing an effective Sewer System Management Plan to prevent, contain, control, and mitigate spills when considering Water Code section 13327 factors to determine necessary enforcement of this General Order.

This Attachment includes the following required elements that the Enrollee shall address in its Plan and subsequent updates. The Enrollee shall identify any requirement in this Attachment that is not applicable to the Enrollee's sewer system and shall explain in its Plan why the requirement is not applicable.

# 1. SEWER SYSTEM MANAGEMENT PLAN GOAL AND INTRODUCTION

The goal of the Sewer System Management Plan (Plan) is to provide a plan and schedule to: (1) properly manage, operate, and maintain all parts of the Enrollee's sanitary sewer system(s), (2) reduce and prevent spills, and (3) contain and mitigate spills that do occur.

The Plan must include a narrative Introduction section that discusses the following items:

# 1.1. Regulatory Context

The Plan Introduction section must provide a general description of the local sewer system management program and discuss Plan implementation and updates.

## 1.2. Sewer System Management Plan Update Schedule

The Plan Introduction section must include a schedule for the Enrollee to update the Plan, including the schedule for conducting internal audits. The schedule must include milestones for incorporation of activities addressing prevention of sewer spills.

#### 1.3. Sewer System Asset Overview

The Plan Introduction section must provide a description of the Enrollee-owned assets and service area, including but not limited to:

- Location, including county(ies);
- Service area boundary;
- Population and community served;
- System size, including total length in miles, length of gravity mainlines, length of pressurized (force) mains, and number of pump stations and siphons;
- Structures diverting stormwater to the sewer system;
- Data management systems;
- Sewer system ownership and operation responsibilities between Enrollee and private entities for upper and lower sewer laterals;
- Estimated number or percent of residential, commercial, and industrial service connections; and
- Unique service boundary conditions and challenge(s).

Additionally, the Plan Introduction section must provide reference to the Enrollee's upto-date map of its sanitary sewer system, as required in section 4.1 (Updated Map of Sanitary Sewer System) of this Attachment.

#### 2. ORGANIZATION

The Plan must identify organizational staffing responsible and integral for implementing the local Sewer System Management Plan through an organization chart or similar narrative documentation that includes:

- The name of the Legally Responsible Official as required in section 5.1 (Designation of a Legally Responsible Official) of this General Order;
- The position titles, telephone numbers, and email addresses for management, administrative, and maintenance positions responsible for implementing specific Sewer System Management Plan elements;
- Organizational lines of authority; and
- Chain of communication for reporting spills from receipt of complaint or other information, including the person responsible for reporting spills to the State and Regional Water Boards and other agencies, as applicable. (For example, county

ATTACHMENT D – SEWER SYSTEM MANAGEMENT PLAN REQUIRED ELEMENTS health officer, county environmental health agency, and State Office of Emergency Services.)

#### 3. LEGAL AUTHORITY

The Plan must include copies or an electronic link to the Enrollee's current sewer system use ordinances, service agreements and/or other legally binding procedures to demonstrate the Enrollee possesses the necessary legal authority to:

- Prevent illicit discharges into its sanitary sewer system from inflow and infiltration (I&I); unauthorized stormwater; chemical dumping; unauthorized debris; roots; fats, oils, and grease; and trash, including rags and other debris that may cause blockages;
- Collaborate with storm sewer agencies to coordinate emergency spill responses, ensure access to storm sewer systems during spill events, and prevent unintentional cross connections of sanitary sewer infrastructure to storm sewer infrastructure;
- Require that sewer system components and connections be properly designed and constructed;
- Ensure access for maintenance, inspection, and/or repairs for portions of the service lateral owned and/or operated by the Enrollee;
- Enforce any violation of its sewer ordinances, service agreements, or other legally binding procedures; and
- Obtain easement accessibility agreements for locations requiring sewer system operations and maintenance, as applicable.

#### 4. OPERATION AND MAINTENANCE PROGRAM

The Plan must include the items listed below that are appropriate and applicable to the Enrollee's system.

#### 4.1. Updated Map of Sanitary Sewer System

An up-to-date map(s) of the sanitary sewer system, and procedures for maintaining and providing State and Regional Water Board staff access to the map(s). The map(s) must show gravity line segments and manholes, pumping facilities, pressure pipes and valves, and applicable stormwater conveyance facilities within the sewer system service area boundaries.

#### 4.2. Preventive Operation and Maintenance Activities

A scheduling system and a data collection system for preventive operation and maintenance activities conducted by staff and contractors.

The scheduling system must include:

• Inspection and maintenance activities;

#### ATTACHMENT D – SEWER SYSTEM MANAGEMENT PLAN REQUIRED ELEMENTS

- Higher-frequency inspections and maintenance of known problem areas, including areas with tree root problems;
- Regular visual and closed-circuit television (CCTV) inspections of manholes and sewer pipes.

The data collection system must document data from system inspection and maintenance activities, including system areas/components prone to root-intrusion potentially resulting in system backup and/or failure.

## 4.3. Training

In-house and external training provided on a regular basis for sanitary sewer system operations and maintenance staff and contractors. The training must cover:

- The requirements of this General Order;
- The Enrollee's Spill Emergency Response Plan procedures and practice drills;
- Skilled estimation of spill volume for field operators; and
- Electronic CIWQS reporting procedures for staff submitting data.

## 4.4. Equipment Inventory

An inventory of sewer system equipment, including the identification of critical replacement and spare parts.

# 5. DESIGN AND PERFORMANCE PROVISIONS

The Plan must include the following items as appropriate and applicable to the Enrollee's system:

# 5.1. Updated Design Criteria and Construction Standards and Specifications

Updated design criteria, and construction standards and specifications, for the construction, installation, repair, and rehabilitation of existing and proposed system infrastructure components, including but not limited to pipelines, pump stations, and other system appurtenances. If existing design criteria and construction standards are deficient to address the necessary component-specific hydraulic capacity as specified in section 8 (System Evaluation, Capacity Assurance and Capital Improvements) of this Attachment, the procedures must include component-specific evaluation of the design criteria.

#### 5.2. Procedures and Standards

Procedures, and standards for the inspection and testing of newly constructed, newly installed, repaired, and rehabilitated system pipelines, pumps, and other equipment and appurtenances.
# 6. SPILL EMERGENCY RESPONSE PLAN

The Plan must include an up to date Spill Emergency Response Plan to ensure prompt detection and response to spills to reduce spill volumes and collect information for prevention of future spills. The Spill Emergency Response Plan must include procedures to:

- Notify primary responders, appropriate local officials, and appropriate regulatory agencies of a spill in a timely manner;
- Notify other potentially affected entities (for example, health agencies, water suppliers, etc.) of spills that potentially affect public health or reach waters of the State;
- Comply with the notification, monitoring and reporting requirements of this General Order, State law and regulations, and applicable Regional Water Board Orders;
- Ensure that appropriate staff and contractors implement the Spill Emergency Response Plan and are appropriately trained;
- Address emergency system operations, traffic control and other necessary response activities;
- Contain a spill and prevent/minimize discharge to waters of the State or any drainage conveyance system;
- Minimize and remediate public health impacts and adverse impacts on beneficial uses of waters of the State;
- Remove sewage from the drainage conveyance system;
- Clean the spill area and drainage conveyance system in a manner that does not inadvertently impact beneficial uses in the receiving waters;
- Implement technologies, practices, equipment, and interagency coordination to expedite spill containment and recovery;
- Implement pre-planned coordination and collaboration with storm drain agencies and other utility agencies/departments prior, during, and after a spill event;
- Conduct post-spill assessments of spill response activities;
- Document and report spill events as required in this General Order; and
- Annually, review and assess effectiveness of the Spill Emergency Response Plan, and update the Plan as needed.

# 7. SEWER PIPE BLOCKAGE CONTROL PROGRAM

The Sewer System Management Plan must include procedures for the evaluation of the Enrollee's service area to determine whether a sewer pipe blockage control program is needed to control fats, oils, grease, rags and debris. If the Enrollee determines that a program is not needed, the Enrollee shall provide justification in its Plan for why a program is not needed.

The procedures must include, at minimum:

- An implementation plan and schedule for a public education and outreach program that promotes proper disposal of pipe-blocking substances;
- A plan and schedule for the disposal of pipe-blocking substances generated within the sanitary sewer system service area. This may include a list of acceptable disposal facilities and/or additional facilities needed to adequately dispose of substances generated within a sanitary sewer system service area;
- The legal authority to prohibit discharges to the system and identify measures to prevent spills and blockages;
- Requirements to install grease removal devices (such as traps or interceptors), design standards for the removal devices, maintenance requirements, best management practices requirements, recordkeeping and reporting requirements;
- Authority to inspect grease producing facilities, enforcement authorities, and whether the Enrollee has sufficient staff to inspect and enforce the fats, oils, and grease ordinance;
- An identification of sanitary sewer system sections subject to fats, oils, and grease blockages and establishment of a cleaning schedule for each section; and
- Implementation of source control measures for all sources of fats, oils, and grease reaching the sanitary sewer system for each section identified above.

# 8. SYSTEM EVALUATION, CAPACITY ASSURANCE AND CAPITAL IMPROVEMENTS

The Plan must include procedures and activities for:

- Routine evaluation and assessment of system conditions;
- Capacity assessment and design criteria;
- Prioritization of corrective actions; and
- A capital improvement plan.

#### 8.1 System Evaluation and Condition Assessment

The Plan must include procedures to:

• Evaluate the sanitary sewer system assets utilizing the best practices and technologies available;

#### ATTACHMENT D – SEWER SYSTEM MANAGEMENT PLAN REQUIRED ELEMENTS

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- Identify and justify the amount (percentage) of its system for its condition to be assessed each year;
- Prioritize the condition assessment of system areas that:
  - Hold a high level of environmental consequences if vulnerable to collapse, failure, blockage, capacity issues, or other system deficiencies;
  - Are located in or within the vicinity of surface waters, steep terrain, high groundwater elevations, and environmentally sensitive areas;
  - Are within the vicinity of a receiving water with a bacterial-related impairment on the most current Clean Water Act section 303(d) List;
- Assess the system conditions using visual observations, video surveillance and/or other comparable system inspection methods;
- Utilize observations/evidence of system conditions that may contribute to exiting of sewage from the system which can reasonably be expected to discharge into a water of the State;
- Maintain documents and recordkeeping of system evaluation and condition assessment inspections and activities; and
- Identify system assets vulnerable to direct and indirect impacts of climate change, including but not limited to: sea level rise; flooding and/or erosion due to increased storm volumes, frequency, and/or intensity; wildfires; and increased power disruptions.

# 8.2. Capacity Assessment and Design Criteria

The Plan must include procedures to identify system components that are experiencing or contributing to spills caused by hydraulic deficiency and/or limited capacity, including procedures to identify the appropriate hydraulic capacity of key system elements for:

- Dry-weather peak flow conditions that cause or contributes to spill events;
- The appropriate design storm(s) or wet weather events that causes or contributes to spill events;
- The capacity of key system components; and
- Identify the major sources that contribute to the peak flows associated with sewer spills.

The capacity assessment must consider:

- Data from existing system condition assessments, system inspections, system audits, spill history, and other available information;
- Capacity of flood-prone systems subject to increased infiltration and inflow, under normal local and regional storm conditions;

- Capacity of systems subject to increased infiltration and inflow due to larger and/or higher-intensity storm events as a result of climate change;
- Increases of erosive forces in canyons and streams near underground and aboveground system components due to larger and/or higher-intensity storm events;
- Capacity of major system elements to accommodate dry weather peak flow conditions, and updated design storm and wet weather events; and
- Necessary redundancy in pumping and storage capacities.

# 8.3. Prioritization of Corrective Action

The findings of the condition assessments and capacity assessments must be used to prioritize corrective actions. Prioritization must consider the severity of the consequences of potential spills.

#### 8.4. Capital Improvement Plan

The capital improvement plan must include the following items:

- Project schedules including completion dates for all portions of the capital improvement program;
- Internal and external project funding sources for each project; and
- Joint coordination between operation and maintenance staff, and engineering staff/consultants during planning, design, and construction of capital improvement projects; and Interagency coordination with other impacted utility agencies.

# 9. MONITORING, MEASUREMENT AND PROGRAM MODIFICATIONS

The Plan must include an Adaptive Management section that addresses Planimplementation effectiveness and the steps for necessary Plan improvement, including:

- Maintaining relevant information, including audit findings, to establish and prioritize appropriate Plan activities;
- Monitoring the implementation and measuring the effectiveness of each Plan Element;
- Assessing the success of the preventive operation and maintenance activities;
- Updating Plan procedures and activities, as appropriate, based on results of monitoring and performance evaluations; and
- Identifying and illustrating spill trends, including spill frequency, locations and estimated volumes.

# 10. INTERNAL AUDITS

The Plan shall include internal audit procedures, appropriate to the size and performance of the system, for the Enrollee to comply with section 5.4 (Sewer System Management Plan Audits) of this General Order.

#### 11. COMMUNICATION PROGRAM

The Plan must include procedures for the Enrollee to communicate with:

- The public for:
  - Spills and discharges resulting in closures of public areas, or that enter a source of drinking water, and
  - The development, implementation, and update of its Plan, including opportunities for public input to Plan implementation and updates.
- Owners/operators of systems that connect into the Enrollee's system, including satellite systems, for:
  - o System operation, maintenance, and capital improvement-related activities.

# ATTACHMENT E1 – NOTIFICATION, MONITORING, REPORTING AND RECORDKEEPING REQUIREMENTS

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# ATTACHMENT E1– NOTIFICATION, MONITORING, REPORTING AND RECORDKEEPING REQUIREMENTS

The Notification Requirements (section 1), Spill-specific Monitoring Requirements (section 2), Reporting Requirements (section 3) and Recordkeeping Requirements (section 4) in this Attachment are pursuant to Water Code section 13267 and section 13383, and are an enforceable component of this General Order. For the purpose of this General Order, the term:

- Notification means the notifying of appropriate parties of a spill event or other activity.
- Spill-specific Monitoring means the gathering of information and data for a specific spill event to be reported or kept as records.
- Reporting means the reporting of information and data into the online California Integrated Water Quality System (CIWQS) Sanitary Sewer System Database.
- Recordkeeping means the maintaining of information and data in an official records storage system.

Failure to comply with the notification, monitoring, reporting and recordkeeping requirements in this General Order may subject the Enrollee to civil liabilities of up to \$10,000 a day per violation pursuant to Water Code section 13385; up to \$1,000 a day per violation pursuant to Water Code section 13268; or referral to the Attorney General for judicial civil enforcement.

Water Code section 13193 et seq. requires the Regional Water Quality Control Boards (Regional Water Boards) and the State Water Resources Control Board (State Water Board) to collect sanitary sewer spill information for each spill event and make this information available to the public. Sanitary sewer spill information for each spill event spill event includes but is not limited to: Enrollee contact information for each spill event, spill cause, estimated spill volume and factors used for estimation, location, date, time, duration, amount discharged to waters of the State, response and corrective action(s) taken.

# 1. NOTIFICATION REQUIREMENTS

# 1.1. Notification of Spills of 1,000 Gallons or Greater to the California Office of Emergency Services

Per Water Code section 13271, for a spill that discharges in or on any waters of the State, or discharges or is deposited where it is, or probably will be, discharged in or on any waters of the State, the Enrollee shall notify the California Office of Emergency Services and obtain a California Office of Emergency Services Control Number as soon as possible **but no later than two (2) hours** after:

- The Enrollee has knowledge of the spill; and
- Notification can be provided without substantially impeding cleanup or other emergency measures.

The notification requirements in this section apply to individual spills of 1,000 gallons or greater, from an Enrollee-owned and/or operated laterals, to a water of the State.

### 1.2. Spill Notification Information

The Enrollee shall provide the following spill information to the California Office of Emergency Services before receiving a Control Number, as applicable:

- Name and phone number of the person notifying the California Office of Emergency Services;
- Estimated spill volume (gallons);
- Estimated spill rate from the system (gallons per minute);
- Estimated discharge rate (gallons per minute) directly into waters of the State or indirectly into a drainage conveyance system;
- Spill incident description:
  - o Brief narrative of the spill event, and
  - Spill incident location (address, city, and zip code) and closest cross streets and/or landmarks;
- Name and phone number of contact person on-scene;
- Date and time the Enrollee was informed of the spill event;
- Name of sanitary sewer system causing the spill;
- Spill cause or suspected cause (if known);
- Amount of spill contained;
- Name of receiving water body receiving or potentially receiving discharge; and
- Description of water body impact and/ or potential impact to beneficial uses.

# 1.3. Notification of Spill Report Updates

Following the initial notification to the California Office of Emergency Services and until such time that the Enrollee certifies the spill report in the online CIWQS Sanitary Sewer System Database, the Enrollee shall provide updates to the California Office of Emergency Services regarding substantial changes to:

- Estimated spill volume (increase or decrease in gallons initially estimated);
- Estimated discharge volume discharged directly into waters of the State or indirectly into a drainage conveyance system (increase or decrease in gallons initially estimated); and
- Additional impact(s) to the receiving water(s) and beneficial uses.

## 2. SPILL-SPECIFIC MONITORING REQUIREMENTS

#### 2.1 Spill Location and Spread

The Enrollee shall visually assess the spill location(s) and spread using photography, global positioning system (GPS), and other best available tools. The Enrollee shall document the critical spill locations, including:

- Photography and GPS coordinates for:
  - The system location where spill originated.

For multiple appearance points of a single spill event, the points closest to the spill origin.

- Photography for:
  - Drainage conveyance system entry locations,
  - The location(s) of discharge into surface waters, as applicable,
  - Extent of spill spread, and
  - The location(s) of clean up.

#### 2.2 Spill Volume Estimation

To assess the approximate spill magnitude and spread, the Enrollee shall estimate the total spill volume using updated volume estimation techniques, calculations, and documentation for electronic reporting. The Enrollee shall update its notification and reporting of estimated spill volume (which includes spill volume recovered) as further information is gathered during and after a spill event.

#### 2.3. Receiving Water Monitoring

#### 2.3.1. Receiving Water Visual Observations

Through visual observations and use of best available spill volume-estimating techniques and field calculation techniques, the Enrollee shall gather and document the following information for spills discharging to surface waters:

- Estimated spill travel time to the receiving water;
- For spills entering a drainage conveyance system, estimated spill travel time from the point of entry into the drainage conveyance system to the point of discharge into the receiving water;
- Estimated spill volume entering the receiving water; and
- Photography of:
  - Waterbody bank erosion,
  - o Floating matter,
  - Water surface sheen (potentially from oil and grease),

- o Discoloration of receiving water, and
- o Impact to the receiving water.

#### 2.3.2. Receiving Water – Water Quality Sampling and Analysis

For sewage spills in which an estimated 50,000 gallons or greater are discharged into a surface water, the Enrollee shall conduct the following water quality sampling no later than **18 hours** after the Enrollee's knowledge of a potential discharge to a surface water:

- Collect one water sample, each day of the duration of the spill, at:
  - The DCS-001 location as described in section 2.3.4 (Receiving Water Sampling Locations) of this Attachment, if sewage discharges to a surface water via a drainage conveyance system; and/or
  - Each of the three receiving water sampling locations in section 2.3.4 (Receiving Water Sampling Locations) of this Attachment;

If the receiving water has no flow during the duration of the spill, the Enrollee must report "No Sampling Due To No Flow" for its receiving water sampling locations.

The Enrollee shall analyze the collected receiving water samples for the following constituents per section 2.3.3 (Water Quality Analysis Specifications) of this Attachment:

- Ammonia, and
- Appropriate bacterial indicator(s) per the applicable Basin Plan water quality objectives, including one or more of the following, unless directed otherwise by the Regional Water Board:
  - o Total Coliform Bacteria
  - Fecal Coliform Bacteria
  - o **E-col**i
  - Enterococcus

Dependent on the receiving water(s), sampling of bacterial indicators shall be sufficient to determine post-spill (after the spill) compliance with the water quality objectives and bacterial standards of the California Ocean Plan or the California Inland Surface Water Enclosed Bays, and Estuaries Plan, including the frequency and/or number of post-spill receiving water samples as may be specified in the applicable plans.

The Enrollee shall collect and analyze additional samples as required by the applicable Regional Water Board Executive Officer or designee.

## 2.3.3. Water Quality Analysis Specifications

Spill monitoring must be representative of the monitored activity (40 Code of Federal Regulations section 122.41(j)(1)).

#### Sufficiently Sensitive Methods

Sample analysis must be conducted according to sufficiently sensitive test methods approved under 40 Code of Federal Regulations Part 136 for the sample analysis of pollutants. For the purposes of this General Order, a method is sufficiently sensitive when the minimum level of the analytical method approved under 40 Code of Federal Regulations Part 136 is at or below the receiving water pollutant criteria.

#### Environmental Laboratory Accreditation Program-Accredited Laboratories

The analysis of water quality samples required per this General Order must be performed by a laboratory that has accreditation pursuant to Article 3 (commencing with section 100825) of Chapter 4 of Part 1 of Division 101 of the Health and Safety Code. (Water Code section 13176(a).) The State Water Board accredits laboratories through its Environmental Laboratory Accreditation Program (ELAP).

#### 2.3.4. Receiving Water Sampling Locations

The Enrollee shall collect receiving water samples at the following locations.

Sampling Location	Sampling Location Description	
DCS-001	A point in a drainage conveyance system before the drainage conveyance system flow discharges into a receiving water.	

#### Sampling of Flow in Drainage Conveyance System (DCS) Prior to Discharge

#### Receiving Surface Water Sampling (RSW)<sup>1</sup>

Sampling Location	Sampling Location Description
RSW-001 Point of Discharge	A point in the receiving water where sewage initially enters the receiving water.
RSW-001U: Upstream of Point of Discharge	A point in the receiving water, upstream of the point of sewage discharge, to capture ambient conditions absent of sewage discharge impacts.

Sampling Location	Sampling Location Description	
RSW-001D: Downstream of Point of Discharge	A point in the receiving water, downstream of the point of sewage discharge, where the spill material is fully mixed with the receiving water.	

<sup>1</sup> The Enrollee must use its best professional judgment to determine the upstream and downstream distances based on receiving water flow, accessibility to upstream/downstream waterbody banks, and size of visible sewage plume.

# 2.4. Safety and Access Exceptions

If the Enrollee encounters access restrictions or unsafe conditions that prevents its compliance with spill response requirements or monitoring requirements in this General Order, the Enrollee shall provide documentation of access restrictions and/or safety hazards in the corresponding required report.

# 3. **REPORTING REQUIREMENTS**

All reporting required in this General Order must be submitted electronically to the online <u>CIWQS Sanitary Sewer System Database</u> (https://ciwqs.waterboards.ca.gov), unless specified otherwise in this General Order. Electronic reporting may solely be conducted by a Legally Responsible Official or Data Submitter(s) previously designated by the Legally Responsible Official, as required in section 5.8 (Designation of Data Submitters) of this General Order.

The Enrollee shall report any information that is protected by the Homeland Security Act, by email to <u>SanitarySewer@waterboards.ca.gov</u>, with a brief explanation of the protection provided by the Homeland Security Act for the subject report to be protected from unauthorized disclosure and/or public access, and for official Water Board regulatory purposes only.

# 3.1. Reporting Requirements for Individual Category 1 Spill Reporting

#### 3.1.1. Draft Spill Report for Category 1 Spills

**Within three (3) business days** of the Enrollee's knowledge of a Category 1 spill, the Enrollee shall submit a Draft Spill Report to the online CIWQS Sanitary Sewer System Database.

The Draft Spill Report must, at minimum, include the following items:

- 1. Contact information: Name and telephone number of Enrollee contact person to respond to spill-specific questions;
- 2. Spill location name;
- 3. Date and time the Enrollee was notified of, or self-discovered, the spill;
- 4. Operator arrival time;

- 5. Estimated spill start date and time;
- 6. Date and time the Enrollee notified the California Office of Emergency Services, and the assigned control number;
- 7. Description, photographs, and GPS coordinates of the system location where the spill originated;
  - If a single spill event results in multiple appearance points, provide GPS coordinates for the appearance point closest to the failure point and describe each additional appearance point in the spill appearance point explanation field;
- 8. Estimated total spill volume exiting the system;
- 9. Description and photographs of the extent of the spill and spill boundaries;
- 10. Did the spill reach a drainage conveyance system? If Yes:
  - o Description of the drainage conveyance system transporting the spill;
  - Photographs of the drainage conveyance system entry location(s);
  - o Estimated spill volume fully recovered from the drainage conveyance system;
  - Estimated spill volume remaining within the drainage conveyance system;
- 11. Description and photographs of all discharge point(s) into the surface water;
- 12. Estimated spill volume that discharged to surface waters; and
- 13. Estimated total spill volume recovered.

# 3.1.2. Certified Spill Report for Category 1 Spills

**Within 15 calendar days** of the spill end date, the Enrollee shall submit a Certified Spill Report for Category 1 spills, to the online CIWQS Sanitary Sewer System Database. Upon completion of the Certified Spill Report, the online CIWQS Sanitary Sewer System Database will issue a final spill event identification number.

The Certified Spill Report must, at minimum, include the following mandatory information in addition to all information in the Draft Spill Report per section 3.1.1 (Draft Spill Report for Category 1 Spills) above:

- 1. Description of the spill event destination(s), including GPS coordinates if available, that represent the full spread and reach of the spill;
- 2. Spill end date and time;
- 3. Description of how the spill volume estimations were calculated, including at a minimum:
  - The methodology, assumptions and type of data relied upon, such as supervisory control and data acquisition (SCADA) records, flow monitoring or other telemetry information used to estimate the volume of the spill discharged, and the volume of the spill recovered (if any volume of the spill was recovered), and
  - The methodology(ies), assumptions and type of data relied upon for estimations of the spill start time and the spill end time;

- Spill cause(s) (for example, root intrusion, grease deposition, etc.);
- 5. System failure location (for example, main, lateral, pump station, etc.);
- 6. Description of the pipe material, and estimated age of the pipe material, at the failure location;
- 7. Description of the impact of the spill;
- Whether or not the spill was associated with a storm event;
- 9. Description of spill response activities including description of immediate spill containment and cleanup efforts;
- 10. Description of spill corrective action, including steps planned or taken to reduce, eliminate, and prevent reoccurrence of the spill, and a schedule of major milestones for those steps;
- 11. Spill response completion date;
- 12. Detailed narrative of investigation and investigation findings of cause of spill:
- 13. Reasons for an ongoing investigation (as applicable) and the expected date of completion;
- 14. Name and type of receiving water body(s);
- 15. Description of the water body(s), including but not limited to:
  - Observed impacts on aquatic life,
  - o Public closure, restricted public access, temporary restricted use, and/or posted health warnings due to spill,
  - Responsible entity for closing/restricting use of water body, and
  - Number of days closed/restricted as a result of the spill. 0
- 16. Whether or not the spill was located within 1,000 feet of a municipal surface water intake; and
- 17. If water quality samples were collected, identify sample locations and the parameters the water quality samples were analyzed for. If no samples were taken, Not Applicable shall be selected.

#### 3.1.3. Spill Technical Report for Individual Category 1 Spill in which 50,000 Gallons or Greater Discharged into a Surface Water

For any spill in which 50,000 gallons or greater discharged into a surface water, within 45 calendar days of the spill end date, the Enrollee shall submit a Spill Technical Report to the online CIWQS Sanitary Sewer System Database. The Spill Technical Report, at minimum, must include the following information:

- 1. Spill causes and circumstances, including at minimum:
  - Complete and detailed explanation of how and when the spill was discovered;

- Photographs illustrating the spill origin, the extent and reach of the spill, drainage conveyance system entrance and exit, receiving water, and post-cleanup site conditions;
- Diagram showing the spill failure point, appearance point(s), the spill flow path, and ultimate destinations;
- Detailed description of the methodology employed, and available data used to calculate the discharge volume and, if applicable, the recovered spill volume;
- Detailed description of the spill cause(s);
- o Description of the pipe material, and estimated age of the pipe material, at the failure location:
- Description of the impact of the spill;
- Copy of original field crew records used to document the spill; and
- Historical maintenance records for the failure location.
- 2. Enrollee's response to the spill:
  - Chronological narrative description of all actions taken by the Enrollee to terminate the spill;
  - Explanation of how the Sewer System Management Plan Spill Emergency Response Plan was implemented to respond to and mitigate the spill; and
  - Final corrective action(s) completed and a schedule for planned corrective actions, including:
    - Local regulatory enforcement action taken against an illicit discharge in response to this spill, as applicable,
    - Identifiable system modifications, and operation and maintenance program . modifications needed to prevent repeated spill occurrences, and
    - Necessary modifications to the Emergency Spill Response Plan to incorporate lessons learned in responding to and mitigating the spill.
- 3. Water Quality Monitoring, including at minimum:
  - Description of all water quality sampling activities conducted;
  - o List of pollutant and parameters monitored, sampled and analyzed; as required in section 2.3 (Receiving Water Monitoring) of this Attachment;
  - Laboratory results, including laboratory reports;
  - Detailed location map illustrating all water guality sampling points; and
  - Other regulatory agencies receiving sample results (if applicable).
- Evaluation of spill impact(s), including a description of short-term and long-term impact(s) to beneficial uses of the surface water.

# 3.1.4. Amended Certified Spill Reports for Individual Category 1 Spills

The Enrollee shall update or add additional information to a Certified Spill Report within **90 calendar days** of the spill end date by amending the report or by adding an attachment to the Spill Report in the online CIWQS Sanitary Sewer System Database. The Enrollee shall certify the amended report.

After **90 calendar days**, the Enrollee shall contact the State Water Board at <u>SanitarySewer@waterboards.ca.gov</u> to request to amend a Spill Report. The Legally Responsible Official shall submit justification for why the additional information was not reported within the Amended Spill Report due date.

# 3.2. Reporting Requirements for Individual Category 2 Spill Reporting

# 3.2.1. Draft Spill Report for Category 2 Spills

**Within three (3) business days** of the Enrollee's knowledge of a Category 2 spill, the Enrollee shall submit a Draft Spill Report to the online CIWQS Sanitary Sewer System Database.

The Draft Spill Report must, at minimum, include the following items:

- 1. Contact information: Name and telephone number of Enrollee contact person to respond to spill-specific questions;
- 2. Spill location name;
- 3. Date and time the Enrollee was notified of, or self-discovered, the spill;
- 4. Operator arrival time;
- 5. Estimated spill start date and time;
- 6. Date and time the Enrollee notified the California Office of Emergency Services, and the assigned control number;
- 7. Description, photographs, and GPS coordinates of the system location where the spill originated;

If a single spill event results in multiple appearance points, provide GPS coordinates for the appearance point closest to the failure point and describe each additional appearance point in the spill appearance point explanation field;

- 8. Estimated total spill volume exiting the system;
- 9. Description and photographs of the extent of the spill and spill boundaries;
- 10. Did the spill reach a drainage conveyance system? If Yes:
  - Description of the drainage conveyance system transporting the spill;
  - Photographs of the drainage conveyance system entry location(s);
  - o Estimated spill volume fully recovered from the drainage conveyance system;
  - o Estimated spill volume remaining within the drainage conveyance system;

- Estimated spill volume discharged to a groundwater infiltration basin or facility, if applicable; and
- 11. Estimated total spill volume recovered.

#### 3.2.2. Certified Spill Report for Category 2 Spills

**Within 15 calendar days** of the spill end date, the Enrollee shall submit a Certified Spill Report for the Category 2 spill, to the online <u>CIWQS Sanitary Sewer System Database</u> (https://ciwqs.waterboards.ca.gov). Upon completion of the Certified Spill Report, the online CIWQS Sanitary Sewer System Database will issue a final spill event identification number.

The Certified Spill Report must, at minimum, include the following mandatory information in addition to all information in the Draft Spill Report per section 3.2.1 (Draft Spill Report for Category 2 Spills) above:

- 1. Description of the spill event destination(s), including GPS coordinates if available, that represent the full spread and reach of the spill;
- 2. Spill end date and time;
- 3. Description of how the spill volume estimations were calculated, including at a minimum:
  - The methodology, assumptions and type of data relied upon, such as supervisory control and data acquisition (SCADA) records, flow monitoring or other telemetry information used to estimate the volume of the spill discharged, and the volume of the spill recovered (if any volume of the spill was recovered), and
  - The methodology(ies), assumptions and type of data relied upon for estimations of the spill start time and the spill end time;
- 4. Spill cause(s) (for example, root intrusion, grease deposition, etc.);
- 5. System failure location (for example, main, pump station, etc.);
- 6. Description of the pipe/infrastructure material, and estimated age of the pipe material, at the failure location;
- 7. Description of the impact of the spill;
- 8. Whether or not the spill was associated with a storm event;
- 9. Description of spill response activities including description of immediate spill containment and cleanup efforts;
- 10. Description of spill corrective action, including steps planned or taken to reduce, eliminate, and prevent reoccurrence of the spill, and a schedule of major milestones for those steps;
- 11. Spill response completion date;
- 12. Detailed narrative of investigation and investigation findings of cause of spill;
- 13. Reasons for an ongoing investigation (as applicable) and the expected date of completion; and

14. Whether or not the spill was located within 1,000 feet of a municipal surface water intake.

## 3.2.3. Amended Certified Spill Reports for Individual Category 2 Spills

The Enrollee shall update or add additional information to a Certified Spill Report within **90 calendar days** of the spill end date by amending the report or by adding an attachment to the Spill Report in the online CIWQS Sanitary Sewer System Database. The Enrollee shall certify the amended report.

After **90 calendar days**, the Enrollee shall contact the State Water Board at <u>SanitarySewer@waterboards.ca.gov</u> to request to amend a Spill Report. The Legally Responsible Official shall submit justification for why the additional information was not reported within the Amended Spill Report due date.

#### 3.3. Monthly Certified Spill Reporting for Category 3 Spills

The Enrollee shall report and certify all Category 3 spills to the online CIWQS Sanitary Sewer System Database within 30 calendar days after the end of the month in which the spills occurred. (For example, all Category 3 spills occurring in the month of February shall be reported and certified by March 30<sup>th</sup>). After the Legally Responsible Official certifies the spills, the online CIWQS Sanitary Sewer System Database will issue a spill event identification number for each spill.

The monthly reporting of all Category 3 spills must include the following items for each spill:

- 1. Contact information: Name and telephone number of Enrollee contact person to respond to spill-specific questions;
- 2. Spill location name;
- 3. Date and time the Enrollee was notified of, or self-discovered, the spill;
- 4. Operator arrival time;
- 5. Estimated spill start date and time;
- 6. Description, photographs, and GPS coordinates where the spill originated:
  - If a single spill event results in multiple appearance points, provide GPS coordinates for the appearance point closest to the failure point and describe each additional appearance point in the spill appearance point explanation field;
- 7. Estimated total spill volume exiting the system;
- 8. Description and photographs of the extent of the spill and spill boundaries;
- 9. Did the spill reach a drainage conveyance system? If Yes:
  - o Description of the drainage conveyance system transporting the spill;
  - Photographs of the drainage conveyance system entry locations(s);
  - o Estimated spill volume fully recovered from the drainage conveyance system; and

- Estimated spill volume discharged to a groundwater infiltration basis or facility, if applicable.
- 10. Estimated total spill volume recovered;
- 11. Description of the spill event destination(s), including GPS coordinates, if available, that represent the full spread and reaches of the spill;
- 12. Spill end date and time;
- 13. Description of how the spill volume estimations were calculated, including, at minimum:
  - The methodology and type of data relied upon, including supervisory control and data acquisition (SCADA) records, flow monitoring or other telemetry information used to estimate the volume of the spill discharged, and the volume of the spill recovered (if any volume of the spill was recovered), and
  - The methodology and type of data relied upon to estimate the spill start time. 0 on-going spill rate at time of arrival (if applicable), and the spill end time;
- 14. Spill cause(s) (for example, root intrusion, grease deposition, etc.);
- 15. System failure location (for example, main, pump station, etc.);
- 16. Description of the pipe/infrastructure material, and estimated age of the pipe/infrastructure material, at the failure location;
- 17. Description of the impact of the spill;
- 18. Whether or not the spill was associated with a storm event;
- 19. Description of spill response activities including description of immediate spill containment and cleanup efforts;
- 20. Description of spill corrective actions, including steps planned or taken to reduce, eliminate, and prevent reoccurrence of the spill, and a schedule of the major milestones for those steps; including, at minimum:
  - Local regulatory enforcement action taken against an illicit discharge in response to this spill, as applicable, and
  - Identifiable system modifications, and operation and maintenance program modifications needed to prevent repeated spill occurrences at the same spill event location, including:
    - Adjusted schedule/method of preventive maintenance,
    - Planned rehabilitation or replacement of sanitary sewer asset,
    - Inspected, repaired asset(s), or replaced defective asset(s),
    - Capital improvements,
    - Documentation verifying immediately implemented system modifications and operating/maintenance modifications,
    - Description of spill response activities,

- Spill response completion date, and
- Ongoing investigation efforts, and expected completion date of investigation to determine the full cause of spill;
- 21. Detailed narrative of investigation and investigation findings of cause of spill.

# 3.4. Monthly Certified Spill Reporting for Category 4 Spills

The Enrollee shall report and certify the estimated total spill volume exiting the sanitary sewer system, and the total number of all Category 4 spills to the online CIWQS Sanitary Sewer System Database, within 30 calendar days after the end of the month in which the spills occurred.

# 3.5. Amended Certified Spill Reports for Category 3 Spills

Within 90 calendar days of the certified Spill Report due date, the Enrollee may update or add additional information to a certified Spill Report by amending the report or by adding an attachment to the Spill Report in the online CIWQS Sanitary Sewer System Database. The Enrollee shall certify the amended report.

**After 90 calendar days**, the Legally Responsible Official shall contact the State Water Board at <u>SanitarySewer@waterboards.ca.gov</u> to request to amend a certified Spill Report. The Legally Responsible Official shall submit justification for why the additional information was not reported within the 90-day timeframe for amending the certified Spill Report, as provided above.

#### 3.6. Annual Certified Spill Reporting of Category 4 and/or Lateral Spills

For all Category 4 spills and spills from its owned and/or operated laterals that are caused by a failure or blockage in the lateral and that do not discharge to a surface water, the Enrollee shall:

• Maintain records per section 4.4. of this Attachment;

The Enrollee shall provide records upon request by State Water Board or Regional Water Board staff.

• Annually upload and certify a report, in an appropriate digital format, of all recordkeeping of spills to the online CIWQS Sanitary Sewer System Database, by February 1st after the end of the calendar year in which the spills occurred.

A spill from an Enrollee-owned and/or operated lateral that discharges to a surface water is a Category 1 spill; the Enrollee shall report all Category 1 spills per section 3.1 of Attachment E1 (Notification, Monitoring, Reporting and Recordkeeping Requirements) of this General Order.

# 3.7. Monthly Certification of "No-Spills" or "Category 4 Spills" and/or "Non-Category 1 Lateral Spills"

If either (1) no spills occur during a calendar month or (2) only Category 4, and/or Enrollee-owned and/or operated lateral spills (that do not discharge to a surface water) occur during a calendar month, the Enrollee shall certify, within 30 calendar days after

the end of each calendar month, either a "No-Spill" certification statement, or a "Category 4 Spills" and/or "Non-Category 1 Lateral Spills" certification statement, in the online CIWQS Sanitary Sewer System Database, certifying that there were either no spills, or Category 4 and/or Non-Category 1 Lateral Spills that will be reported annually (per section 3.6 of this Attachment) for the designated month.

If a spill starts in one calendar month and ends in a subsequent calendar month, and the Enrollee has no further spills of any category, in the subsequent calendar month, the Enrollee shall certify "no-spills" for the subsequent calendar month.

If the Enrollee has no spills from its systems during a calendar month, but the Enrollee voluntarily reported a spill from a private lateral or a private system, the Enrollee shall certify "no-spills" for that calendar month.

If the Enrollees has spills from its owned and/or operated laterals during a calendar month, the Enrollee shall not certify "no spills" for that calendar month.

#### 3.8. Electronic Sanitary Sewer System Service Area Boundary Map

The Legally Responsible Official shall submit, to the State Water Board, an up-to-date electronic spatial map of its sewer system service area boundaries. The map must be in accordance with section 5.14 (Electronic Sanitary Sewer System Service Area Boundary Map) of this General Order and the specification provided on the statewide Sanitary Sewer Systems program website. The map must include the location of wastewater treatment facility(ies) that treats the sewer system waste, if in the same sewer service boundary.

By the Effective Date of this General Order, specifications for the electronic sanitary sewer service area boundary map format will be provided on the statewide Sanitary Sewer Systems Order program website.

# 3.9. Annual Report (Previously termed as Collection System Questionnaire in General Order 2006-0003-DWQ)

A new Enrollee shall complete and submit its first certified Annual Report into the online CIWQS Sanitary Sewer System Database, **within 30 days of obtaining a CIWQS account**; Subsequent Annual Reports are due by April 1 of each year.

All enrollees shall update their previous year's Annual Report, **by April 1 of each year after the Effective Date of this General Order,** for each calendar year (January 1 through December 31).

The Annual Report must be entered directly into the online CIWQS Sanitary Sewer System Database. The Enrollee's Legally Responsible Official shall certify the Annual Report as instructed in CIWQS;

The Annual Report must address, and update as applicable, the following items:

• Population served;

- Updated sewer system service area boundary map, if service area boundary has changed from original map submitted per section 5.14 (Electronic Sanitary Sewer System Service Area Boundary Map) of this General Order;
- Number of system operation and maintenance staff:
  - o Entry level (less than two years of experience),
  - o Journey level (greater than two years of experience),
  - o Supervisory level, and
  - Managerial level;
- Number of operation and maintenance staff certified as a certified collection system operator by the California Water Environmental Association (CWEA), with:
  - Corresponding number of certified collection system operator grade levels (Grade I, II, III, IV, and V);
- System information:
  - Miles of system gravity and force mains,
  - o Number of upper and lower service laterals connected to system,
  - Estimated number of upper and lower laterals owned and/or operated by the Enrollee,
  - o Portion of laterals that is Enrollee's responsibility,
  - o Average age the major components of system infrastructure,
  - Number and age of pump stations, and
  - Estimated total miles of the system pipeline not accessible for maintenance;
- Name and location of the treatment plant(s) receiving sanitary sewer system's waste;
- Name of satellite sewer system tributaries;
- Number of system's gravity sewer above or underground crossings of water bodies throughout system;
- Number of force main (pressurized pipe) above or underground crossings of water bodies throughout system;
- Number of siphons used to convey waste throughout the sewer system;
- Miles of sewer system cleaned;
- Miles of sewer system video inspected, or comparable (i.e., video closed-circuit television or alternative inspection methods);
- System Performance Evaluation as specified in section 5.11 (System Performance Analysis) of this General Order;
- Major spill causes (for example, root intrusion, grease deposition);

- System infrastructure failure points (for example, main, pump station, lateral, etc.);
- Ongoing spill investigations; and
- Actions taken to address system deficiencies.

#### 3.10. Sewer System Management Plan Audit Reporting Requirements

The Enrollee shall submit its Sewer System Management Plan Audit and other pertinent audit information, in accordance with section 5.4 (Sewer System Management Plan Audits) of this General Order, to the online CIWQS Sanitary Sewer System Database by six (6) months after the end of the 3-year audit period.

If a Sewer System Management Plan Audit is not conducted as required: the Enrollee shall:

- Update the online CIWQS Sanitary Sewer System Database and select the justification for not conducting the Audit; and
- Notify its corresponding Regional Water Board (see Attachment F (Regional Water) Quality Control Board Contact Information)) of the justification for the lapsed requirements.

The Enrollee's reporting of a justification for not conducting a timely Audit does not justify non-compliance with this General Order. The Enrollee shall:

- Submit the late Audit as required in this General Order; and
- Comply with subsequent Audit requirements and due dates corresponding with the original audit cycle.

#### 3.11. Sewer System Management Plan Reporting Requirements

For an Existing Enrollee previously regulated by Order 2006-0003-DWQ: Within every six (6) years after the required due date of its last Plan Update, the Legally Responsible Official shall upload and certify a local governing entity-approved Sewer System Management Plan Update to the online CIWQS Sanitary Sewer System Database. If the electronic document format or size capacity prevents the electronic upload of the Plan, the Legally Responsible Official shall report an electronic link to its updated Sewer System Management Plan posted on its own website.

Order 2006-0003-DWQ required each enrollee to develop its initial Sewer System Management Plan per the following schedule, with required Plan updates at a frequency of 5-years thereafter:

Systems serving populations: Greater than 100,000: May 2, 2009

Between 100,000 and 10,000: August 2, 2009 Between 10,000 and 2,500: May 2, 2010 Less than 2,500: August 2, 2010

This Order carries forth the previously-required Plan Update schedule per Order 2006-0003-DWQ. Per the six-year Plan Update frequency required in this Order, the Enrollee shall upload and certify its first Plan Update, to the online CIWQS Sanitary Sewer System Database by the following due dates, with subsequent Plan Updates at the frequency of six years thereafter:

Systems serving populations: Greater than 100,000: May 2, 2025

Between 100,000 and 10,000: August 2, 2025 Between 10,000 and 2,500: May 2, 2026 Less than 2,500: August 2, 2026

For a New Enrollee: Within twelve (12) months of its Application for Enrollment Approval date, the Legally Responsible Official of a new Enrollee shall upload and certify a local governing entity-approved Sewer System Management Plan to the online CIWQS Sanitary Sewer System Database. If electronic document format or size capacity prevents the electronic upload of the Plan, the Legally Responsible Official shall report an electronic link to its Sewer System Management Plan posted on its own website. The due date for subsequent 6-year Plan updates, is six (6) years from the submittal due date of the new Enrollee's first Sewer System Management Plan.

# 4. **RECORDKEEPING REQUIREMENTS**

The Enrollee shall maintain records to document compliance with the provisions of this General Order, and previous General Order 2006-0003-DWQ as applicable, for each sanitary sewer system owned, including any required records generated by an Enrollee's contractor(s).

#### 4.1. Recordkeeping Time Period

The Enrollee shall maintain records of documents required in this Attachment, including records collected for compliance with this General Order, and records collected in accordance with previous General Order 2006-0003-DWQ, for five (5) years.

#### 4.2. Availability of Documents

The Enrollee shall make the records required in this General Order readily available, either electronic or hard copies, for review by Water Board staff during onsite inspections or through an information request.

#### 4.3. Spill Reports

The Enrollee shall maintain records for each of the following spill-related events and activities:

- Spill event complaint, including but not limited to records documenting how the Enrollee responded to notifications of spills. Each complaint record must, at a minimum, include the following information:
  - o Date, time, and method of notification,

- o Date and time the complainant first noticed the spill, if available,
- Narrative description of the complaint, including any information the caller provided regarding whether the spill has reached surface waters or a drainage conveyance system, if available,
- o Complainant's contact information, if available, and
- Final resolution of the complaint;
- Records documenting the steps and/or remedial action(s) undertaken by the Enrollee, using all available information, to comply with this General Order, and previous General Order 2006-0003-DWQ as applicable;
- Records documenting how estimate(s) of volume(s) and, if applicable, volume(s) of spill recovered were calculated;
- All California Office of Emergency Services notification records, as applicable; and
- Records, in accordance with the Monitoring Requirements in this Attachment.

# 4.4. Recordkeeping of Category 4 Spills and Non-Category 1 Lateral Spills

An Enrollee must maintain the following records for each individual Category 4 spill and for each individual non-Category 1 Enrollee-owned and/or operated lateral spill, and report in accordance to section 3.6 (Annual Certified Spill Reporting of Category 4 and/or Lateral Spills) of this Attachment.

#### Recordkeeping of Individual Category 4 Spill Information:

- 1. Contact information: Name and telephone number of Enrollee contact person to respond to spill-specific questions;
- 2. Spill location name;
- 3. Description and GPS coordinates for the system location where the spill originated;
- 4. Did the spill reach a drainage conveyance system? If Yes:
  - o Description of drainage conveyance system location,
  - Estimated spill volume fully recovered within the drainage conveyance system, and
  - o Estimated spill volume remaining within the drainage conveyance system;
- 5. Estimated total spill volume exiting the sanitary sewer system;
- 6. Spill date and start time;
- 7. Spill cause(s) (for example, root intrusion, grease deposition, etc.);
- 8. System failure location (for example, main, pump station, etc.);
- 9. Description of spill response activities including description of immediate spill containment and cleanup efforts;
- 10. Description of how the volume estimation was calculated, including, at minimum:

- The methodology and type of data relied upon, including supervisory control and data acquisition (SCADA) records, flow monitoring or other telemetry information used to estimate the volume of the spill discharged, and the volume of the spill recovered (if any volume of the spill was recovered), and
- The methodology and type of data relied upon to estimate the spill start time, ongoing spill rate at time of arrival (if applicable), and the spill end time;
- 11. Description of implemented system modifications and operating/maintenance modifications.

#### Recordkeeping of Individual Lateral Spill Information:

- 1. Date and time the Enrollee was notified of, or self-discovered, the spill;
- 2. Location of individual spill;
- 3. Estimated individual spill volume;
- 4. Spill cause(s) (for example, root intrusion, grease deposition, etc.); and
- 5. Description of how the volume estimations were calculated.

# Total Annual Spill Information:

- 1. Estimated total annual spill volume;
- 2. Description of spill corrective actions, including at minimum:
  - Local regulatory enforcement action taken against the sewer lateral owner in response to a spill, as applicable, and
  - System operation, maintenance and program modifications implemented to prevent repeated spill occurrences at the same spill location.

#### 4.5. Sewer System Telemetry Records

The Enrollee shall maintain the following sewer system telemetry records if used to document compliance with this General Order, and previous General Order 2006-0003-DWQ as applicable, including spill volume estimates:

- Supervisory control and data acquisition (SCADA) system(s);
- Alarm system(s);
- Flow monitoring device(s) or other instrument(s) used to estimate sewage flow rates, and/or volumes;
- Computerized maintenance management system records; and
- Asset management-related records.

#### 4.6. Sewer System Management Plan Implementation Records

The Enrollee shall maintain records documenting the Enrollee's implementation of its Sewer System Management Plan, including documents supporting its Sewer System Management Plan audits, corrections, modifications, and updates to the Sewer System Management Plan.

#### 4.7. Audit Records

The Enrollee shall maintain, at minimum, the following records pertaining to its Sewer System Management Plan audits, and other internal audits:

- Completed audit documents and findings;
- Name and contact information of staff and/or consultants that conducted or involved in the audit; and
- Follow-up actions based on audit findings.

#### 4.8. Equipment Records

The Enrollee shall maintain a log of all owned and leased sewer system cleaning, operational, maintenance, construction, and rehabilitation equipment.

#### 4.9. Work Orders

The Enrollee shall maintain record of work orders for operations and maintenance projects.

## ATTACHMENT E2 – SUMMARY OF NOTIFICATION, MONITORING AND REPORTING REQUIREMENTS

This Attachment provides a summary of notification, monitoring and reporting requirements, by spill category, and for Enrollee-owned and/or operated laterals as required in Attachment E1 of this General Order, for quick reference purposes only.

Spill Requirement	Due	Method
Notification	Within two (2) hours of the Enrollee's knowledge of a Category 1 spill of 1,000 gallons or greater, discharging or threatening to discharge to surface waters: Notify the California Office of Emergency Services and obtain a notification control number.	California Office of Emergency Services at: (800) 852-7550 (Section 1 of Attachment E1)
Monitoring	<ul> <li>Conduct spill-specific monitoring;</li> <li>Conduct water quality sampling of the receiving water within <b>18 hours</b> of initial knowledge of spill of 50,000 gallons or greater to surface waters.</li> </ul>	(Section 2 of Attachment E1)
Reporting	<ul> <li>Submit Draft Spill Report within three (3) business days of the Enrollee's knowledge of the spill;</li> <li>Submit Certified Spill Report within 15 calendar days of the spill end date;</li> <li>Submit Technical Report within 45 calendar days after the spill end date for a Category 1 spill in which 50,000 gallons or greater discharged to surface waters; and</li> <li>Submit Amended Spill Report within 90 calendar days after the spill end date.</li> </ul>	(Section 3.1 of Attachment E1)

# Spill Category 1: Spills to Surface Waters

Table E2-2	2
Spill Category 2: Spills of 1,000 Gallons or Great	ater That Do Not Discharge to Surface
Waters	

Spill Requirements	Due	Method
Notification	Within two (2) hours of the Enrollee's knowledge of a Category 2 spill of 1,000 gallons or greater, discharging or threatening to discharge to waters of the State:	California Office of Emergency Services at: (800) 852-7550
	Notify California Office of Emergency Services and obtain a notification control number.	(Section 1 of Attachment E1)
Monitoring	Conduct spill-specific monitoring.	(Section 2 of Attachment E1)
	<ul> <li>Submit Draft Spill Report within three (3) business days of the Enrollee's knowledge of the spill;</li> </ul>	
Reporting	<ul> <li>Submit Certified Spill Report within 15 calendar days of the spill end date; and</li> </ul>	(Section 3.2 of Attachment E1)
	• Submit Amended Spill Report <b>within 90 calendar days</b> after the spill end date.	

# Table E2-3Spill Category 3: Spills of Equal or Greater than 50 Gallons and Less than 1,000 GallonsThat Does Not Discharge to Surface Waters

Spill Requirements	Due	Method
Notification	Not Applicable	Not Applicable
Monitoring	Conduct spill-specific monitoring.	(Section 2 of Attachment E1)
Reporting	<ul> <li>Submit monthly Certified Spill Report to the online CIWQS Sanitary Sewer System Database within <b>30 calendars days</b> after the end of the month in which the spills occur; and</li> <li>Submit Amended Spill Reports within 90 calendar days after the Cartified Spill Report due data</li> </ul>	(Section 3.3 and 3.5 of Attachment E1)

Table E2-4

# Spill Category 4: Spills Less Than 50 Gallons That Do Not Discharge to Surface Waters

Spill Requirements	Due	Method
Notification	Not Applicable	Not Applicable
Monitoring	Conduct spill-specific monitoring.	(Section 2 of Attachment E1)
Reporting	<ul> <li>If, during any calendar month, Category 4 spills occur, certify monthly, the estimated total spill volume exiting the sanitary sewer system, and the total number of all Category 4 spills into the online CIWQS Sanitary Sewer System Database, within 30 days after the end of the calendar month in which the spills occurred.</li> <li>Upload and certify a report, in an acceptable digital</li> </ul>	(Section 3.4, 3.6, 3.7 and 4.4 of Attachment E1)
	format, of all Category 4 spills to the online CIWQS Sanitary Sewer System Database, by February 1 <sup>st</sup> after the end of the calendar year in which the spills occur.	

Spill Requirements	Due	Method
Notification	Within two (2) hours of the Enrollee's knowledge of a spill of 1,000 gallons or greater, from an enrollee- owned and/or operated lateral, discharging or threatening to discharge to waters of the State:	California Office of Emergency Services at: (800) 852-7550
	Notify California Office of Emergency Services and obtain a notification control number.	(Section 1 of Attachment
	Not applicable to a spill of less than 1,000 gallons.	L1)
Monitoring	Conduct visual monitoring.	(Section 2 of Attachment E1)
Reporting	<ul> <li>Upload and certify a report, in an acceptable digital format, of all lateral spills (that do not discharge to a surface water) to the online CIWQS Sanitary Sewer System Database, by February 1<sup>st</sup> after the end of the calendar year in which the spills occur.</li> <li>Report a lateral spill of any volume that discharges to a surface water as a Category 1 spill.</li> </ul>	(Sections 3.6, 3.7 and 4.4 of Attachment E1)

 Table E2-5

 Enrollee Owned and/or Operated Lateral Spills That Do Not Discharge to Surface Waters

### ATTACHMENT F – REGIONAL WATER QUALITY CONTROL BOARD CONTACT INFORMATION

This Attachment provides a map, list of counties, and contact information to assist the Enrollee in identifying the corresponding Regional Water Quality Control Board office, for all Regional Water Board notification requirements in this General Order.



# Region 1 -- North Coast Regional Water Quality Control Board:

Del Norte, Glenn, Humboldt, Lake, Marin, Mendocino, Modoc, Siskiyou, Sonoma, and Trinity counties.

RB1SpillReporting@waterboards.ca.gov or (707) 576-2220

# **Region 2 -- San Francisco Bay Regional Water Quality Control Board:**

Alameda, Contra Costa, San Francisco, Santa Clara (Northern most part of Morgan Hill), San Mateo, Marin, Sonoma, Napa, Solano counties.

RB2SpillReports@waterboards.ca.gov or (510) 622-2369

# **Region 3 -- Central Coast Regional Water Quality Control Board:**

Santa Clara (most of Morgan Hill), San Mateo (Southern portion), Santa Cruz, San Benito, Monterey, Kern (small portions), San Luis Obispo, Santa Barbara, Ventura (Northern portion) counties.

CentralCoast@waterboards.ca.gov or (805) 549-3147

# Region 4 -- Los Angeles Regional Water Quality Control Board:

Los Angeles, Ventura counties (small portions of Kern and Santa Barbara counties).

rb4-ssswdr@waterboards.ca.gov or (213) 576-6600

# Region 5 -- Central Valley Regional Water Quality Control Board:

**Rancho Cordova (Sacramento) Office:** Colusa, Lake, Sutter, Yuba, Sierra, Nevada, Placer, Yolo, Napa, (North East), Solano (West), Sacramento, El Dorado, Amador, Calaveras, San Joaquin, Contra Costa (East), Stanislaus, Tuolumne counties.

RB5sSpillReporting@waterboards.ca.gov or (916) 464-3291

**Fresno Office:** Fresno, Kern, Kings, Madera, Mariposa, Merced, and Tulare counties, and small portions of San Benito and San Luis Obispo counties.

RB5fSpillReporting@waterboards.ca.gov or (559) 445-5116

**Redding Office:** Butte, Glen, Lassen, Modoc, Plumas, Shasta, Siskiyou, and Tehama counties.

RB5rSpillReporting@waterboards.ca.gov or (530) 224-4845

# Region 6 -- Lahontan Regional Water Quality Control Board:

**Lake Tahoe Office:** Alpine, Modoc (East), Lassen (East side and Eagle Lake), Sierra, Nevada, Placer, El Dorado counties.

RB6sSpillReporting@waterboards.ca.gov or (530) 542-5400

**Victorville Office:** Mono, Inyo, Kern (East), San Bernardino, Los Angeles (North East corner) counties.

RB6vSpillReporting@waterboards.ca.gov or (760) 241-6583

# Region 7 -- Colorado River Basin Regional Water Quality Control Board:

Imperial county and portions of San Bernardino, Riverside, San Diego counties.

RB7SpillReporting@waterboards.ca.gov or (760) 346-7491

# Region 8 -- Santa Ana Regional Water Quality Control Board:

Orange, Riverside, San Bernardino counties.

RB8SpillReporting@waterboards.ca.gov or (951) 782-4130

# Region 9 -- San Diego Regional Water Quality Control Board:

San Diego county and portions of Orange and Riverside counties.

RB9Spill\_Report@waterboards.ca.gov or (619) 516-1990

End of Order 2022-0103-DWQ

#### STATE WATER RESOURCES CONTROL BOARD ORDER NO. 2006-0003-DWQ

#### STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS FOR SANITARY SEWER SYSTEMS

The State Water Resources Control Board, hereinafter referred to as "State Water Board", finds that:

- All federal and state agencies, municipalities, counties, districts, and other public entities that own or operate sanitary sewer systems greater than one mile in length that collect and/or convey untreated or partially treated wastewater to a publicly owned treatment facility in the State of California are required to comply with the terms of this Order. Such entities are hereinafter referred to as "Enrollees".
- 2. Sanitary sewer overflows (SSOs) are overflows from sanitary sewer systems of domestic wastewater, as well as industrial and commercial wastewater, depending on the pattern of land uses in the area served by the sanitary sewer system. SSOs often contain high levels of suspended solids, pathogenic organisms, toxic pollutants, nutrients, oxygen-demanding organic compounds, oil and grease and other pollutants. SSOs may cause a public nuisance, particularly when raw untreated wastewater is discharged to areas with high public exposure, such as streets or surface waters used for drinking, fishing, or body contact recreation. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters.
- 3. Sanitary sewer systems experience periodic failures resulting in discharges that may affect waters of the state. There are many factors (including factors related to geology, design, construction methods and materials, age of the system, population growth, and system operation and maintenance), which affect the likelihood of an SSO. A proactive approach that requires Enrollees to ensure a system-wide operation, maintenance, and management plan is in place will reduce the number and frequency of SSOs within the state. This approach will in turn decrease the risk to human health and the environment caused by SSOs.
- 4. Major causes of SSOs include: grease blockages, root blockages, sewer line flood damage, manhole structure failures, vandalism, pump station mechanical failures, power outages, excessive storm or ground water inflow/infiltration, debris blockages, sanitary sewer system age and construction material failures, lack of proper operation and maintenance, insufficient capacity and contractorcaused damages. Many SSOs are preventable with adequate and appropriate facilities, source control measures and operation and maintenance of the sanitary sewer system.

#### SEWER SYSTEM MANAGEMENT PLANS

- 5. To facilitate proper funding and management of sanitary sewer systems, each Enrollee must develop and implement a system-specific Sewer System Management Plan (SSMP). To be effective, SSMPs must include provisions to provide proper and efficient management, operation, and maintenance of sanitary sewer systems, while taking into consideration risk management and cost benefit analysis. Additionally, an SSMP must contain a spill response plan that establishes standard procedures for immediate response to an SSO in a manner designed to minimize water quality impacts and potential nuisance conditions.
- 6. Many local public agencies in California have already developed SSMPs and implemented measures to reduce SSOs. These entities can build upon their existing efforts to establish a comprehensive SSMP consistent with this Order. Others, however, still require technical assistance and, in some cases, funding to improve sanitary sewer system operation and maintenance in order to reduce SSOs.
- 7. SSMP certification by technically qualified and experienced persons can provide a useful and cost-effective means for ensuring that SSMPs are developed and implemented appropriately.
- 8. It is the State Water Board's intent to gather additional information on the causes and sources of SSOs to augment existing information and to determine the full extent of SSOs and consequent public health and/or environmental impacts occurring in the State.
- 9. Both uniform SSO reporting and a centralized statewide electronic database are needed to collect information to allow the State Water Board and Regional Water Quality Control Boards (Regional Water Boards) to effectively analyze the extent of SSOs statewide and their potential impacts on beneficial uses and public health. The monitoring and reporting program required by this Order and the attached Monitoring and Reporting Program No. 2006-0003-DWQ, are necessary to assure compliance with these waste discharge requirements (WDRs).
- 10. Information regarding SSOs must be provided to Regional Water Boards and other regulatory agencies in a timely manner and be made available to the public in a complete, concise, and timely fashion.
- 11. Some Regional Water Boards have issued WDRs or WDRs that serve as National Pollution Discharge Elimination System (NPDES) permits to sanitary sewer system owners/operators within their jurisdictions. This Order establishes minimum requirements to prevent SSOs. Although it is the State Water Board's intent that this Order be the primary regulatory mechanism for sanitary sewer systems statewide, Regional Water Boards may issue more stringent or more
prescriptive WDRs for sanitary sewer systems. Upon issuance or reissuance of a Regional Water Board's WDRs for a system subject to this Order, the Regional Water Board shall coordinate its requirements with stated requirements within this Order, to identify requirements that are more stringent, to remove requirements that are less stringent than this Order, and to provide consistency in reporting.

# **REGULATORY CONSIDERATIONS**

- 12. California Water Code section 13263 provides that the State Water Board may prescribe general WDRs for a category of discharges if the State Water Board finds or determines that:
  - The discharges are produced by the same or similar operations;
  - The discharges involve the same or similar types of waste;
  - The discharges require the same or similar treatment standards; and
  - The discharges are more appropriately regulated under general discharge requirements than individual discharge requirements.

This Order establishes requirements for a class of operations, facilities, and discharges that are similar throughout the state.

13. The issuance of general WDRs to the Enrollees will:

- a) Reduce the administrative burden of issuing individual WDRs to each Enrollee;
- b) Provide for a unified statewide approach for the reporting and database tracking of SSOs;
- c) Establish consistent and uniform requirements for SSMP development and implementation;
- d) Provide statewide consistency in reporting; and
- e) Facilitate consistent enforcement for violations.
- 14. The beneficial uses of surface waters that can be impaired by SSOs include, but are not limited to, aquatic life, drinking water supply, body contact and non-contact recreation, and aesthetics. The beneficial uses of ground water that can be impaired include, but are not limited to, drinking water and agricultural supply. Surface and ground waters throughout the state support these uses to varying degrees.
- 15. The implementation of requirements set forth in this Order will ensure the reasonable protection of past, present, and probable future beneficial uses of water and the prevention of nuisance. The requirements implement the water quality control plans (Basin Plans) for each region and take into account the environmental characteristics of hydrographic units within the state. Additionally, the State Water Board has considered water quality control of all factors that affect

water quality in the area, costs associated with compliance with these requirements, the need for developing housing within California, and the need to develop and use recycled water.

- 16. The Federal Clean Water Act largely prohibits any discharge of pollutants from a point source to waters of the United States except as authorized under an NPDES permit. In general, any point source discharge of sewage effluent to waters of the United States must comply with technology-based, secondary treatment standards, at a minimum, and any more stringent requirements necessary to meet applicable water quality standards and other requirements. Hence, the unpermitted discharge of wastewater from a sanitary sewer system to waters of the United States is illegal under the Clean Water Act. In addition, many Basin Plans adopted by the Regional Water Boards contain discharge prohibitions that apply to the discharge of untreated or partially treated wastewater. Finally, the California Water Code generally prohibits the discharge of waste to land prior to the filing of any required report of waste discharge and the subsequent issuance of either WDRs or a waiver of WDRs.
- 17. California Water Code section 13263 requires a water board to, after any necessary hearing, prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge. The requirements shall, among other things, take into consideration the need to prevent nuisance.
- 18. California Water Code section 13050, subdivision (m), defines nuisance as anything which meets all of the following requirements:
  - a. Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
  - b. Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
  - c. Occurs during, or as a result of, the treatment or disposal of wastes.
- 19. This Order is consistent with State Water Board Resolution No. 68-16 (Statement of Policy with Respect to Maintaining High Quality of Waters in California) in that the Order imposes conditions to prevent impacts to water quality, does not allow the degradation of water quality, will not unreasonably affect beneficial uses of water, and will not result in water quality less than prescribed in State Water Board or Regional Water Board plans and policies.
- 20. The action to adopt this General Order is exempt from the California Environmental Quality Act (Public Resources Code §21000 et seq.) because it is an action taken by a regulatory agency to assure the protection of the environment and the regulatory process involves procedures for protection of the environment. (Cal. Code Regs., tit. 14, §15308). In addition, the action to adopt

this Order is exempt from CEQA pursuant to Cal.Code Regs., title 14, §15301 to the extent that it applies to existing sanitary sewer collection systems that constitute "existing facilities" as that term is used in Section 15301, and §15302, to the extent that it results in the repair or replacement of existing systems involving negligible or no expansion of capacity.

- 21. The Fact Sheet, which is incorporated by reference in the Order, contains supplemental information that was also considered in establishing these requirements.
- 22. The State Water Board has notified all affected public agencies and all known interested persons of the intent to prescribe general WDRs that require Enrollees to develop SSMPs and to report all SSOs.
- 23. The State Water Board conducted a public hearing on February 8, 2006, to receive oral and written comments on the draft order. The State Water Board received and considered, at its May 2, 2006, meeting, additional public comments on substantial changes made to the proposed general WDRs following the February 8, 2006, public hearing. The State Water Board has considered all comments pertaining to the proposed general WDRs.

**IT IS HEREBY ORDERED**, that pursuant to California Water Code section 13263, the Enrollees, their agents, successors, and assigns, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted hereunder, shall comply with the following:

# A. DEFINITIONS

- Sanitary sewer overflow (SSO) Any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system. SSOs include:
  - (i) Overflows or releases of untreated or partially treated wastewater that reach waters of the United States;
  - (ii) Overflows or releases of untreated or partially treated wastewater that do not reach waters of the United States; and
  - (iii) Wastewater backups into buildings and on private property that are caused by blockages or flow conditions within the publicly owned portion of a sanitary sewer system.
- Sanitary sewer system Any system of pipes, pump stations, sewer lines, or other conveyances, upstream of a wastewater treatment plant headworks used to collect and convey wastewater to the publicly owned treatment facility. Temporary storage and conveyance facilities (such as vaults, temporary piping, construction trenches, wet wells, impoundments, tanks, etc.) are considered to be part of the sanitary sewer system, and discharges into these temporary storage facilities are not considered to be SSOs.

For purposes of this Order, sanitary sewer systems include only those systems owned by public agencies that are comprised of more than one mile of pipes or sewer lines.

- 3. **Enrollee** A federal or state agency, municipality, county, district, and other public entity that owns or operates a sanitary sewer system, as defined in the general WDRs, and that has submitted a complete and approved application for coverage under this Order.
- 4. SSO Reporting System Online spill reporting system that is hosted, controlled, and maintained by the State Water Board. The web address for this site is http://ciwqs.waterboards.ca.gov. This online database is maintained on a secure site and is controlled by unique usernames and passwords.
- Untreated or partially treated wastewater Any volume of waste discharged from the sanitary sewer system upstream of a wastewater treatment plant headworks.
- 6. **Satellite collection system** The portion, if any, of a sanitary sewer system owned or operated by a different public agency than the agency that owns and operates the wastewater treatment facility to which the sanitary sewer system is tributary.
- 7. **Nuisance** California Water Code section 13050, subdivision (m), defines nuisance as anything which meets all of the following requirements:
  - a. Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
  - b. Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
  - c. Occurs during, or as a result of, the treatment or disposal of wastes.

# **B. APPLICATION REQUIREMENTS**

- Deadlines for Application All public agencies that currently own or operate sanitary sewer systems within the State of California must apply for coverage under the general WDRs within six (6) months of the date of adoption of the general WDRs. Additionally, public agencies that acquire or assume responsibility for operating sanitary sewer systems after the date of adoption of this Order must apply for coverage under the general WDRs at least three (3) months prior to operation of those facilities.
- Applications under the general WDRs In order to apply for coverage pursuant to the general WDRs, a legally authorized representative for each agency must submit a complete application package. Within sixty (60) days of adoption of the general WDRs, State Water Board staff will send specific instructions on how to

apply for coverage under the general WDRs to all known public agencies that own sanitary sewer systems. Agencies that do not receive notice may obtain applications and instructions online on the Water Board's website.

 Coverage under the general WDRs – Permit coverage will be in effect once a complete application package has been submitted and approved by the State Water Board's Division of Water Quality.

# **C. PROHIBITIONS**

- 1. Any SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited.
- 2. Any SSO that results in a discharge of untreated or partially treated wastewater that creates a nuisance as defined in California Water Code Section 13050(m) is prohibited.

# **D. PROVISIONS**

- 1. The Enrollee must comply with all conditions of this Order. Any noncompliance with this Order constitutes a violation of the California Water Code and is grounds for enforcement action.
- 2. It is the intent of the State Water Board that sanitary sewer systems be regulated in a manner consistent with the general WDRs. Nothing in the general WDRs shall be:
  - Interpreted or applied in a manner inconsistent with the Federal Clean Water Act, or supersede a more specific or more stringent state or federal requirement in an existing permit, regulation, or administrative/judicial order or Consent Decree;
  - (ii) Interpreted or applied to authorize an SSO that is illegal under either the Clean Water Act, an applicable Basin Plan prohibition or water quality standard, or the California Water Code;
  - (iii) Interpreted or applied to prohibit a Regional Water Board from issuing an individual NPDES permit or WDR, superseding this general WDR, for a sanitary sewer system, authorized under the Clean Water Act or California Water Code; or
  - (iv) Interpreted or applied to supersede any more specific or more stringent WDRs or enforcement order issued by a Regional Water Board.
- 3. The Enrollee shall take all feasible steps to eliminate SSOs. In the event that an SSO does occur, the Enrollee shall take all feasible steps to contain and mitigate the impacts of an SSO.
- 4. In the event of an SSO, the Enrollee shall take all feasible steps to prevent untreated or partially treated wastewater from discharging from storm drains into

flood control channels or waters of the United States by blocking the storm drainage system and by removing the wastewater from the storm drains.

- 5. All SSOs must be reported in accordance with Section G of the general WDRs.
- 6. In any enforcement action, the State and/or Regional Water Boards will consider the appropriate factors under the duly adopted State Water Board Enforcement Policy. And, consistent with the Enforcement Policy, the State and/or Regional Water Boards must consider the Enrollee's efforts to contain, control, and mitigate SSOs when considering the California Water Code Section 13327 factors. In assessing these factors, the State and/or Regional Water Boards will also consider whether:
  - (i) The Enrollee has complied with the requirements of this Order, including requirements for reporting and developing and implementing a SSMP;
  - (ii) The Enrollee can identify the cause or likely cause of the discharge event;
  - (iii) There were no feasible alternatives to the discharge, such as temporary storage or retention of untreated wastewater, reduction of inflow and infiltration, use of adequate backup equipment, collecting and hauling of untreated wastewater to a treatment facility, or an increase in the capacity of the system as necessary to contain the design storm event identified in the SSMP. It is inappropriate to consider the lack of feasible alternatives, if the Enrollee does not implement a periodic or continuing process to identify and correct problems.
  - (iv) The discharge was exceptional, unintentional, temporary, and caused by factors beyond the reasonable control of the Enrollee;
  - (v) The discharge could have been prevented by the exercise of reasonable control described in a certified SSMP for:
    - Proper management, operation and maintenance;
    - Adequate treatment facilities, sanitary sewer system facilities, and/or components with an appropriate design capacity, to reasonably prevent SSOs (e.g., adequately enlarging treatment or collection facilities to accommodate growth, infiltration and inflow (I/I), etc.);
    - Preventive maintenance (including cleaning and fats, oils, and grease (FOG) control);
    - Installation of adequate backup equipment; and
    - Inflow and infiltration prevention and control to the extent practicable.
  - (vi)The sanitary sewer system design capacity is appropriate to reasonably prevent SSOs.

- (vii) The Enrollee took all reasonable steps to stop and mitigate the impact of the discharge as soon as possible.
- 7. When a sanitary sewer overflow occurs, the Enrollee shall take all feasible steps and necessary remedial actions to 1) control or limit the volume of untreated or partially treated wastewater discharged, 2) terminate the discharge, and 3) recover as much of the wastewater discharged as possible for proper disposal, including any wash down water.

The Enrollee shall implement all remedial actions to the extent they may be applicable to the discharge and not inconsistent with an emergency response plan, including the following:

- (i) Interception and rerouting of untreated or partially treated wastewater flows around the wastewater line failure;
- (ii) Vacuum truck recovery of sanitary sewer overflows and wash down water;
- (iii) Cleanup of debris at the overflow site;
- (iv) System modifications to prevent another SSO at the same location;
- Adequate sampling to determine the nature and impact of the release; and
- (vi) Adequate public notification to protect the public from exposure to the SSO.
- 8. The Enrollee shall properly, manage, operate, and maintain all parts of the sanitary sewer system owned or operated by the Enrollee, and shall ensure that the system operators (including employees, contractors, or other agents) are adequately trained and possess adequate knowledge, skills, and abilities.
- 9. The Enrollee shall allocate adequate resources for the operation, maintenance, and repair of its sanitary sewer system, by establishing a proper rate structure, accounting mechanisms, and auditing procedures to ensure an adequate measure of revenues and expenditures. These procedures must be in compliance with applicable laws and regulations and comply with generally acceptable accounting practices.
- 10. The Enrollee shall provide adequate capacity to convey base flows and peak flows, including flows related to wet weather events. Capacity shall meet or exceed the design criteria as defined in the Enrollee's System Evaluation and Capacity Assurance Plan for all parts of the sanitary sewer system owned or operated by the Enrollee.
- 11. The Enrollee shall develop and implement a written Sewer System Management Plan (SSMP) and make it available to the State and/or Regional Water Board upon request. A copy of this document must be publicly available at the Enrollee's office and/or available on the Internet. This SSMP must be approved by the Enrollee's governing board at a public meeting.

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- 12. In accordance with the California Business and Professions Code sections 6735, 7835, and 7835.1, all engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. Specific elements of the SSMP that require professional evaluation and judgments shall be prepared by or under the direction of appropriately qualified professionals, and shall bear the professional(s)' signature and stamp.
- 13. The mandatory elements of the SSMP are specified below. However, if the Enrollee believes that any element of this section is not appropriate or applicable to the Enrollee's sanitary sewer system, the SSMP program does not need to address that element. The Enrollee must justify why that element is not applicable. The SSMP must be approved by the deadlines listed in the SSMP Time Schedule below.

## Sewer System Management Plan (SSMP)

- (i) Goal: The goal of the SSMP is to provide a plan and schedule to properly manage, operate, and maintain all parts of the sanitary sewer system. This will help reduce and prevent SSOs, as well as mitigate any SSOs that do occur.
- (ii) **Organization**: The SSMP must identify:
  - (a) The name of the responsible or authorized representative as described in Section J of this Order.
  - (b) The names and telephone numbers for management, administrative, and maintenance positions responsible for implementing specific measures in the SSMP program. The SSMP must identify lines of authority through an organization chart or similar document with a narrative explanation; and
  - (c) The chain of communication for reporting SSOs, from receipt of a complaint or other information, including the person responsible for reporting SSOs to the State and Regional Water Board and other agencies if applicable (such as County Health Officer, County Environmental Health Agency, Regional Water Board, and/or State Office of Emergency Services (OES)).
- (iii) **Legal Authority:** Each Enrollee must demonstrate, through sanitary sewer system use ordinances, service agreements, or other legally binding procedures, that it possesses the necessary legal authority to:
  - (a) Prevent illicit discharges into its sanitary sewer system (examples may include I/I, stormwater, chemical dumping, unauthorized debris and cut roots, etc.);

- (b) Require that sewers and connections be properly designed and constructed;
- (c) Ensure access for maintenance, inspection, or repairs for portions of the lateral owned or maintained by the Public Agency;
- (d) Limit the discharge of fats, oils, and grease and other debris that may cause blockages, and
- (e) Enforce any violation of its sewer ordinances.
- (iv) **Operation and Maintenance Program**. The SSMP must include those elements listed below that are appropriate and applicable to the Enrollee's system:
  - (a) Maintain an up-to-date map of the sanitary sewer system, showing all gravity line segments and manholes, pumping facilities, pressure pipes and valves, and applicable stormwater conveyance facilities;
  - (b) Describe routine preventive operation and maintenance activities by staff and contractors, including a system for scheduling regular maintenance and cleaning of the sanitary sewer system with more frequent cleaning and maintenance targeted at known problem areas. The Preventative Maintenance (PM) program should have a system to document scheduled and conducted activities, such as work orders;
  - (c) Develop a rehabilitation and replacement plan to identify and prioritize system deficiencies and implement short-term and longterm rehabilitation actions to address each deficiency. The program should include regular visual and TV inspections of manholes and sewer pipes, and a system for ranking the condition of sewer pipes and scheduling rehabilitation. Rehabilitation and replacement should focus on sewer pipes that are at risk of collapse or prone to more frequent blockages due to pipe defects. Finally, the rehabilitation and replacement plan should include a capital improvement plan that addresses proper management and protection of the infrastructure assets. The plan shall include a time schedule for implementing the short- and long-term plans plus a schedule for developing the funds needed for the capital improvement plan;
  - (d) Provide training on a regular basis for staff in sanitary sewer system operations and maintenance, and require contractors to be appropriately trained; and

(e) Provide equipment and replacement part inventories, including identification of critical replacement parts.

# (v) Design and Performance Provisions:

- (a) Design and construction standards and specifications for the installation of new sanitary sewer systems, pump stations and other appurtenances; and for the rehabilitation and repair of existing sanitary sewer systems; and
- (b) Procedures and standards for inspecting and testing the installation of new sewers, pumps, and other appurtenances and for rehabilitation and repair projects.
- (vi) Overflow Emergency Response Plan Each Enrollee shall develop and implement an overflow emergency response plan that identifies measures to protect public health and the environment. At a minimum, this plan must include the following:
  - (a) Proper notification procedures so that the primary responders and regulatory agencies are informed of all SSOs in a timely manner;
  - (b) A program to ensure an appropriate response to all overflows;
  - (c) Procedures to ensure prompt notification to appropriate regulatory agencies and other potentially affected entities (e.g. health agencies, Regional Water Boards, water suppliers, etc.) of all SSOs that potentially affect public health or reach the waters of the State in accordance with the MRP. All SSOs shall be reported in accordance with this MRP, the California Water Code, other State Law, and other applicable Regional Water Board WDRs or NPDES permit requirements. The SSMP should identify the officials who will receive immediate notification;
  - (d) Procedures to ensure that appropriate staff and contractor personnel are aware of and follow the Emergency Response Plan and are appropriately trained;
  - (e) Procedures to address emergency operations, such as traffic and crowd control and other necessary response activities; and
  - (f) A program to ensure that all reasonable steps are taken to contain and prevent the discharge of untreated and partially treated wastewater to waters of the United States and to minimize or correct any adverse impact on the environment resulting from the SSOs, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the discharge.

- (vii) FOG Control Program: Each Enrollee shall evaluate its service area to determine whether a FOG control program is needed. If an Enrollee determines that a FOG program is not needed, the Enrollee must provide justification for why it is not needed. If FOG is found to be a problem, the Enrollee must prepare and implement a FOG source control program to reduce the amount of these substances discharged to the sanitary sewer system. This plan shall include the following as appropriate:
  - (a) An implementation plan and schedule for a public education outreach program that promotes proper disposal of FOG;
  - (b) A plan and schedule for the disposal of FOG generated within the sanitary sewer system service area. This may include a list of acceptable disposal facilities and/or additional facilities needed to adequately dispose of FOG generated within a sanitary sewer system service area;
  - (c) The legal authority to prohibit discharges to the system and identify measures to prevent SSOs and blockages caused by FOG;
  - (d) Requirements to install grease removal devices (such as traps or interceptors), design standards for the removal devices, maintenance requirements, BMP requirements, record keeping and reporting requirements;
  - (e) Authority to inspect grease producing facilities, enforcement authorities, and whether the Enrollee has sufficient staff to inspect and enforce the FOG ordinance;
  - (f) An identification of sanitary sewer system sections subject to FOG blockages and establishment of a cleaning maintenance schedule for each section; and
  - (g) Development and implementation of source control measures for all sources of FOG discharged to the sanitary sewer system for each section identified in (f) above.
- (viii) **System Evaluation and Capacity Assurance Plan**: The Enrollee shall prepare and implement a capital improvement plan (CIP) that will provide hydraulic capacity of key sanitary sewer system elements for dry weather peak flow conditions, as well as the appropriate design storm or wet weather event. At a minimum, the plan must include:
  - (a) Evaluation: Actions needed to evaluate those portions of the sanitary sewer system that are experiencing or contributing to an SSO discharge caused by hydraulic deficiency. The evaluation must provide estimates of peak flows (including flows from SSOs

that escape from the system) associated with conditions similar to those causing overflow events, estimates of the capacity of key system components, hydraulic deficiencies (including components of the system with limiting capacity) and the major sources that contribute to the peak flows associated with overflow events;

- (b) **Design Criteria:** Where design criteria do not exist or are deficient, undertake the evaluation identified in (a) above to establish appropriate design criteria; and
- (c) Capacity Enhancement Measures: The steps needed to establish a short- and long-term CIP to address identified hydraulic deficiencies, including prioritization, alternatives analysis, and schedules. The CIP may include increases in pipe size, I/I reduction programs, increases and redundancy in pumping capacity, and storage facilities. The CIP shall include an implementation schedule and shall identify sources of funding.
- (d) Schedule: The Enrollee shall develop a schedule of completion dates for all portions of the capital improvement program developed in (a)-(c) above. This schedule shall be reviewed and updated consistent with the SSMP review and update requirements as described in Section D. 14.
- (ix) **Monitoring, Measurement, and Program Modifications:** The Enrollee shall:
  - (a) Maintain relevant information that can be used to establish and prioritize appropriate SSMP activities;
  - (b) Monitor the implementation and, where appropriate, measure the effectiveness of each element of the SSMP;
  - (c) Assess the success of the preventative maintenance program;
  - (d) Update program elements, as appropriate, based on monitoring or performance evaluations; and
  - (e) Identify and illustrate SSO trends, including: frequency, location, and volume.
- (x) SSMP Program Audits As part of the SSMP, the Enrollee shall conduct periodic internal audits, appropriate to the size of the system and the number of SSOs. At a minimum, these audits must occur every two years and a report must be prepared and kept on file. This audit shall focus on evaluating the effectiveness of the SSMP and the

Enrollee's compliance with the SSMP requirements identified in this subsection (D.13), including identification of any deficiencies in the SSMP and steps to correct them.

(xi) Communication Program – The Enrollee shall communicate on a regular basis with the public on the development, implementation, and performance of its SSMP. The communication system shall provide the public the opportunity to provide input to the Enrollee as the program is developed and implemented.

The Enrollee shall also create a plan of communication with systems that are tributary and/or satellite to the Enrollee's sanitary sewer system.

14. Both the SSMP and the Enrollee's program to implement the SSMP must be certified by the Enrollee to be in compliance with the requirements set forth above and must be presented to the Enrollee's governing board for approval at a public meeting. The Enrollee shall certify that the SSMP, and subparts thereof, are in compliance with the general WDRs within the time frames identified in the time schedule provided in subsection D.15, below.

In order to complete this certification, the Enrollee's authorized representative must complete the certification portion in the Online SSO Database Questionnaire by checking the appropriate milestone box, printing and signing the automated form, and sending the form to:

> State Water Resources Control Board Division of Water Quality Attn: SSO Program Manager P.O. Box 100 Sacramento, CA 95812

The SSMP must be updated every five (5) years, and must include any significant program changes. Re-certification by the governing board of the Enrollee is required in accordance with D.14 when significant updates to the SSMP are made. To complete the re-certification process, the Enrollee shall enter the data in the Online SSO Database and mail the form to the State Water Board, as described above.

15. The Enrollee shall comply with these requirements according to the following schedule. This time schedule does not supersede existing requirements or time schedules associated with other permits or regulatory requirements.

# Sewer System Management Plan Time Schedule

Task and Associated Section	Completion Date			
	Population > 100,000	Population between 100,000 and 10,000	Population between 10,000 and 2,500	Population < 2,500
Application for Permit Coverage <b>Section C</b>	6 months after WDRs Adoption			
Reporting Program Section G	6 months after WDRs Adoption <sup>1</sup>			
SSMP Development Plan and Schedule <i>No specific Section</i>	9 months after WDRs Adoption <sup>2</sup>	12 months after WDRs Adoption <sup>2</sup>	15 months after WDRs Adoption <sup>2</sup>	18 months after WDRs Adoption <sup>2</sup>
Goals and Organization Structure <b>Section D 13 (i) &amp; (ii)</b>	12 months after WDRs Adoption <sup>2</sup>		18 months after WDRs Adoption <sup>2</sup>	
Overflow Emergency Response Program <b>Section D 13 (vi)</b> Legal Authority				
Section D 13 (iii) Operation and Maintenance Program Section D 13 (iv) Grease Control Program	24 months after WDRs Adoption <sup>2</sup>	30 months after WDRs Adoption <sup>2</sup>	36 months after WDRs Adoption <sup>2</sup>	39 months after WDRs Adoption <sup>2</sup>
Section D 13 (vii)				
Design and Performance <b>Section D 13 (v)</b> System Evaluation and Capacity Assurance Plan <b>Section D 13 (viii)</b> Final SSMP, incorporating all of the SSMP requirements <b>Section D 13</b>	36 months after WDRs Adoption	39 months after WDRs Adoption	48 months after WDRs Adoption	51 months after WDRs Adoption

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 In the event that by July 1, 2006 the Executive Director is able to execute a memorandum of agreement (MOA) with the California Water Environment Association (CWEA) or discharger representatives outlining a strategy and time schedule for CWEA or another entity to provide statewide training on the adopted monitoring program, SSO database electronic reporting, and SSMP development, consistent with this Order, then the schedule of Reporting Program Section G shall be replaced with the following schedule:

Reporting Program Section G	
Regional Boards 4, 8, and 9	8 months after WDRs Adoption
Regional Boards 1, 2, and 3	12 months after WDRs Adoption
Regional Boards 5, 6, and 7	16 months after WDRs Adoption

If this MOU is not executed by July 1, 2006, the reporting program time schedule will remain six (6) months for all regions and agency size categories.

 In the event that the Executive Director executes the MOA identified in note 1 by July 1, 2006, then the deadline for this task shall be extended by six (6) months. The time schedule identified in the MOA must be consistent with the extended time schedule provided by this note. If the MOA is not executed by July 1, 2006, the six (6) month time extension will not be granted.

# E. WDRs and SSMP AVAILABILITY

1. A copy of the general WDRs and the certified SSMP shall be maintained at appropriate locations (such as the Enrollee's offices, facilities, and/or Internet homepage) and shall be available to sanitary sewer system operating and maintenance personnel at all times.

# F. ENTRY AND INSPECTION

- 1. The Enrollee shall allow the State or Regional Water Boards or their authorized representative, upon presentation of credentials and other documents as may be required by law, to:
  - a. Enter upon the Enrollee's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order;
  - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;

- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
- d. Sample or monitor at reasonable times, for the purposes of assuring compliance with this Order or as otherwise authorized by the California Water Code, any substances or parameters at any location.

## G. GENERAL MONITORING AND REPORTING REQUIREMENTS

- The Enrollee shall furnish to the State or Regional Water Board, within a reasonable time, any information that the State or Regional Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order. The Enrollee shall also furnish to the Executive Director of the State Water Board or Executive Officer of the applicable Regional Water Board, upon request, copies of records required to be kept by this Order.
- 2. The Enrollee shall comply with the attached Monitoring and Reporting Program No. 2006-0003 and future revisions thereto, as specified by the Executive Director. Monitoring results shall be reported at the intervals specified in Monitoring and Reporting Program No. 2006-0003. Unless superseded by a specific enforcement Order for a specific Enrollee, these reporting requirements are intended to replace other mandatory routine written reports associated with SSOs.
- 3. All Enrollees must obtain SSO Database accounts and receive a "Username" and "Password" by registering through the California Integrated Water Quality System (CIWQS). These accounts will allow controlled and secure entry into the SSO Database. Additionally, within 30days of receiving an account and prior to recording spills into the SSO Database, all Enrollees must complete the "Collection System Questionnaire", which collects pertinent information regarding a Enrollee's collection system. The "Collection System Questionnaire" must be updated at least every 12 months.
- 4. Pursuant to Health and Safety Code section 5411.5, any person who, without regard to intent or negligence, causes or permits any untreated wastewater or other waste to be discharged in or on any waters of the State, or discharged in or deposited where it is, or probably will be, discharged in or on any surface waters of the State, as soon as that person has knowledge of the discharge, shall immediately notify the local health officer of the discharge. Discharges of untreated or partially treated wastewater to storm drains and drainage channels, whether man-made or natural or concrete-lined, shall be reported as required above.

Any SSO greater than 1,000 gallons discharged in or on any waters of the State, or discharged in or deposited where it is, or probably will be, discharged in or on any surface waters of the State shall also be reported to the Office of Emergency Services pursuant to California Water Code section 13271.

# H. CHANGE IN OWNERSHIP

1. This Order is not transferable to any person or party, except after notice to the Executive Director. The Enrollee shall submit this notice in writing at least 30 days in advance of any proposed transfer. The notice must include a written agreement between the existing and new Enrollee containing a specific date for the transfer of this Order's responsibility and coverage between the existing Enrollee and the new Enrollee. This agreement shall include an acknowledgement that the existing Enrollee is liable for violations up to the transfer date and that the new Enrollee is liable from the transfer date forward.

# I. INCOMPLETE REPORTS

1. If an Enrollee becomes aware that it failed to submit any relevant facts in any report required under this Order, the Enrollee shall promptly submit such facts or information by formally amending the report in the Online SSO Database.

# J. REPORT DECLARATION

- 1. All applications, reports, or information shall be signed and certified as follows:
  - (i) All reports required by this Order and other information required by the State or Regional Water Board shall be signed and certified by a person designated, for a municipality, state, federal or other public agency, as either a principal executive officer or ranking elected official, or by a duly authorized representative of that person, as described in paragraph (ii) of this provision. (For purposes of electronic reporting, an electronic signature and accompanying certification, which is in compliance with the Online SSO database procedures, meet this certification requirement.)
  - (ii) An individual is a duly authorized representative only if:
    - (a) The authorization is made in writing by a person described in paragraph (i) of this provision; and
    - (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity.

# K. CIVIL MONETARY REMEDIES FOR DISCHARGE VIOLATIONS

- 1. The California Water Code provides various enforcement options, including civil monetary remedies, for violations of this Order.
- 2. The California Water Code also provides that any person failing or refusing to furnish technical or monitoring program reports, as required under this Order, or

falsifying any information provided in the technical or monitoring reports is subject to civil monetary penalties.

## L. SEVERABILITY

- 1. The provisions of this Order are severable, and if any provision of this Order, or the application of any provision of this Order to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Order, shall not be affected thereby.
- 2. This order does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the Enrollee from liability under federal, state or local laws, nor create a vested right for the Enrollee to continue the waste discharge.

# CERTIFICATION

The undersigned Clerk to the State Water Board does hereby certify that the foregoing is a full, true, and correct copy of general WDRs duly and regularly adopted at a meeting of the State Water Resources Control Board held on May 2, 2006.

- AYE: Tam M. Doduc Gerald D. Secundy
- NO: Arthur G. Baggett
- ABSENT: None
- ABSTAIN: None

Song Her Clerk to the Board

#### CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD REGION 9, SAN DIEGO REGION

#### ORDER R9-2007-0005

#### WASTE DISCHARGE REQUIREMENTS FOR SEWAGE COLLECTION AGENCIES IN THE SAN DIEGO REGION

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds that:

- STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS: State Water Resource Control Board (State Board) Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, adopted by the State Board on May 2 2006, establishes minimum requirements to prevent sanitary sewer overflows (SSOs) from publicly owned/ operated sanitary sewer system. Order No. 2006-0003-DWQ is the primary regulatory mechanism for sanitary sewer systems statewide, but allows each regional board to issue more stringent or more prescriptive Waste Discharge Requirements (WDRs) for sanitary sewer systems within their respective jurisdiction.
- 2. ENROLLMENT UNDER ORDER NO. 2006-0003-DWQ: In accordance with Order No. 2006-0003-DWQ, all federal and state agencies, municipalities, counties, districts, and other public entities that own, operate, acquire, or assume responsibility for sanitary sewer systems greater than one mile in length that collect and/or convey untreated or partially treated wastewater to a publicly owned treatment facility in the State of California are required to apply for coverage under the general WDRs.
- 3. **ORDER No. 96-04**: On May 9, 1996, this Regional Board adopted Order No. 96-04, General Waste Discharge Requirements Prohibiting Sanitary Sewer Overflows by Sewage Collection Agencies, prohibiting the discharge of sewage from a sanitary sewer system at any point upstream of a sewage treatment plant. Each Sewage Collection Agency currently regulated under Order No. 96-04 is required to obtain enrollment under the State Board Order No. 2006-0003-DWQ.
- 4. SAN DIEGO REGION SANITARY SEWER OVERFLOW REGULATIONS: Order No. 96-04 has been an effective regulatory mechanism in reducing the number and magnitude of sewage spills in the Region. The Order is more stringent and prescriptive than Order No. 2006-0003-DWQ in that Order No. 2006-0003-DWQ may allow some SSOs that are currently prohibited under Order No. 96-04. In order to maintain regulation of Sanitary Sewer Systems in the San Diego Region consistent with the provisions of Order No. 96-04, this Order reaffirms the prohibition on all SSOs upstream of a sewage treatment plant. This strict prohibition implements the requirements contained in the Basin Plan, California Water Code, and Federal Clean Water Act.

- 5. CONSISTENT REGIONAL REQUIREMENTS: The regulation of all Sewage Collection Agencies will be consistent within the San Diego Region by requiring agencies such as California Department of Corrections; California State University, San Marcos; San Diego State University; and University of California, San Diego, which have not been regulated under Order No. 96-04, to comply with Regional Board requirements that augment State Board Order No. 2006-0003-DWQ.
- 6. BASIN PLAN: The Regional Board adopted a Water Quality Control Plan for the San Diego Basin (hereinafter Basin Plan) on September 8, 1994. The Basin Plan was subsequently approved by the State Board on December 13, 1994. Subsequent revisions to the Basin Plan have also been adopted by the Regional Board and approved by the State Board. The Basin Plan designates beneficial uses, narrative, and numerical water quality objectives, and prohibitions which are applicable to the discharges prohibited under this Order.
- 7. **PROHIBITIONS CONTAINED IN BASIN PLAN**: The Basin Plan contains the following prohibitions which are applicable to the discharges prohibited under this Order:
  - a. "The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination, or nuisance as defined in California Water Code Section 13050, is prohibited."
  - b. "The discharge of treated or untreated waste to lakes or reservoirs used for municipal water supply, or to inland surface water tributaries thereto, is prohibited."
  - c. "The discharge of waste to inland surface waters, except in cases where the quality of the discharge complies with applicable receiving water quality objectives, is prohibited. ..."
  - d. "The dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited unless authorized by the Regional Board."
  - e. "The unauthorized discharge of treated or untreated sewage to waters of the state or to a storm water conveyance system is prohibited."
  - f. "The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code Section 13264 is prohibited."
  - g. "The discharge of waste in a manner causing flow, ponding, or surfacing on lands not owned or under the control of the discharger is prohibited, unless the discharge is authorized by the Regional Board."

- 8. PORTER-COLOGNE WATER QUALITY CONTROL ACT (CALIFORNIA WATER CODE, DIVISION 7): California Water Code Section 13243 provides that a Regional Board, in establishing waste discharge requirements, may specify certain conditions or areas where the discharge of waste, or certain types of waste, is prohibited. California Water Code 13260 prohibits the discharge of waste to land prior to the filing of a required report of waste discharge and the subsequent issuance of either WDRs or a waiver of WDRs. California Water Code 13264 prohibits discharge of waste absent a report of waste discharge and waste discharge requirements.
- 9. FEDERAL CLEAN WATER ACT: The Federal Clean Water Act largely prohibits any discharge of pollutants from a point source to waters of the United States except as authorized under an NPDES permit. In general, any point source discharge of sewage effluent to waters of the United States must comply with technology-based, secondary treatment standards, at a minimum, and any more stringent requirements necessary to meet applicable water quality standards and other requirements. Hence, the unpermitted discharge of wastewater from a sanitary sewer system to waters of the United States is illegal under the Clean Water Act. Furthermore, the Code of Federal Regulation requires proper operation and maintenance of all POTW facilities including collection systems, which results in prevention of SSOs.
- 10. **RESCISSION OF ORDER No. 96-04:** Order No. 96-04 can be rescinded after all of the Sewage Collection Agencies regulated under Order No. 96-04 have obtained coverage under Order No. 2006-0003-DWQ.
- 11. **PRIVATE LATERAL SEWAGE DISCHARGES REPORTING:** Order No. 96-04 does not require Sewage Collection Agencies to report Private Lateral Sewage Discharges. Over the past several years, however, this Regional Board has been tracking the number of Private Lateral Sewage Discharges based on courtesy reports from the Sewage Collection Agencies. Duringthe period from July 2004 through June 2006, a total of 268 Private Lateral Sewage Discharges were reported by the Agencies. Duringsome of those months, more Private Lateral Sewage Discharges were reported than public SSOs. Because the Agencies are not required to report Private Lateral Sewage Discharges, it is not known if the numbers reported fully represent the number and locations of Private Lateral Sewage Spills in the Region.

Finding Nos. 2, 3, and 4 of State Board Order No. 2006-0003-DWQ pertaining to causes of SSOs and the potential threat to water quality resulting from SSOs are also applicable to Private Lateral Sewage Discharges. Because Private Lateral Sewage Discharges are numerous and are a potential threat to public health and the environment, there is a need to have a reliable reporting system for Private Lateral Sewage Discharges for similar reasons as the public SSOs. Although sewage collection agencies are not responsible for the cause, cleanup, or repair of Private Lateral Sewage Discharges, sewage collection agencies are typically notified and/or are the first responders to Private Lateral Sewage Discharges. Consequently, requiring the sewage collection agencies to report all known Private Lateral Sewage Discharges is reasonable and a first step toward development of a regulatory approach for reducing Private Lateral Sewage Discharges in the San Diego Region.

- 12. **PERMITTING FEES:** This Order will serve as additional requirements to the State Board Order No. 2006-0003-DWQ. Sewage Collection Agencies that are covered and pay the fees under State Board Order No. 2006-0003-DWQ (or orders that supersede 2006-0003-DWQ) will not be required to pay for fees under this Order No. R9-2007-0005.
- 13. CALIFORNIA ENVIRONMENTAL QUALITY ACT: The action to adopt this Order is exempt from the California Environmental Quality Act (Public Resources Code §21000 et seq.) because it is an action taken by a regulatory agency to assure the protection of the environment and the regulatory process involves procedures for protection of the environment. (Cal. Code Regs., tit. 14, §15308). In addition, the action to adopt this Order is exempt from CEQA pursuant to Cal.Code Regs., title 14, §15301 to the extent that it applies to existing sanitary sewer collection systems that constitute "existing facilities" as that term is used in Section 15301, and §15302, to the extent that it results in the repair or replacement of existing systems involving negligible or no expansion of capacity.
- 14. **PUBLIC NOTICE:** The Regional Board has notified all known interested persons and the public of its intent to consider adoption of this Order. Interested persons and the public have had reasonable opportunity to participate in review of the proposed Order.
- 15. **PUBLIC HEARING:** The Regional Board has considered all comments pertaining to this Order submitted to the Regional Board in writing, or by oral presentations at the public hearing held on February 14, 2007.

**IT IS HEREBY ORDERED,** that all Sewage Collection Agencies within the San Diego Region, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following, in addition to the State Water Resource Control Board Order No. 2006-0003-DWQ (or orders that supersede 2006-0003-DWQ) and its addenda (hereinafter referred to as State Board Order):

## A. Definitions

- For purposes of this Order, a Sewage Collection Agency shall mean an "enrollee", as defined in the State Board Order, within the boundaries of the San Diego Region.
- B. Prohibition
  - 1. The discharge of sewage from a sanitary sewer system at any point upstream of a sewage treatment plant is prohibited.
- C. Monitoring and Reporting Program Requirements
  - Each Sewage Collection Agency shall report all SSOs in accordance with the Monitoring and Reporting Program No. 96-04 until the Sewage Collection Agency notifies the Regional Board that they can successfully report the SSOs to the State Board Online SSO System. The notification shall be a letter signed and certified by a person designated, for a municipality, state, federal or other public agency, as either a principal executive officer or ranking elected official.
  - 2. For Category 1 (as defined in State Board Monitoring and Reporting Program No. 2006-0003-DWQ) SSOs, the Sewage Collection Agency shall provide notification of the SSO to the Regional Board by phone, email, or fax within 24 hours after the Sewage Collection Agency becomes aware of the SSO, notification is possible, and notification can be provided without substantially impeding cleanup or other emergency measures. The information reported to the Regional Board shall include the name and phone number of the person reporting the SSO, the responsible sewage collection agency, the estimated total sewer overflow volume, the location of the SSO, the receiving water (if any), the start date/time of the SSO (if known), the end date/time of the SSO (or whether or not the sewer overflow is still occurring at the time of the report), and confirmation that the local health services agency was or will be notified as required under the reporting requirements of the local health services agency.
  - 3. The Sewage Collection Agency shall provide notification of all Private Lateral Sewage Discharges (as defined in the State Board Order), for which they become aware of, that equal or exceed 1,000 gallons; result in a discharge to a drainage channel and/or surface water; and/or discharge to a storm drainpipe that was not fully captured and returned to the sanitary sewer system, to the Regional Board by phone or fax within 24 hours after the Sewage Collection Agency becomes aware of the Private Lateral Sewage Discharge, notification is possible, and notification can be provided without substantially impeding cleanup or other emergency measures. The information reported to the Regional Board shall include the following information, if known: the name and phone number of the person reporting the Private Lateral Sewage Discharge, the service area where the Private Lateral Sewage Discharge occurred, the responsible party (other than the Sewage Collection Agency, if known), the estimated Private

Lateral Sewage Discharge volume, the location of the Private Lateral Sewage Discharge, the receiving water (if any), the start date/time of the Private Lateral Sewage Discharge, the end date/time of the Private Lateral Sewage Discharge (or whether or not the sewer overflow is still occurring at the time of the report), and confirmation that the local health services agency was or will be notified as required under the reporting requirements of the local health services agency.

- 4. The following requirement supersedes the Private Lateral Sewage Discharge Reporting Timeframe for Private Lateral Sewage Discharges in the State Board Monitoring and Reporting Program No. 2006-0003-DWQ: For Private Lateral Sewage Discharges that occur within a Sewage Collection Agency's service area and that a Sewage Collection Agency becomes aware of, the Sewage Collection Agency shall report the Private Lateral Sewage Discharge to the State Board Online SSO Database within 30 days after the end of the calendar month in which the Private Lateral Sewage Discharge occurs. The Sewage Collection Agency must identify the sewage discharge as occurring and caused by a private lateral, and a responsible party (other than the Sewage Collection Agency) should be identified, if known. The Sewage Collection Agency will not be responsible for the cause, cleanup, or repair of Private Lateral Sewage Discharges, but only the reporting of those within their jurisdiction and for which they become aware of.
- D. Notification
  - 1. Upon completion with Monitoring and Reporting Program Requirement C.1, the Regional Board will give written notice to the Sewage Collection Agency stating that regulation of the Sewage Collection Agency under Order No. 96-04 is terminated.
  - Order No. 96-04 is rescinded once regulation of all Sewage Collection Agencies under Order No. 96-04 is terminated. The Regional Board will give written notice to all of the Sewage Collection Agencies stating that all Sewage Collection Agencies under Order No. 96-04 was terminated and, thus, Order 96-04 is rescinded.

*I, John Robertus, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of Order No. 2007-0005 adopted by the California Regional Water Quality Control Board, San Diego Region on February 14, 2007.* 

IN H. ROBERTUS

Executive Officer

JHR:mpm:rwm:jll

Agenda Item 10



# Memo

Date:May 17, 2023To:Olivenhain Municipal Water District Board of DirectorsFrom:Jennifer Joslin, Human Resources ManagerVia:Kimberly A. Thorner, General ManagerSubject:CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE DISTRICT'S<br/>ADMINISTRATIVE AND ETHICS CODE (Article 3 – Organization of Staff and<br/>Article 4 – Classified Positions)

# Purpose

The purpose of this item is to consider adoption of the attached Ordinance amending the District's Administrative and Ethics Code to revise Article 3 – Section 3.1 Organization Chart of District Personnel and Article 4 – Section 4.4 Salary Schedule and Job Classification as well as Section 4.5 Salary Plan.

# Recommendation

Staff recommends that the Board adopt the Ordinance updating the Organization Chart for FY 2023-24 in Section 3.1 and increase the salary ranges in Section 4.4 by 7.5% as previously negotiated in the Board approved Memorandum of Understanding (MOU). Adoption of this Ordinance is a housekeeping item to update the District's Administrative and Ethics Code.

# Alternative(s)

The Board could choose to not adopt the Ordinance and direct staff to make further revisions, however the 7.5% adjustment was previously negotiated and approved by the Board.

# Background

The Article 3 Organization Chart of District Personnel and Article 4 Salary Schedule and Job Classification updates reflect the staffing recommendations presented in the five year Staffing Analysis approved by the Board at its April 19, 2023 meeting. This includes the addition of another Customer Service Representative I position and a new Collection System Operator I/II/III job classification. The Salary Schedule updates are consistent with the Board approved Memorandum of Understanding (MOU) with the District's employee bargaining units. The 7.5% increase is the second adjustment over a three-year period to reach the 65<sup>th</sup> percentile in compensation within our labor market. The 7.5% is an adjustment to the ranges only not an increase to actual pay rates. Note, the General Manager's salary is not being adjusted as her salary is set by the Board at the end of each calendar year. Article 4.5 clarifies the General Manger's authority to determine individual merit pay increases.

## **Fiscal Impact**

All costs related to the Ordinance have been included in the budget. Costs related to staffing changes were previously included in the Staffing Analysis memo approved by the Board on April 19, 2023.

## Discussion

Staff will be available to answer any questions.

Attachment: Ordinance

#### ORDINANCE NO. 5xx

# AN ORDINANCE OF THE BOARD OF DIRECTORS OF OLIVENHAIN MUNICIPAL WATER DISTRICT AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (Article 3 – Organization of Staff and Article 4 – Classified Positions)

BE IT ORDAINED by the Board of Directors of the Olivenhain Municipal Water District as follows:

<u>SECTION 1</u>: Article 3, Organization of Staff, Organizational Chart of District Personnel is hereby amended (*see attached*).

<u>SECTION 2</u>: Article 4, Classified Positions, Section 4.4 of the District's Administrative and Ethics Code is hereby amended to read as follows:

#### Sec. 4.4. Salary Schedule and Job Classification

#### OLIVENHAIN MUNICIPAL WATER DISTRICT RANGES FROM <u>1/1/20236/17/2023</u> THROUGH <u>6/16/20236/28/2024</u> (revised <u>12/14/20225/17/2023</u>)

NO.	JOB CLASSIFICATION	GRADE	RANGE	
	EXEMPT CLASSIFICATION		BI-WEEKLY SALARY	
1	GENERAL MANAGER	N/A	Actual Effective 1/1/23	10,902.49
1	ASSISTANT GENERAL MANAGER	19	<del>6,988.65</del> 7,512.80	<del>9,784.12<u>10,517.93</u></del>
1	ENGINEERING MANAGER	18	<del>5,378.98<u>5,782.40</u></del>	<del>8,579.41<u>9,222.87</u></del>
1	FINANCE MANAGER	18	<del>5,378.98<u>5,</u>782.40</del>	<del>8,579.41</del> 9,222.87
1	OPERATIONS MANAGER	18	<del>5,378.98<u>5,</u>782.40</del>	<del>8,579.41</del> 9,222.87
1	HUMAN RESOURCES MANAGER	17	4 <del>,991.75</del> <u>5,366.13</u>	<del>7,979.96<u>8,5</u>78.46</del>
1	CUSTOMER SERVICES MANAGER	17	4 <del>,991.75</del> <u>5,366.13</u>	<del>7,979.96<u>8,5</u>78.46</del>
0	NO INCUMBENT	16	<del>-4,645.00<u>4,</u>993.38</del>	<del>7,420.16<u>7,</u>976.68</del>
0	NO INCUMBENT	15	4,197.53 <u>4,512.34</u>	<del>6,290.80<u>6,762.61</u></del>
1	WATER TREATMENT FACILITIES SUPERVISOR	14	<del>3,906.32<u>4,</u>199.29</del>	<del>5,853.70<u>6,</u>292.73</del>
1	INFORMATION TECHNOLOGY SUPERVISOR	14	<del>3,906.32<u>4,</u>199.29</del>	<del>5,853.70<u>6,292.73</u></del>
1	CUSTOMER SERVICE AND PUBLIC AFFAIRS SUPERVISOR	13	<del>3,631.62<u>3,903.99</u></del>	<del>5,444.71<u>5,853.06</u></del>
1	SAFETY/RISK COMPLIANCE ADMINISTRATOR	13	<del>3,631.62<u>3,903.99</u></del>	<del>5,444.71<u>5,853.06</u></del>
1	ACCOUNTING SUPERVISOR	12	<del>3,374.63<u>3,627.73</u></del>	<del>5,064.37<u>5,</u>444.20</del>
1	ENGINEERING SERVICES SUPERVISOR	12	<del>3,374.63<u>3,627.73</u></del>	<del>5,064.37<u>5,</u>444.20</del>
2	OPERATIONS SUPERVISOR	12	<del>3,374.63<u>3,627.73</u></del>	<del>5,064.37<u>5,</u>444.20</del>
1	FIELD SERVICES SUPERVISOR	12	<del>3,374.63<u>3,627.73</u></del>	<del>5,064.37<u>5,</u>444.20</del>
0	ENGINEERING PROJECT ADMINISTRATOR	12	<del>3,374.63<u>3,627.73</u></del>	<del>5,064.37<u>5,</u>444.20</del>
1	WATER RECLAMATION FACILITIES SUPERVISOR	12	<del>3,374.63<u>3,627.73</u></del>	<del>5,064.37<u>5,</u>444.20</del>
1	SENIOR SYSTEMS ADMINISTRATOR	12	<del>3,374.63<u>3,627.73</u></del>	<del>5,064.37<u>5,</u>444.20</del>
2	SYSTEMS ADMINISTRATOR	11	<del>3,139.60<u>3,375.07</u></del>	4 <del>,706.67</del> 5,059.67
1	PARK SUPERVISOR	11	<del>3,139.60<u>3,375.07</u></del>	4 <del>,706.67</del> 5,059.67

21 EXEMPT (current approved headcount)

#### NON-EXEMPT CLASSIFICATION

HOURLY WAGE

1	WATER TREATMENT DI ANT OPERATOR I EVEL IV	6	20 82/2 82	55 7650 04
2	INSTRUMENT CONTROL TECHNICIAN II	6	30 8342 82	55.76 <u>50.04</u>
2 1	WATED DECLAMATION ODED ATOD I EVEL IV	6	30 8342 82	<u>55.7659.94</u>
2	WATER RECLAMATION OF ERATOR LEVEL IV	6	20 9242 92	<u>55.7650.04</u>
1	HUMAN DESCUDCES ANALYST	6	30 8342 82	<u>55.7650.04</u>
1	EVECUTIVE SECDETADV	6	30 8342.82	55.76 <u>59.94</u>
1		6	30 8342 82	<u>55.7659.94</u>
1		0	<u>39.0342.02</u> 30.9342.92	<u>55.7659.94</u>
1		0	- <u>39.0342.02</u> 20.9242.92	<u>55.7650.04</u>
1		6	<u>30.8342.82</u>	<u>55.7650.04</u>
1	FINANCIAL ANALISTII ENGINEEDING TECHNICIAN III	0	<u>37.0342.02</u> 20.9242.92	<u>55.7659.94</u>
1		5	<u>37.0342.02</u> 34.2426.02	42 0751 62
1	INSPECTOR II DROJECT ACCOUNTANT II	5	<del>34.34<u>30.92</u> 24.2426.02</del>	<u>40.0751.00</u>
2	A DMINISTRATIVE ANALYST	5	<del>34.34<u>30.92</u> 24.2426.02</del>	40.07 <u>51.00</u>
3	ADMINISTRATIVE ANALYST	5	- <del>34.34<u>30.92</u> 24.2426.02</del>	<u>48.07</u> 51.08
2	SYSTEMS OPERATOR II	5	<del>34.34<u>30.92</u> 24.2426.02</del>	<u>48.07</u> 51.08
4	WATER DECLAMATION OPERATOR LEVEL III	5	<u>34.3436.92</u>	48.07 <u>51.68</u>
<del>34</del>	WATER RECLAMATION OPERATOR LEVEL III	5	<del>34.34<u>36.92</u></del>	48.07 <u>51.68</u>
<u>01</u>	BACKFLOW AND CROSS CONNECTION COORDINATOR II	5	<del>34.34<u>36.92</u></del>	48.07 <u>51.68</u>
1	INFORMATION TECHNOLOGY COORDINATOR	5	<del>34.34<u>36.92</u></del>	48.07 <u>51.68</u>
0	GENERAL LEDGER ACCOUNTANT II	5	<u>-34.34</u> <u>36.92</u>	4 <u>8.0751.68</u>
1	ENGINEERING TECHNICIAN II	5	<del>34.34<u>36.92</u></del>	4 <del>8.07</del> 51.68
1	COLLECTION SYSTEM OPERATOR LEVEL III	5	<u>36.92</u>	<u>51.68</u>
1	FINANCIAL ANALYST I	4	<del>29.86<u>32.10</u></del>	<u>41.7744.90</u>
0	PUMP/MOTOR TECHNICIAN I	4	<del>29.86<u>32.10</u></del>	4 <u>1.7744.90</u>
1	CATHODIC PROTECTION TECHNICIAN	4	<del>29.86</del> <u>32.10</u>	<u>41.7744.90</u>
0	ENGINEERING TECHNICIAN I	4	<del>29.86</del> <u>32.10</u>	<u>41.7744.90</u>
2	FIELD SERVICES TECHNICIAN III	4	<del>29.86</del> <u>32.10</u>	<u>41.7744.90</u>
2	INSTRUMENT CONTROL TECHNICIAN I	4	<del>29.86<u>32.10</u></del>	4 <u>1.7744.90</u>
1	INSPECTOR I	4	<del>29.86<u>32.10</u></del>	<u>41.7744.90</u>
1	OPERATIONS COORDINATOR	4	<del>29.86<u>32.10</u></del>	<u>41.7744.90</u>
1	RECORDS AND CONTRACTS COORDINATOR	4	<del>29.86<u>32.10</u></del>	<u>41.7744.90</u>
1	SYSTEMS OPERATOR I	4	<del>29.86<u>32.10</u></del>	4 <u>1.77</u> <u>44.90</u>
3	UTILITY III	4	<del>29.86<u>32.10</u></del>	<u>41.7744.90</u>
1	EQUIPMENT TECHNICIAN	4	<del>29.86</del> <u>32.10</u>	<u>41.7744.90</u>
1	WATER TREATMENT PLANT OPERATOR LEVEL II	4	<del>29.86</del> <u>32.10</u>	<u>41.7744.90</u>
<u> 40</u>	WATER RECLAMATION OPERATOR LEVEL II	4	<del>29.86</del> <u>32.10</u>	4 <u>1.7744.90</u>
0	VALVE MAINTENANCE TECHNICIAN LEVEL II	4	<del>29.86</del> <u>32.10</u>	<u>41.7744.90</u>
<u>21</u>	BACKFLOW AND CROSS CONNECTION COORDINATOR I	4	<del>29.86</del> <u>32.10</u>	<u>41.7744.90</u>
3	ACCOUNTANT I	4	<del>29.86</del> <u>32.10</u>	<u>41.7744.90</u>
<u>0</u>	COLLECTION SYSTEM OPERATOR LEVEL II	<u>4</u>	<u>32.10</u>	<u>44.90</u>
0	DEPARTMENT ASSISTANT II	3	<del>26.21<u>28.18</u></del>	<del>36.68<u>39.43</u></del>
1	CUSTOMER SERVICE REPRESENTATIVE II	3	<del>26.21</del> <u>28.18</u>	<del>36.68<u>39.43</u></del>
<u>+2</u>	FIELD SERVICES TECHNICIAN II	3	$\frac{26.21}{28.18}$	<del>36.68<u>39.43</u></del>
1	PARK RANGER II	3	<del>26.21</del> 28.18	<del>36.68<u>39.43</u></del>
1	PURCHASING/WAREHOUSE CLERK	3	<del>26.21</del> <u>28.18</u>	<del>36.68<u>39.43</u></del>
2	VALVE MAINTENANCE TECHNICIAN LEVEL I	3	<del>26.21</del> <u>28.18</u>	<del>36.68<u>39.43</u></del>
3	UTILITY II	3	<del>26.21<u>28.18</u></del>	<del>36.68<u>39.43</u></del>
0	WATER TREATMENT PLANT OPERATOR LEVEL I	3	<del>26.21<u>28.18</u></del>	<del>36.68<u>39.43</u></del>
0	WATER RECLAMATION OPERATOR LEVEL I	3	<del>26.21</del> 28.18	<del>36.68<u>39.43</u></del>
<u>0</u>	COLLECTION SYSTEM OPERATOR LEVEL I	<u>3</u>	<u>28.18</u>	<u>39.43</u>
2	DEPARTMENT ASSISTANT I	2	<del>23.20</del> 24.94	<del>32.44<u>34.87</u></del>
<u>23</u>	CUSTOMER SERVICE REPRESENTATIVE I	2	<del>23.20</del> 24.94	<del>32.44<u>34.87</u></del>
4 <u>3</u>	FIELD SERVICES TECHNICIAN I	2	<del>23.20</del> 24.94	<del>32.44<u>34.87</u></del>
1	PARK RANGER I	2	<del>23.20</del> 24.94	<u>32.4434.87</u>

5*	UTILITY I (*2 FROZEN DUE TO COVID-19)	2	<del>23.20</del> 24.94	<del>32.44<u>34.87</u></del>
0	UTILITY I - Limited term	2	<del>23.20</del> 24.94	<del>32.44<u>34.87</u></del>
0	NO INCUMBENT	1	<del>-20.68</del> 22.23	<del>28.95</del> <u>31.12</u>

7274 NON-EXEMPT (current approved headcount)

395 TOTAL EXEMPT AND NON-EXEMPT (current approved headcount)

#### 9395 TOTAL APPROVED POSITIONS

With approval of the General Manager, classifications may be flexibly staffed according to the "Grow Your Own" (GYO) program and department need. GYO does not add to the employee total headcount; it is an in-house promotional opportunity.

\*Two Utility positions (Utility I / II / III) will remain frozen for FY 22/2323/24.

A new employee shall be employed in the Salary Grade for that particular Job Classification. After successful completion of the first six (6) months of employment, the new employee may be considered for a salary increase in the sole discretion of the General Manager. The General Manager is not obligated to grant any salary increase and may deny an increase in his/her sole discretion. The annual employee review period <u>begins on June 1<sup>st</sup></u> and ends on May 31<sup>st</sup>. The annual salary increase is prorated based on the number of months worked since any six-month increase in salary.

All employees shall be evaluated at least annually. Evaluations shall be based upon the individual's aptitude, ability and attitude to perform assigned work and job responsibility. Salary increases are not automatic. All evaluations shall be completed and reviewed with the employee prior to July 1<sup>st</sup>.

<u>SECTION 3</u>: Article 4, Classified Positions, Section 4.5 of the District's Administrative and Ethics Code is hereby amended to read as follows:

#### Sec. 4.5. Salary Plan (for periodic wage increases).

Salary Plan (for periodic wage increases) for employees employed by the District:

A merit-based compensation plan is established by the District, in cooperation with the employee associations, as follows:

A new employee may start within the salary range of the Job Classification as approved by the General Manager. The employee shall remain at this starting salary for a minimum of six (6) months or until such time a satisfactory review to the General Manager is completed. The General Manager may extend the customary review period or terminate the employee, upon his/her determination that the employee has not performed satisfactorily. The General Manager may extend the review period for any additional time determined appropriate by the General Manager. New employees who successfully complete this period may be considered for a salary increase. Completion of the first six (6) months of employment does not guarantee continued employment with the District. Any salary increases will be based upon the employees' six-month evaluation score in accordance with the most recently established merit matrix or as determined by the General Manager. Salary increases are not mandatory. For purposes of future performance evaluations and reviews for salary increases, the employee shall be evaluated on a fiscal year basis after satisfactory completion of the first six (6) months of employment. The first annual employee review will be pro-rated based on the number of months since the six (6) month review was completed.

Upon being promoted or transferred to a new position, the employee's salary shall be increased <u>at leastapproximately</u> five (5) percent<u>or as</u> <u>determined by the General Manager</u>, but not less than the lowest rate in the salary grade established for that position, if that rate is higher than the employee's salary at the time of promotion. If the employee is topped out of the salary range, the employee may receive a lump sum payment in lieu of a salary increase. The General Manager may require the employee assigned to a new position to serve a six (6) month review period, which will be determined by the General Manager. For purposes of future performance evaluations and reviews for salary increases, the employee shall be evaluated on a fiscal year basis after satisfactory completion of six (6) months in the new position. The first annual employee review, conducted after a promotion or transfer, will be prorated based on the number of months since the six (6) month review was completed.

PASSED, APPROVED AND ADOPTED at a regular meeting of Olivenhain Municipal Water District's Board of Directors held this 17th day of May 2023 by the following roll call vote:

AYES: NOES: ABSTAIN: ABSENT:

> Christy Guerin, President Board of Directors Olivenhain Municipal Water District

ATTEST:

Lawrence A. Watt, Secretary Board of Directors Olivenhain Municipal Water District







# Memo

Subject:	REVIEW THE CURRENT EMAIL RETENTION POLICY AND PRESENT FINDINGS FROM THE SURVEY OF OTHER LOCAL PUBLIC AGENCIES
Via:	Kimberly A. Thorner, General Manager
From:	Jennifer Joslin, Human Resources Manager
То:	Olivenhain Municipal Water District Board of Directors
Date:	May 17, 2023

# Purpose

The purpose of this item is to review the District's current Email Retention Policy (attached) and present the findings from the survey of other local public agencies regarding their email retention.

# Recommendation

Staff recommends keeping the email retention auto delete timeline at 180 days.

# Alternative(s)

The Board could decide that changes to the current email retention length or other policy changes are necessary.

## Background

The 2023 Records Retention Schedule (RRS) was approved by the Board on December 14, 2022. The Email Retention Policy (originally approved by the Board in 2011) is the first item listed on the RRS and the Board asked for additional information about the policy. After Board review, staff was asked to conduct a survey of other local agencies regarding their email retention policies and bring the findings back at a future date. This

request was added as a 2023 annual objective. Annual Objective #35: Reassess the email record retention policy, including a survey of other public agencies, and report findings to the board.

The District currently has an email retention length of 180 days for emails stored on the active email server including inbox, sent, and drafts folders and seven days for those stored in the delete folder. Emails with "lasting value" can be forwarded to the appropriate related email address within the email archive system for longer retention including: 1-Year retention, 3-Year retention, 5-Year retention, Litigation Forever, or Personnel Forever.

# **Fiscal Impact**

An increase in the email retention time could result in increased costs for anticipated technical changes to the email archiving system. Information Technology (IT) staff plan on eventually migrating emails off the current archive system and merging them with our Office 365 mailbox infrastructure. About a year ago, IT staff were quoted approximately \$15,000 to migrate and merge about 380,000 emails. Since that time, the amount of data has nearly doubled and if we increase our retention length, the number of emails that must be compared will rapidly grow, increasing the total migration cost.

Modifying the current email retention length could also have an indirect fiscal impact on staff labor depending on the magnitude of the change. For example, an increase in retention length would result in increased staff time when Public Records Act (PRA) requests are received due to the increased number of email records that must be searched through and reviewed. Staff review time varies by the actual request for information received, however, requests normally involve multiple staff members including IT staff, departmental staff, with final review by the General Manager.

# Discussion

An extensive survey of other local public agencies was conducted, and 21 responses regarding their email retention policies were received. The results of the survey (attached) demonstrate that there is no clear consensus among local agencies as to the optimal email retention timeline. In fact, numerous agencies do not even have an automatic delete timeline stated in their policy. Agencies with stated timelines ranged considerably from 30 days to 15 years. Staff feel that the District's current retention of 180 days provides for the adequate level of transparency without over burdening staff and impacting their normal daily tasks with extensive emails to review as a result of PRA requests. Staff will be available to answer any questions.

Attachments: Email Retention Policy Survey Results



**Municipal Water District** 

Computer and Device Use Policies

**OMWD** Guidelines & Procedures

#### Sec. 2.1 Purpose

This policy establishes the default retention periods for email retained on active servers. It also confirms roles and responsibilities for implementation, including management of litigation holds.

#### Sec. 2.2 Purpose

This retention policy applies to:

- 1. All users and account holders of District email and; and
- 2. All email sent or received using District email systems.

#### Sec. 2.3 Policy

#### Sec. 2.3.a Transitory Messages

Most email records are created primarily for routine communication or information exchange, i.e., not records as defined by the District's Records Management Policies.

These messages should be considered transitory messages that do not have lasting value (defined below) and should be:

- 1. Read and promptly deleted; or
- 2. Read and retained on the active server for no longer than the default retention period (defined below) or until their usefulness has ended (whichever occurs first), and then promptly deleted; or
- 3. Read and moved off the active server when job requirements necessitate retention for periods longer than the default retention period, and then promptly deleted when their usefulness has ended.

Example of transitory messages:

- Notice about meetings or events
- Internal requests for information
- An inquiry about minor Issues not related to any specific project
- Announcements, etc.

#### Sec. 2.3.b Lasting Value Messages

When the contents of an email exhibits one or more of the following characteristics, it should be classified as having lasting value:

Has operational value (required by a department to perform its primary function)

- Administrative actions taken or planned
- Reports or recommendations
- Policies, procedures, guidelines, or templates

Has legal or evidential value (required to be kept by law)

• Falls within a litigation hold or internal investigation (see "Litigation Holds" below)







Computer and Device Use Policies

OMWD Guidelines & Procedures

Has fiscal value (related to the financial transactions of the District)

• Required for financial reporting and audits

Has historical significance (of long-term value to document past events)

• May arise from exceptional age and/or some significant historical event

Has vital value (critical to maintain to ensure operational continuity after a disruption or disaster)

• Vital records or Information may fall into any one of the above value categories

Since email systems are not designed to be records retention or document management systems, email messages that have lasting value should:

- Be forwarded to the appropriate retention schedule related email address within the District email archive system; and
- NOT be stored within individual users' email folders/files

Lasting Value messages can also be printed and saved in appropriate file systems in hard copy or saved in electronic format outside of the email system.

#### Sec. 2.3.c Responsibility for Retention of Messages with Lasting Value

The burden of determining whether a specific message has lasting value should fall to the department responsible for that particular class or series of records - typically the originator or custodian of those records. Other recipients should not retain messages longer than required for their respective job purposes. When that need no longer exists, the information should be destroyed. In other words, only the department responsible for retention of a specific type of information or record shall store and control the disposition of information, including that which is in electronic form.

#### Sec. 2.3.d Default Retention Period

District email systems will be configured to automatically delete messages retained for more than 180 days on active email servers. This auto delete policy applies to messages within all folders (inbox folders, sent file folders, draft file folders, etc.) stored on active email servers.

District email systems will also be configured to automatically delete messages that have been marked for deletion by users but are still sitting in their "deleted items" folders for more than 7 days on active email servers.

All District email system users are expected to:

- Regularly check for new messages:
- Routinely move messages with lasting value to dedicated storage on Departmental/office networked file systems; and to
- Delete transitory messages as quickly as possible.




**Municipal Water District** 

**Email Retention Policy** 

**OMWD** Guidelines & Procedures

Page 3 of 4 Computer and Device Use Policies

#### Sec. 2.3.e **Backup Files**

Backup copies of District email system files will be kept for no more than four months. These backups are for system restoration and disaster recovery purposes, and are not intended to facilitate retrieval of deleted messages.

Questions about the proper classification (transitory or lasting value) of a specific message, record, or piece of information should be directed to the employee's Department Manager.

#### Sec. 2.3.f Litigation Holds

When litigation is pending or threatened against the District or its employees, the law imposes a duty upon the District to preserve all documents and records that pertain to the issues. A litigation hold directive must be issued to the legal custodians of those documents.

A litigation hold directive overrides this email retention policy, as well as any records retention schedules that may have otherwise called for the transfer, disposal or destruction of relevant documents, until the hold has been cleared.

Email and accounts of separated employees that have been placed on litigation hold status must be maintained by the District's System Administrator until the hold is released.

No employee who has received a litigation hold directive may alter or delete an electronic record that falls within the scope of that hold. Those employees are required to provide access to or copies of any electronic records that they have downloaded and saved, or moved to some other storage account or device.

#### Sec. 2.4 **Role and Responsibilities**

The District's System Administrator will:

- Establish and publish standards for email account administration, storage • allocations, and automatic archiving of messages (that must be retained for periods longer than the default retention period) to a message archive system.
- Provide facilities and instructions for moving messages with lasting value to • dedicated secondary storage or to departmental/office networked file systems;
- Provide the required end user training and helpdesk support: •
- Manage server implementation of litigation holds that are issued by District's
- Counsel; and
- Manage electronic messages, records and information that fall within the scope of the litigation holds, and that reside on active servers.

Department Managers are responsible for providing records retention guidance to staff within their respective department. The guidance provided must be in accordance with this policy and the District's Record Retention Policy.





OMWD Guidelines & Procedures

Originators and custodians of electronic messages, records, and information that have lasting value are responsible for:

- Appropriately identifying and retaining such records in accordance with this policy and the District's Record Retention Policy; and
- Seeking assistance from their respective unit managers or department heads when unsure about how to categorize specific types of messages.

District employees who have been notified by management of a litigation hold are responsible for preserving all messages, records, and information that fall within the scope of the hold that they have downloaded and/or stored locally.



	Survey Agency	Email Retention (as of 3/23/2023)
1	Encina Wastewater District	<b>No auto delete timeline stated in Policy</b> . Email is intended to be a temporary medium of transmission of a communication and should not be used for permanent storage of records. Email and attachments should be promptly removed or transferred to the appropriate electronic file to conserve server space, and to promote improved network functions.
2	Leucadia Wastewater District	<b>No auto delete timeline stated in Policy</b> . Employees are responsible for the management of their email boxes. All users of District computers and/or electronic communication resources should review their email at least weekly and emails that qualify as District Records should be filed appropriately in a separate folder on the server/network. Once these emails have reached their retention period they should be transferred to the "Review and Approval for Destruction" folder on the server/network.
3	Padre Dam Water District	<b>No auto delete timeline stated in Policy</b> . Email messages and their attachments containing information relating to the conduct of the public's business prepared, owned, used, or retained by the District constitutes a "public record" and must be printed out and the hard copy filed in the appropriate subject file, or stored in the District's Electronic Document Management System (EDMS). Such email messages must be retained by the District pursuant to the District's Record Retention Schedule. Individual employees are responsible for the management of their mailboxes and associated folders. To ensure maximum efficiency, staff members should delete email messages after (1) the messages have been preserved outside the email system (either printed and filed, or moved to the EDMS); or (2) it has been determined the messages are not District records.
4	Ramona Municipal Water District	<b>No auto delete timeline stated in Policy</b> . Individual District employees are responsible for management and deletion of emails in their mailboxes. Emails, including attachments, which are required to be retained per District policy, should be hard copied and filed according to the District's Records Retention Policy.
5	Santa Fe Irrigation District	<b>No auto delete timeline stated in Policy</b> . Individual employees are responsible for the management of their mailboxes and associated folders. To ensure maximum efficiency in the operation of the email system, staff is encouraged to delete email messages from their in-boxes after (1) the messages have been preserved outside the email system (either printed and filed, or moved to an electronic folder within the District's computer network); or (2) the messages have been determined not to be related to District business and are no longer needed.
6	Valley Center Municipal Water District	<b>No auto delete timeline stated in Policy</b> . All users of District computers should review their emails for those that qualify as District Records and keep them in a separate folder on the server/network. Once these emails have reached their retention period, and are of no further use to the District, they may be deleted. Emails that are Temporary Records should be deleted in the normal course of business, generally after reading.
7	Vallecitos Water District	Emails (non-specific) are deleted after <u>30 days</u> . Emails (specific) are to be printed and retained in a related subject file. Retention period equals the requirement of the subject matter.
8	Yuima Municipal Water District	one of my predecessors removed email retention from our policy back in 2016. However, our prior policy was a 30 day retention period for both electronic and printed emails then the record would be destroyed. All staff emails are set to delete all trash after <u>30 days</u> as well.

9	Helix Water District	<u>6 weeks</u> of email on the Exchange server and keep 2 years in our Email Archiving appliance, Barracuda.
10	City of Escondido	Emails, text messages and other similar forms of electronic communication are not intended for permanent storage. Email folders will be routinely purged on a minimum <u>90 day</u> basis by the City's Information Systems Department. Text or similar instant messaging applications should be configured so that messages are only retained for a similar (90-day) timeframe.
11	City of Oceanside	Previously 90 Days. Policy updated 2/1/23 New Policy: Users are solely responsible for management of their mailboxes. Sent and deleted items automatically deleted after <u>90 days</u> . Inbox - warning sent when storage size of their mailbox reaches <b>900MB</b> . If mailbox reaches 950MB, user will not be able to send email. If mailbox reaches 1GB, user will not be able to send or receive email.
12	Olivenhain Municipal Water District	District email systems will be configured to automatically delete messages retained for more than <b><u>180 days</u></b> on active email servers. This auto-delete policy applies to messages within all folders (inbox folders, sent folders, draft folders, etc.) stored on active email servers. District email systems will also be configured to automatically delete messages that have been marked for deletion by users but are still sitting in their "deleted items" folder for more than 7 days on active email servers. Emails with "lasting value" must be forwarded to the appropriate related email address within the email archive system: 1-Year retention, 3-Year retention, 5-Year retention, Litigation Forever, or Personnel Forever.
13	Fallbrook Public Utility District	For the inbox and sent items folders the retention policy is set to <u>1 year</u> . For all other outlook default folders it is set to 1 week. The email retention of the server deleted items repository is 14 days. Users are allowed to set the retention policy of personally created folders, with the option of never. They are not allowed to change the retention policy of the outlook default folders.
14	Otay Water District	Although we do not have a specific email retention policy, our Records Retention Schedule currently has it to be destroyed at <u>1 year</u> .
15	Carlsbad Municipal Water District (City of Carlsbad)	<u>2 years</u>
16	City of Poway	2 years
17	Rincon Del Diablo Municipal Water District	Email messages shall not be kept either electronically or in hard copy, unless retention is required by law or were its retention would serve a useful purpose for the District. Email does not become a public record under the Public Records Act when they are intended for a temporary purpose and are discarded after the purpose is achieved. <b>Care should be taken that no e-</b> <b>mails are retained unless they are meant to be official records. By</b> <b>keeping them, they would be "retained in the regular course of</b> <b>business" and should be held as a public record, subject to a <u>2-year</u> <b>minimum retention as well considered disclosable as a public record.</b> Please note: emails that are retained in electronic folders or in hard copy and are not intended for temporary purposes may be public records and should follow the District's retention schedule in terms of how long the records may be kept pursuant to legal requirements. It is important to organize these records chronologically to easily determine which records have reached their legal retention and should be destroyed. Consult your Department's copy of the District's retention schedule for the appropriate legal retention requirements.</b>

18	San Dieguito Water District (City of Encinitas)	All items in the inbox and sent Items folder are automatically deleted after $\underline{2}$ . $\underline{years}$ . Items in the deleted Items folder are automatically and permanently deleted after 30 days.
19	Vista Irrigation District	All incoming, sent, deleted and junk electronic mail that is older than <u>2 years</u> may be deleted from the electronic mail system. Employees that are required to retain specific emails for business purposes longer than 2 years shall transfer emails of confidential nature to their personal drive and operational emails to the department drive.
20	City of San Diego	New Policy implemented February 1, 2023 in a staggered fashion due to the complexity of recordkeeping. Emails that are official City records will continue to be preserved in accordance with the City Master Records Schedule, while non-records are deleted after <b>5 years</b> . Emails that are related to litigation will continue to be retained on legal hold in accordance with evidence preservation and legal and regulatory compliance.
21	Rainbow Municipal Water District	<u>15 years</u>
22	San Elijo JPA	No Response (Contract with City of Encinitas for IT Support)
23	Sweetwater Authority	No Response

Updated: 3/23/2023

Agenda Item 12



# Memo

Date:May 17, 2023To:Olivenhain Municipal Water District Board of DirectorsFrom:Steven Weddle, Engineering Services SupervisorVia:Kimberly A. Thorner, General ManagerSubject:CONSIDER APPROVAL OF CHANGE ORDER NO. 3 AND CHANGE ORDER NO. 4<br/>WITH ORION CONSTRUCTION CORPORATION FOR A COMBINED TOTAL OF<br/>\$223,344 FOR THE 4S RANCH NEIGHBORHOOD 1 SEWER PUMP STATION<br/>REPLACEMENT PROJECT, AND INCREASE THE OVERALL PROJECT BUDGET BY<br/>\$400,000, AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF<br/>OMWD

#### Purpose

The purpose of this agenda item is to consider approval of Contract Change Orders (CCO) No. 3 and No. 4 for the Neighborhood 1 Sewer Pump Station Replacement Project (Project) with Orion Construction Corporation (Orion) in the amount of \$223,344, add 99 additional days of contract time, increase the overall Project budget by \$400,000 coinciding with the FY 24 budget, and authorize the General Manager to sign on behalf of Olivenhain Municipal Water District (OMWD).

#### Recommendation

Staff recommends approval of the change orders and authorization for the General Manager to sign on behalf of OMWD.

#### Alternative(s)

The Board could elect to not approve the change orders and direct staff to re-negotiate, table the item for further closed session discussion, or otherwise proceed in a manner directed by the board.

#### Background

The Neighborhood 1 Sewer Pump Station (NBHD1 SPS) is located at the south end of 4S Ranch Parkway near the 4S Ranch Sports Park/Boys & Girls Club of Greater San Diego and Stone Ranch Elementary School in Director Division 4 (Hahn). The facility was constructed in 2000 by 4S Kelwood and dedicated to OMWD in 2002 as a part of the 4S Ranch Water Reclamation Facility (4S WRF) expansion. The NBHD1 SPS collects tributary flows from customers in the south end of the 4S Ranch development, including Black Mountain Ranch East Clusters, Heritage Bluffs, and soon-to-be Avion developments. NBHD1 SPS pumps the effluent up 4S Ranch Parkway and over to the 4S Water Reclamation Facility on Dove Canyon Road through sewer force mains. The pump station consists of two (2) pumps: one (1) submersible pump in a wet well and one (1) centrifuge pump located in an above-ground, previously unconditioned structure along with the electrical equipment.

Originally contemplated in 2015 in the Capital Improvement Plan for 4S Ranch and Rancho Cielo Wastewater Systems report published by Dudek, the Project was placed for bid in 2019, and then canceled and postponed until fiscal year 2020/2021 to allow for funding and completion of other high priority infrastructure projects, such as the El Camino Real Pipeline Replacement.

Following a successful bid in Fall of 2021, the Board awarded the contract to Orion in February 2022 for \$6,123,000 to begin work on replacement of this critical asset.

#### Fiscal Impact

Funds for Change Orders 3 and 4 are available within the current appropriations for the Project (CIP D700004). Although there are sufficient appropriations for the proposed Change Orders, Staff recommends an additional appropriation of \$400,000 from the Capital Reserve Fund to the Project budget coinciding with the FY 24 budget appropriations adjustments to account for excess dewatering and unsuitable soils caused by the excessive infiltration water.

Is this a Multi Fiscal Year Project? Yes

In which FY did this capital project first appear in the CIP budget? FY 2014

Total Project Budget: **<u>\$7,732,000</u>** 

Current Fiscal Year Appropriation: N/A

To Date Approved Appropriations: \$7,732,000

Target Project Completion Date: Spring 2024

Expenditures and Encumbrances as of (April 26, 2023): **<u>\$7,411,618.87</u>** 

Is this change order within the appropriation of this fiscal year? Yes

If this change order is outside of the appropriation, Source of Fund

#### Discussion

Following award in February 2022, the Project was delayed by supply chain materials procurement issues on large electrical equipment. In accordance with Administrative and Ethics Code (A&E Code) Section 6.8C, a no-cost time extension CCO No. 1 was signed by the General Manager in August 2022 to account for that delay and extend the contract completion date to September 20, 2023. The Project then broke ground in October of 2022.

CCO No. 2 was approved by the Board in February 2023, largely accounting for excess dewatering and unsuitable/oversaturated soils unexpectedly encountered onsite through mid-January 2023, in the amount of \$141,650, and extended the contract completion to November 2023.

Following Board action in February 2023, construction progressed where additional unsuitable/oversaturated soils were encountered, excess dewatering continued, and additional unforeseen conditions were encountered requiring modifications to the scope of work as shown in the following table.

Description	Date	Initiated by	Value	Time (Consecutive Calendar Days)	Caused by Excessive Infiltration Water
PCO#3-Door and Lock Modifications	Oct. 2022 (Final April 2023)	OMWD	\$6,012.20	0	
PCO#9-Excess Dewatering and Unsuitable Soils	April 2023	Orion	\$91,170.36	58	х
PCO#10-Waterproofing (Wet Well)	April 2023	OMWD	\$38,313.37	14	х
PCO#11-Additional Sewer Manhole and Alignment Changes	April 2023	OMWD	\$87,848.72	0	
Additional Contract days Due to Rain (non-work days)	March 2023	OMWD	\$0	27	
Proposed PCO Total			\$223,345	99	

Door and hardware modifications were required to ensure adequate access and security by OMWD operations as accounted for in Potential Change Order (PCO) 3.

Additional excess dewatering and replacement and backfill for underground work for unsuitable and oversaturated soils encountered since the previous change was necessary to progress with construction as accounted for in PCO9. This is a continuation of the issues addressed in CCO2, and is believed to be attributed to the failing adjacent County of San Diego (County) storm water facilities. As underground construction is approximately 65% complete, additional infiltration water is anticipated to be encountered through the remaining excavations as excessive groundwater and saturated soils are still present at the site. Additional excess dewatering efforts will continue to be reviewed, tracked, and authorized via the PCO process.

Waterproofing membrane systems are needed to properly protect the exterior concrete construction of the new wet well, to promote longevity and alleviate future maintenance infiltration issues from the presence of groundwater as accounted for in PCO10. Although not contemplated in the original design based upon pre-project soils investigations, the existing infiltration/groundwater encountered throughout construction necessitates the additional material installation now to offset future maintenance concerns and help alleviate future repair costs.

An additional sewer manhole was required along with piping modifications and a partial replacement of existing influent sewer mains to mitigate unanticipated grade breaks and alignment issues from the planned scope of work, as accounted for in PCO11. Unforeseen conditions were encountered deviating from record drawings while rehabilitating the existing facilities to tie into to the new construction. The alignment revisions constructed are necessary to obtain a functional sewer system. Staff negotiated with Orion to reduce the overall cost to correct the issues by approximately \$20,000.

These PCOs were packaged into CCOs No.3 and No. 4 for processing, as well as an additional 99 contract days, which included several additional days due to rain delay.

A summary of the contract and change orders to date is presented in the following table. If approved, the approximate cumulative change order value through CCO No. 4 amounts to 6% of the total construction contract, and the new completion date will be March 5, 2024. It should be noted that approximately 60% of approved and proposed change orders to date are affiliated with the excess infiltration water conditions present on site.

				Time
Authorization	Date	Authorized by	Value	(Consecutive
				Calendar Days)
Original Contract	Feb. 16, 2022	Board	\$6,123,000	300
Issued Notice to	April 20,			
Proceed	2022			
CCO No. 1	Aug. 3, 2022	General	\$0	218
		Manager		
CCO No. 2	Feb. 15 <i>,</i> 2023	Board	\$141,650	68
		Approved		
Proposed CCO No. 3	May 17,	Pending Board	\$44,325	41
	2023			
Proposed CCO No. 4	May 17,	Pending Board	\$179,019	58
	2023			
Total Previous		Board	\$141,650	286
Approved CCOs				
Total Proposed CCOs		Pending Board	\$223,344	99
Total CCOs to Date (If		Pending Board	\$364,994	385
Approved)				
New Contract Value (if			\$6,487,994	685
approved)				

Staff recommends approval of CCO 3 and 4 in the amount of \$223,344 to Orion and increasing the overall Project budget with an additional appropriation of \$400,000 from the Capital Reserve Fund to the Project budget with the FY 24 budget appropriations to account for excess dewatering and unsuitable soils to date and remaining anticipated construction projections.

Staff is available to answer any questions.

Attachments: CCO3 CCO4

	CONTRACT CHANGE C	DRDER
Owner:	OLIVENHAIN MUNICIPAL WATER DISTRICT	OMWD File No. D-700004
Project:	4S Ranch Neighborhood 1 Sewer Pump Station Replacement Project	
Contractor:	Orion Construction Corporation	
CONTRACT CHANGE ORDER NO.         03         Date         4/24/23		
		I to the still of shares from the Diana and

The Contractor is hereby authorized and directed to make the herein described changes from the Plans and Specifications or do the following work not included in the Plans and Specifications for the construction of this project. Payment to the contractor for these change order items shall provide full compensation for all equipment, materials, labor, field and home office overhead, indirect and consequential costs, mark-ups, and profit necessary to complete the work. By executing this contract change order, the contractor agrees to proceed with this work as a change order per the contract documents and waives any rights to additional compensation arising out of work listed in this change order, including without limitation, any claims relating to any cumulative effect of change orders, delays, productivity impact or interruption.

#### DESCRIPTION OF CHANGE

- 1. The response to RFI #05 modified the lock required for the pump station from a Yale 8 keyway to a Yale 7130 model. The cost of this work is \$6,012.20. See PCO #3 for details. ✓
- 2. During construction, excessive groundwater/infiltration water was encountered, which was not anticipated in the original design. It was determined that the exterior of the new wet well should have waterproofing installed to ensure the long-term durability and help alleviate future intrusion and maintenance issues. The cost of this work is \$38,313.37. Fourteen (14) days are added for this work. See PCO #10 for details.
- 3. 27 Calendar days are added for the following rain days: 1/30, 2/3-2/7, 2/21-3/5, 3/15, 3/16, 3/27-3/31/23.

Original Contract Amount: \$6,123,000.00 Total Previous Change Orders (Through CCO #2): \$141,649.53 Total This Change Order: \$44,325.57 Revised Contract Amount: \$6,308,975.10 Original Contract Duration: 300 Calendar Days Original Contract Completion Date: February 14, 2023 Total Calendar Days Added from Previous Change Orders (Through CCO #2): 286 Calendar Days Total Calendar Days Added This Change Order: 41 Calendar Days Revised Contract Duration: 627 Calendar Days Revised Contract Completion Date: January 7, 2024 TOTAL COST for this CHANGE ORDER is Forty-Four Thousand Three-Hundred Twenty-Five Dollars and Fifty-Seven Cents INCREASE.

It is agreed that <u>41</u> consecutive calendar day(s) extension of time will be allowed by reason of this change. The original completion date was February 14, 2023 and the revised completion date is January 7, 2024 (including weather delays).

Accepted by CONTR y: pate: NOTE: Attention is Payments. THIS C	Construction Manager	in the General Prov	Approved by OV By: Date: isions on Scope o ITIL APPROVED	VNER f Work and Estimates and BY OWNER.	
			Engineer	□ Finance	

	CONTRACT CHANGE C	DRDER
Owner:	OLIVENHAIN MUNICIPAL WATER DISTRICT	OMWD File No. <u>D-700004</u>
Project:	4S Ranch Neighborhood 1 Sewer Pump Station Replacement Project	
Contractor:	Orion Construction Corporation	
CONTRACT	CHANGE ORDER NO04	Date4/24/23
CONTRACT	CHANGE ORDER NO. 04	Date 4/24/23

The Contractor is hereby authorized and directed to make the herein described changes from the Plans and Specifications or do the following work not included in the Plans and Specifications for the construction of this project. Payment to the contractor for these change order items shall provide full compensation for all equipment, materials, labor, field and home office overhead, indirect and consequential costs, mark-ups, and profit necessary to complete the work. By executing this contract change order, the contractor agrees to proceed with this work as a change order per the contract documents and waives any rights to additional compensation arising out of work listed in this change order, including without limitation, any claims relating to any cumulative effect of change orders, delays, productivity impact or interruption.

#### DESCRIPTION OF CHANGE

- For construction of the wet well, although, the native earth soil stockpiled on site has been tested and complies with the contractual requirements of Specification Section 2223-2.1.A for native earth backfill, the heavily saturated conditions do not allow for its immediate feasible use. As there is insufficient space available on the site to spread the stockpiled material for drying, additional work is required to mitigate the infiltration of water and export the unsuitable material off site and import suitable material. The cost of this work is \$91,170.36. Fifty-Eight (58) calendar days are added for this work. See PCO #9 for details.
- 2. The existing 8-inch sewer shown on sheet 4, profile B, was found to have a slope different than what was shown on plan alignment and profile. Additional work is required to connect and provide proper flow to the new manhole at St. 1+22. The additional work includes removal and reinstallation of a portion of the existing 8-inch sewer main at a different slope to meet the project requirement and ensure proper functionality between new and existing systems. A new manhole was also required as part of this work. The total cost of this work is \$87,848.72. Zero (0) days are added for this work. See PCO #11 for details.

Original Contract Amount: \$6,123,000.00 Total Previous Change Orders (Through CCO #3): \$185,975.10 Total This Change Order: \$179,019.08 Revised Contract Amount: \$6,487,994.18 Original Contract Duration: 300 Calendar Days Original Contract Completion Date: February 14, 2023 Total Calendar Days Added from Previous Change Orders (Through CCO #3): 327 Calendar Days Total Calendar Days Added This Change Order: 58 Calendar Days Revised Contract Duration: 685 Calendar Days Revised Contract Completion Date: March 5, 2024 TOTAL COST for this CHANGE ORDER is <u>One-Hundred Seventy-Nine Thousand Nineteen Dollars and Eight</u> <u>Cents</u> INCREASE.

It is agreed that <u>58</u> consecutive calendar day(s) extension of time will be allowed by reason of this change. The original completion date was February 14, 2023 and the revised completion date is March 5, 2024 (including weather delays).

Prepared by Construction Manager Paul Mochel	
Paul Mochel, Valley Construction Management	
Accepted by CONTRACTOR	Approved by OWNER
By Will M. M. Willing V. P.	By:
04/24/22	Date
NOTE: Attention is called to the sections in the General Prov Payments. THIS CHANGE ORDER IS NOT EFFECTIVE UN	isions on Scope of Work and Estimates and ITIL APPROVED BY OWNER.
Distribution:	Engineer     Finance

Agenda Item 13



# Memo

Date: May 17, 2023

To: Olivenhain Municipal Water District Board of Directors

From: Rainy Selamat, Finance Manager

Via: Kimberly Thorner, General Manager

Subject: CONSIDER ADOPTION OF A RESOLUTION ELECTING TO HAVE SEWER SERVICE FEES WITHIN THE 4S RANCH SANITATION DISTRICT COLLECTED ON THE COUNTY TAX ROLLS FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024 AND TO CERTIFY SAID FEES WITH THE SAN DIEGO COUNTY ASSESSOR

#### Purpose

The purpose of this item is to consider adoption of a resolution to collect sewer service fees for the 4S Ranch Sanitation District on the San Diego County Tax rolls for administrative streamlining and as a cost containment effort and to certify said fees with the San Diego County Assessor.

In accordance with California Health and Safety Code, Section 5470-5474.10, a written report containing a description of each parcel of real property receiving sewer service and the proposed amount of sewer service fee for FY 2023/24 has been filed with the General Manager.

## Recommendation

Staff recommends the Board consider and adopt the Resolution as presented.

#### Alternative

The Board could choose to have District staff combine water and sewer services into one (1) monthly bill and bill customers monthly for services provided. The District would need to add one additional employee in order to accomplish this task.

## Background

The District has historically billed and collected sewer service fees via the San Diego County Assessor's Office on the Property Tax Roll due to administrative convenience and low cost. The District's wastewater (sewer) bills are collected on each property owner's property tax bill on an annual basis and payment is due and payable at the same time when a property owner's tax bill is due to the San Diego County Tax Assessor Office in April and December of each year.

This methodology allows the District to collect sewer service fees without additional billing staff and secures the fees through a Tax Assessor's lien on the property if the fees are not paid.

Staff recommends that this method for collection of sewer service fees be continued.

## **Fiscal Impact**

Staff anticipates that 4S Ranch Sanitation District sewer service fee revenues to be collected from the San Diego County Property Tax Roll for fiscal year 2023/24 will be approximately \$4,642,519.

#### Discussion

At the May 19, 2021 meeting, the Board approved and adopted Olivenhain Municipal Water District Wastewater (Sewer) Service fees for fiscal years 2022, 2023, 2024, 2025, and 2026 to be effective on July 1<sup>st</sup> of each year. The approved and adopted sewer rates and charges for fiscal year 2023/24 were used to calculate the annual sewer service fee for each property receiving sewer service in the 4S Ranch Sanitation District. Staff is not proposing any changes to the July 1, 2023 sewer rates and charges included in Section 28.5 of the District's Administrative and Ethics code, which is a 3.14% increase from the July 1, 2022 sewer rates and charges.

The attached resolution must be adopted by the Board and filed with the San Diego County Tax Assessor's Office to continue collecting the District's annual sewer service charge for fiscal year 2023/24 on customer's property tax bills.

Resolution 2021-10 was adopted by the Board in May 2021 to increase wastewater rates for the next five years (2022-2026) and to comply with CEQA and was filed with the county clerk of San Diego.

Attachment: Resolution

#### RESOLUTION NO. 2023-xx

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT ELECTING TO HAVE SEWER SERVICE FEES WITHIN THE 4S RANCH SANITATION DISTRICT COLLECTED ON THE COUNTY TAX ROLLS FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024

WHEREAS, the Olivenhain Municipal Water District (District) operates a sewer district known as the 4S Ranch Sanitation District which provides sewer service to the 4S Ranch area of the District; and

WHEREAS, the District completed 2021 Wastewater Rate Study to calculate sewer service fees to pay for costs of operating and maintaining the 4S Wastewater Collection and Treatment Facilities; and

WHEREAS, the District's Wastewater Rate Study also analyzed costs to construct capital infrastructure improvements needed to replace and refurbish the aging wastewater collection and treatment facilities, to maintain the operational and financial stability of the District's wastewater operations, and to comply with state and federal regulatory wastewater and disposal requirements; and

WHEREAS, the District's sewer service charges do not exceed the reasonable cost of providing sewer services; and

WHEREAS, the Board of Directors of the Olivenhain Municipal Water District has elected to have sewer service fees for fiscal year July 1, 2023 to June 30, 2024 within the 4S Ranch Sanitation District collected on the San Diego County tax rolls in accordance with California Health and Safety Code Section 5470-5474.0; and

WHEREAS, in accordance with California Health and Safety Code, Section 5470-5474.10, a written report was prepared and filed with the General Manager of the District which contains a description of each parcel of real property receiving sewer service and the proposed amount of sewer service fee for each parcel for FY 2024; and

NOW THEREFORE, the Board of Directors of the Olivenhain Municipal Water District does hereby find, determine, resolve, and order as follows:

<u>SECTION 1.</u> The Board of Directors of the District hereby finds and determines that the sewer service fees have been adopted and levied in full compliance with all of the requirements contained in Section 6 of Article XIIID of the California Constitution. The Board of Directors of the District further finds and

determines that these sewer service fees fully comply with all the requirements contained in Article XIIID of the California Constitution.

<u>SECTION 2.</u> The Board of Directors of the District hereby finds and determines that imposition of a sewer service fee for each parcel of land within the 4S Ranch Sanitation District for the fiscal year commencing July 1, 2023 and ending June 30, 2024 is to pay for ongoing operating and maintenance costs of the 4S Wastewater Collection and Treatment Facilities.

<u>SECTION 3.</u> The Board of Directors of the District hereby finds that imposition of a sewer service fee for the 4S Ranch Sanitation District for the fiscal year commencing July 1, 2023 and ending June 30, 2024 does not exceed the reasonable cost of providing sewer service.

<u>SECTION 4.</u> The Board of Directors hereby determines that the sewer service fee for each property receiving sewer service in the 4S Ranch Sanitation District for the fiscal year commencing July 1, 2023 and ending June 30, 2024 is correctly described in the written report.

<u>SECTION 5</u>. Pursuant to Water Code Sections 72094 and 72100, the Board of Supervisors and the San Diego County Tax Collector are hereby requested to collect on the tax rolls the sewer service fees for each property receiving sewer service listed in the written report.

<u>SECTION 6.</u> Pursuant to Section 72094 of the California Water Code, the Secretary is hereby authorized and directed to send a certified copy of this Resolution to the Clerk of the Board of Supervisors and the County Auditor on or before September 1, 2023.

PASSED, ADOPTED AND APPROVED at a regular meeting of the Board of Directors of the Olivenhain Municipal Water District held on May 17, 2023.

Christy Guerin, President Board of Directors Olivenhain Municipal Water District

ATTEST:

Lawrence A. Watt, Secretary Board of Directors Olivenhain Municipal Water District

Agenda Item 14



# Memo

Date:	May 17, 2023
То:	Olivenhain Municipal Water District Board of Directors
From:	Rainy Selamat, Finance Manager
Via:	Kimberly Thorner, General Manager
Subject:	CONSIDER ADOPTION OF A RESOLUTION ELECTING TO HAVE SEWER SERVICE FEES WITHIN THE RANCHO CIELO SANITATION DISTRICT COLLECTED ON THE COUNTY TAX ROLLS FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024 AND TO CERTIFY SAID FEES WITH THE SAN DIEGO COUNTY ASSESSOR

#### Purpose

The purpose of this item is to consider adoption of a resolution to collect sewer service fees for the Rancho Cielo Sanitation District on the San Diego County Tax rolls for administrative streamlining and as a cost containment effort and to certify said fees with the San Diego County Assessor.

In accordance with California Health and Safety Code, Section 5470-5474.10, a written report containing a description of each parcel of real property receiving sewer service and the proposed amount of sewer service fee for FY 2023/24 has been filed with the General Manager.

## Recommendation

Staff recommends the Board consider and adopt the Resolution as presented.

#### Alternative

The Board could choose to have District staff combine water and sewer services into one (1) monthly bill and bill customers monthly for services provided. The District would need to add one additional employee in order to accomplish this task.

#### Background

The District has historically billed and collected sewer service fees via the San Diego County Assessor's Office on the Property Tax Roll due to administrative convenience and low cost. The District's wastewater (sewer) bills are collected on each property owner's property tax bill on an annual basis and payment is due and payable at the same time when a property owner's tax bill is due to the San Diego County Tax Assessor Office in April and December of each year.

This methodology allows the District to collect sewer service fees without additional billing staff and secures the fees through a Tax Assessor's lien on the property if the fees are not paid.

Staff recommends that this method for collection of sewer service fees be continued.

## **Fiscal Impact**

Staff anticipates that Rancho Cielo Sanitation District sewer service fee revenues to be collected from the San Diego County Property Tax Roll for FY 2023/24 will be approximately \$289,426.

#### Discussion

At the May 19, 2021 meeting, the Board approved and adopted Olivenhain Municipal Water District Wastewater (Sewer) Service fees for fiscal years 2022, 2023, 2024, 2025, and 2026 to be effective on July 1st of each year. The approved and adopted sewer rates and charges for fiscal year 2024 were used to calculate the annual sewer service fee for each property receiving sewer service in the Rancho Cielo Sanitation District. Staff is not proposing any changes to the July 1, 2023 sewer service fees included in

Section 28.5 of the District's Administrative and Ethics code, which is a 3.14% increase from the July 1, 2022 sewer service fees.

The attached resolution must be filed with the San Diego County Tax Assessor's Office to continue collecting the District's annual sewer service charge for fiscal year 2023/24 on customer's property tax bills.

Resolution 2021-10 was adopted by the Board in May 2021 to increase wastewater rates for the next five years (2022-2026) and to comply with CEQA and was filed with the county clerk of San Diego.

Attachment: Resolution

#### RESOLUTION NO. 2023-xx

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT ELECTING TO HAVE SEWER SERVICE FEES WITHIN THE RANCHO CIELO SANITATION DISTRICT COLLECTED ON THE COUNTY TAX ROLLS FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024

WHEREAS, the Olivenhain Municipal Water District (District) operates a sewer district known as the Rancho Cielo Sanitation District which provides sewer service to the Rancho Cielo area of the District; and

WHEREAS, the District completed 2021 Wastewater Rate Study to calculate sewer service fees to pay for costs of operating and maintaining the 4S Wastewater Collection and Treatment Facilities; and

WHEREAS, the District's Wastewater Rate Study also analyzed costs to construct capital infrastructure improvements needed to replace and refurbish the aging wastewater collection and treatment facilities, to maintain the operational and financial stability of the District's wastewater operations, and to comply with state and federal regulatory wastewater and disposal requirements; and

WHEREAS, the District's sewer service charges do not exceed the reasonable cost of providing sewer services; and

WHEREAS, the Board of Directors of the Olivenhain Municipal Water District has elected to have sewer service fees for fiscal year July 1, 2023 to June 30, 2024 within the Rancho Cielo Sanitation District collected on the San Diego County tax rolls in accordance with California Health and Safety Code Section 5470-5474.0; and

WHEREAS, in accordance with California Health and Safety Code, Section 5470-5474.10, a written report was prepared and filed with the General Manager of the District which contains a description of each parcel of real property receiving sewer service and the proposed amount of sewer service fee for each parcel for FY 2024; and

NOW THEREFORE, the Board of Directors of the Olivenhain Municipal Water District does hereby find, determine, resolve, and order as follows:

<u>SECTION 1.</u> The Board of Directors of the District hereby finds and determines that the sewer service fees have been adopted and levied in full compliance with all of the requirements contained in Section 6 of Article XIIID of the California Constitution. The Board of Directors of the District further finds and

determines that these sewer service fees fully comply with all the requirements contained in Article XIIID of the California Constitution.

<u>SECTION 2.</u> The Board of Directors of the District hereby finds and determines that imposition of a sewer service fee for each parcel of land within the Rancho Cielo Sanitation District for the fiscal year commencing July 1, 2023 and ending June 30, 2024 is to pay for ongoing operating and maintenance costs of the 4S Wastewater Collection and Treatment Facilities.

<u>SECTION 3.</u> The Board of Directors of the District hereby finds that imposition of a sewer service fee for the Rancho Cielo Sanitation District for the fiscal year commencing July 1, 2023 and ending June 30, 2024 does not exceed the reasonable cost of providing sewer service.

<u>SECTION 4.</u> The Board of Directors hereby determines that the sewer service fee for each property receiving sewer service in the Rancho Cielo Sanitation District for the fiscal year commencing July 1, 2023 and ending June 30, 2024 is correctly described in the written report.

<u>SECTION 5</u>. Pursuant to Water Code Sections 72094 and 72100, the Board of Supervisors and the San Diego County Tax Collector are hereby requested to collect on the tax rolls the sewer service fees for each property receiving sewer service listed in the written report.

<u>SECTION 6.</u> Pursuant to Section 72094 of the California Water Code, the Secretary is hereby authorized and directed to send a certified copy of this Resolution to the Clerk of the Board of Supervisors and the County Auditor on or before September 1, 2023.

PASSED, ADOPTED AND APPROVED at a regular meeting of the Board of Directors of the Olivenhain Municipal Water District held on May 17, 2023.

Christy Guerin, President Board of Directors Olivenhain Municipal Water District

ATTEST:

Lawrence A. Watt, Secretary Board of Directors Olivenhain Municipal Water District

Agenda Item 15



# Memo

Date: May 17, 2023

To: Olivenhain Municipal Water District Board of Directors

From: Rainy Selamat, Finance Manager

Via: Kimberly Thorner, General Manager

Subject: CONSIDER ADOPTION OF A RESOLUTION ELECTING TO HAVE SEWER SERVICE FEES FOR THE SANTA LUZ AFFORDABLE HOUSING AREA AND BLACK MOUNTAIN RANCH EAST CLUSTERS PROJECT WITHIN THE 4S RANCH SANITATION DISTRICT COLLECTED ON THE COUNTY TAX ROLLS FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024 AND TO CERTIFY SAID FEES WITH THE SAN DIEGO COUNTY ASSESSOR

#### Purpose

The purpose of this item is to consider adoption of a resolution to collect sewer service fees for the Santa Luz Affordable Housing Area and Black Mountain Ranch East Clusters Project within the 4S Ranch Sanitation District on the San Diego County Tax rolls for administrative streamlining and as a cost containment effort and to certify said fees with the San Diego County Assessor.

In accordance with California Health and Safety Code, Section 5470-5474.10, a written report containing a description of each parcel of real property receiving sewer service and the proposed amount of sewer service fee for FY 2023/24 has been filed with the General Manager.

#### Recommendation

Staff recommends the Board consider and adopt the Resolution as presented.

#### Alternative

The Board could choose to have District staff combine water and sewer services into one (1) monthly bill and bill customers monthly for services provided. The District would need to add one additional employee in order to accomplish this task.

#### Background

The District has historically billed and collected sewer service fees via the San Diego County Assessor's Office on the Property Tax Roll due to administrative convenience and low cost. The District's wastewater (sewer) bills are collected on each property owner's property tax bill on an annual basis and payment is due and payable at the same time when a property owner's tax bill is due to the San Diego County Tax Assessor Office in April and December of each year.

This methodology allows the District to collect sewer service fees without additional billing staff and secures the fees through a Tax Assessor's lien on the property if the fees are not paid.

Staff recommends that this method for collection of sewer service fees be continued.

## **Fiscal Impact**

Staff anticipates that sewer service revenues to be collected from Santa Luz Affordable Housing Area and Black Mountain Ranch (BMR) East Clusters Project for fiscal year 2023/24 will be approximately \$332,640.

#### Discussion

At the May 19, 2021 meeting, the Board approved and adopted Olivenhain Municipal Water District Wastewater (Sewer) Service fees for fiscal years 2022, 2023, 2024, 2025, and 2026 to be effective on July 1st of each year. The approved and adopted sewer rates and charges for fiscal year 2023/24 were used to calculate annual sewer service fee for each property receiving sewer service in the Santa Luz Affordable Housing Area and BMR East Cluster within the 4S Ranch Sanitation District. Staff is not proposing any changes to the July 1, 2023 sewer service fees included in Section 28.5 of the District's Administrative and Ethics code, which is a 3.14% increase from the July 1, 2022 sewer service fees.

The attached resolution must be filed with the San Diego County Tax Assessor's Office to continue collecting the District's annual sewer service charge for fiscal year 2023/24 on customer's property tax bills.

Resolution 2021-10 was adopted by the Board in May 2021 to increase wastewater rates for the next five years (2022-2026) and to comply with CEQA and was filed with the county clerk of San Diego.

Attachment: Resolution

#### RESOLUTION NO. 2023-xx

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT ELECTING TO HAVE SEWER SERVICE FEES FOR THE SANTALUZ AFFORDABLE HOUSING AREA AND BLACK MOUNTAIN RANCH EAST CLUSTERS PROJECT WITHIN THE 4S RANCH SANITATION DISTRICT COLLECTED ON THE COUNTY TAX ROLLS FOR THE FISCAL YEAR JULY 1, 2023 TO JUNE 30, 2024

WHEREAS, the Olivenhain Municipal Water District (District) operates a sewer district known as the 4S Ranch Sanitation District which provides sewer service to the Santaluz Affordable Housing Area and Black Mountain Ranch East Clusters Project; and

WHEREAS, the District completed 2021 Wastewater Rate Study to calculate sewer service fees to pay for costs of operating and maintaining the 4S Wastewater Collection and Treatment Facilities to provide wastewater collection and treatment services to the Santaluz Affordable Housing Area and Black Mountain Ranch East Clusters; and

WHEREAS, the District's Wastewater Rate Study also analyzed costs to construct capital infrastructure improvements needed to replace and refurbish the aging wastewater collection and treatment facilities, to maintain the operational and financial stability of the District's wastewater operations, and to comply with state and federal regulatory wastewater and disposal requirements; and

WHEREAS, the District's sewer service charges do not exceed the reasonable cost of providing sewer services; and

WHEREAS, the Board of Directors of the Olivenhain Municipal Water District has elected to have sewer service fees for fiscal year July 1, 2023 to June 30, 2024 within the Santaluz Affordable Housing Area and Black Mountain Ranch East Clusters Project collected on the San Diego County tax rolls in accordance with California Health and Safety Code Section 5470-5474.0; and

WHEREAS, in accordance with California Health and Safety Code, Section 5470-5474.10, a written report was prepared and filed with the General Manager of the District which contains a description of each parcel of real property receiving sewer service and the proposed amount of sewer service fee for each parcel for FY 2024; and

NOW THEREFORE, the Board of Directors of the Olivenhain Municipal Water District does hereby find, determine, resolve, and order as follows:

<u>SECTION 1.</u> The Board of Directors of the District hereby finds and determines that the sewer service fees have been adopted and levied in full compliance with all of the requirements contained in Section 6 of Article XIIID of the California Constitution. The Board of Directors of the District further finds and determines that these sewer service fees fully comply with all the requirements contained in Article XIIID of the California Constitution.

<u>SECTION 2.</u> The Board of Directors of the District hereby finds and determines that imposition of a sewer service fee for each parcel of land within the Santaluz Affordable Housing Area and Black Mountain Ranch East Clusters Project for the fiscal year commencing July 1, 2023 and ending June 30, 2024 is to pay for ongoing operating and maintenance costs of the 4S Wastewater Collection and Treatment Facilities operated and maintained by the District.

<u>SECTION 3.</u> The Board of Directors of the District hereby finds that imposition of a sewer service fee for the Santaluz Affordable Housing Area and Black Mountain Ranch East Clusters Project for the fiscal year commencing July 1, 2023 and ending June 30, 2024 does not exceed the reasonable cost of providing sewer service.

<u>SECTION 4.</u> The Board of Directors hereby determines that the sewer service fee for each property receiving sewer service in the Santaluz Affordable Housing Area and Black Mountain Ranch East Clusters Project for the fiscal year commencing July 1, 2023 and ending June 30, 2024 is correctly described in the written report.

<u>SECTION 5</u>. Pursuant to Water Code Sections 72094 and 72100, the Board of Supervisors and the San Diego County Tax Collector are hereby requested to collect on the tax rolls the sewer service fees for each property receiving sewer service listed in the written report.

<u>SECTION 6.</u> Pursuant to Section 72094 of the California Water Code, the Secretary is hereby authorized and directed to send a certified copy of this Resolution to the Clerk of the Board of Supervisors and the County Auditor on or before September 1, 2023.

PASSED, ADOPTED AND APPROVED at a regular meeting of the Board of Directors of the Olivenhain Municipal Water District held on May 17, 2023.

Christy Guerin, President Board of Directors Olivenhain Municipal Water District

ATTEST:

Lawrence A. Watt, Secretary Board of Directors Olivenhain Municipal Water District

Agenda Item 16



# Memo

Date:May 17, 2023To:Olivenhain Municipal Water District Board of DirectorsFrom:Rainy K. Selamat, Finance ManagerVia:Kimberly Thorner, General ManagerSubject:REVIEW AND DISCUSS PROPOSED CHANGES TO THE GENERAL MANAGER'S<br/>RECOMMENDED BIENNIAL OPERATING AND CAPITAL BUDGET FISCAL YEARS<br/>2023 AND 2024 AT MIDTERM (DRAFT)

## Purpose

The purpose of this agenda is to review the proposed changes to the General Manager's Recommended Biennial Operating and Capital Budget (Budget) for Fiscal Years 2023 and 2024 with the Board as part of the midterm biennial budget review process.

These budget adjustments were reviewed with the Finance Committee (Director Meyers and Director Watt) at its May 8<sup>th</sup> meeting.

## Recommendation

The Finance Committee recommended amendments to Fiscal Year 2024 approved operating and capital budget be brought forward for discussion with the Board.

## Alternatives

- The Board may decide not to approve these amendments and direct Staff as otherwise deemed appropriate, or
- Instruct Staff to leave the District's Biennial Operating and Capital Budget for Fiscal Years 2023 and 2024 "as is", as adopted by the Board in June 2022.

## Background

The Board adopted the General Manager's Recommended Biennial Operating and Capital Budget (Budget) for fiscal years 2023 and 2024 in June 2022. The approved fiscal year 2023 budget amounts were appropriated and have been used to pay for OMWD water and sewer operating expenses and planned capital improvement projects since July 1, 2022.

As part of the midterm biennial budget review process, several meetings were conducted to review the budgeted amounts and compare them to the current fiscal year's estimates. As part of the review process staff revised certain budget assumptions used in estimating fiscal year 2024 revenues and expenses and met with departmental managers to review the departmental operating and capital spending needs for the District for the next fiscal year. After the review, proposed adjustments to the second fiscal year of were presented to the Finance Committee for review and consideration prior to consideration and discussion with the full Board.

The proposed changes to the Budget (attached) were discussed with the Finance Committee members (Director Meyers and Director Watt) at its quarterly meeting on May 8, 2023. Comments received on the proposed fiscal year 2024 budget were reflected in the attached budget presentation for review.

## **Fiscal Impact**

Proposed changes to the consolidated (water and sewer) at midterm for fiscal year 2024 is an estimated increase of \$1,379,000 to the District's Net Revenue Operating Income, or an estimated increase of \$4,287,000 to the District's Net Revenue, including Non-operating revenues and expenditures.

As of the writing of this memo, San Diego County Water Authority (SDCWA) Purchased Water -Variable and SDCWA Purchased Water-Fixed charges for calendar year 2024 have not been finalized by SDCWA staff. Purchased water costs from SDCWA for fiscal year 2024 will be updated when finalized and approved by SDCWA Board of Directors at its May 25<sup>th</sup> meeting.

The proposed amendments to fiscal year 2024 appropriations for planned capital spending on District CIP is \$4.899 million.

#### Discussion

Proposed amendments to the District's Budget at midterm are attached for review. Staff will make a presentation at the meeting and be available for discussion.

Attachment: Midterm Review of Fiscal Years 2023 & 2024 Operating and Capital Budget
## Fiscal Years 2023 & 2024 Midterm Review

Board Meeting May 17, 2023



**Municipal Water District** 

## Background

- OMWD's Biennial Operating and Capital Budget was adopted by the Board in June 2022 for fiscal years 2023 and 2024.
- Staff informed the Board at the May 2022 Budget workshop meeting with the Board that FY 2024 budget will be reviewed and adjusted at Midterm (June 2023).
  - Revised budget assumptions for FY 2024
  - Updated FY 2024 budget accordingly as illustrated throughout presentation

## Midterm Budget Process

Compared FY 2023 budget adopted by the Board to projected actuals for FY 2023

Revised budget assumptions

Received input from each department manager on their departmental needs for the amended Fiscal Year 2024 budget

Proposed midterm budget adjustments for consideration and approval Reviewed proposed changes to departmental operating budgets with each manager and capital expenditures with each project manager for proposed changes for FY 2024

### Fiscal Years 2023 and 2024 Approved Budget and Proposed Changes to FY 2024 Approved Budget

	Budget Year FYE 2023 Approved	Budget Year FYE 2023 Estimated	FYE 2023 Approved vs Estimated	Budget Year FYE 2024 Approved	Budget Year FYE 2024 Revised	FYE 2024 Approved vs Revised (Broft)
Description						
Operating Revenue						
Water Sales:						
Water Sales - Domestic/Irrigation	38,201,000	35,049,000	-8.3%	40,152,000	40,122,000	-0.1%
Water Sales - Agriculture	928,000	370,000	-60.1%	928,000	568,000	-38.8%
Water Sales - Miscellaneous	10,000	1,000	-90.0%	10,000	10,000	0.0%
Water Sales - Recycled	4,234,000	4,059,000	-4.1%	4,450,000	5,015,000	12.7%
Total Water Sales	43,373,000	39,479,000	-9.0%	45,540,000	45,715,000	0.4%
Other Water Services						
System Access Charge	14,801,000	14,466,000	-2.3%	15,567,000	15,348,000	-1.4%
CWA Infrastructure Access Charge	1,476,000	1,493,000	1.2%	1,467,000	1,511,000	3.0%
Selling of Water Treatment Services	654,000	340,000	-48.0%	1,194,000	1,258,000	5.4%
Meter Installations (Net)	15,000	15,000	0.0%	15,000	15,000	0.0%
Hydro-electric Plant Revenues	100,000	100,000	0.0%	100,000	100,000	0.0%
Turn Off/On Fees and NSF Charges	15,000	20,000	33.3%	15,000	20,000	33.3%
Delinquency Charges	80,000	120,000	50.0%	80,000	120,000	50.0%
Transfer Fees	30,000	23,000	-23.3%	30,000	30,000	0.0%
Cross Connection/Inspection	140,000	192,000	37.1%	140,000	195,000	39.3%
Outside District Boundary Charges	10,000	9,000	-10.0%	10,000	10,000	0.0%
Miscellaneous	55,000	45,000	-18.2%	5,000	10,000	100.0%
Total Other Water Services	17,376,000	16,823,000	-3.2%	18,623,000	18,617,000	0.0%
Sewer Service Fees	5,598,000	5,630,000	0.6%	5,766,000	5,390,000	-6.5%
Total Operating Revenue	66,347,000	61,932,000	-6.7%	69,929,000	69,722,000	-0.3%

\*FYE 2024 Revised (Draft) water sales assumes a 6.8 revenue adjustment (subject to Board approval) based on maximum passthrough of 9% on purchased water wholesale costs and 7% inflation pass-through on SD-CPI

# Fiscal Years 2023 and 2024 Approved Budget and Proposed Changes to FY 2024 Approved Budget (Cont.)

	Budget Year FYE 2023 Approved	Budget Year FYE 2023 Estimated	FYE 2023 Approved vs Estimated	Budget Year FYE 2024 Approved	Budget Year FYE 2024 Revised (Draft)	FYE 2024 Approved vs Revised (Draft)
Description					1-1111	(
Operating Expense						
Purchased Water - ∀ariable*	23,798,000	21,913,000	-7.9%	25,414,000	24,500,000	-3.6%
Purchased Water - Fixed*	8,443,000	8,498,000	0.7%	8,780,000	8,838,000	0.7%
General Manager	2,044,000	1,961,000	-4.1%	2,158,000	2,102,000	-2.6%
Engineering	2,410,000	2,067,000	-14.2%	2,545,000	2,497,000	-1.9%
Finance	1,633,000	1,560,000	-4.5%	1,728,000	1,713,000	-0.9%
Customer Services and Public Affairs	3,003,000	2,672,000	-11.0%	3,109,000	3,104,000	-0.2%
Human Resources	783,000	800,000	2.2%	848,000	860,000	1.4%
Water - Operations and Maintenance	11,805,000	11,088,000	-6.1%	12,499,000	12,339,000	-1.3%
Park	478,000	448,000	-6.3%	478,000	451,000	-5.6%
Wastewater - Operations and Maintenance	2,974,000	3,014,000	1.3%	3,209,000	3,269,000	1.9%
Recycled Water Operations	1,287,000	1,166,000	-9.4%	1,345,000	1,293,000	-3.9%
Other Operating Expenses - WFO	50,000	-	-100.0%	50,000	50,000	0.0%
Less: Capitalized Expenditures	(1,843,000)	(1,122,000)	-39.1%	(1,763,000)	(1,619,000)	-8.2%
Transfers to PAYGO and RSF Funds	10,190,000	10,190,000	0.0%	9,400,000	8,700,000	-7.4%
Less: Transfers from RSF Fund for RRC	(600,000)	(453,000)	-24.5%	(600,000)	(483,000)	-19.5%
Total Operating Expense	66,455,000	63,802,000	-4.0%	69,200,000	67,614,000	-2.3%
Net Operating Income ( Loss )	(108,000)	(1,870,000)	1631.5%	729,000	2,108,000	189.2%

\*FYE 2024 Revised (Draft) amounts are subject to change (pending final numbers from SDCWA 5/25). Budget amounts assume a 9% increase on Variable and 4% increase on Fixed for calendar year 2024.

# Fiscal Years 2023 and 2024 Approved Budget and Proposed Changes to FY 2024 Approved Budget (Cont.)

Description	Budget Year FYE 2023 Approved	Budget Year FYE 2023 Estimated	FYE 2023 Approved vs Estimated	Budget Year FYE 2024 Approved	Budget Year FYE 2024 Revised (Draft)	FYE 2024 Approved vs Revised (Draft)
beschption	-			1		
Non-Operating Revenue						
Operating Fund - Water**	6,033,000	5,788,000	-4.1%	5,175,000	6,339,000	22.5%
Debt Service Funds	1,044,000	1,152,000	10.3%	1,045,000	1,045,000	0.0%
Wastewater Fund	32,000	93,000	190.6%	66,000	80,000	21.2%
Recycled Water System	52,000	119,000	128.8%	99,000	231,000	133.3%
Capacity Fees***	356,000	1,888,000	430.3%	582,000	748,000	28.5%
Grant Revenue	1,897,000	1,104,000	-41.8%	514,000	2,429,000	372.6%
Total Non-Operating Revenue	9,414,000	10,144,000	7.8%	7,481,000	10,872,000	45.3%
Non-Operating Expenditures						
Capacity Fees Funds	30,000	45,000	50.0%	30,000	30,000	0.0%
Debt Service Funds	6,424,000	6,443,000	0.3%	6,420,000	6,420,000	0.0%
Potable Water Funds	10,000	453,000	4430.0%	10,000	493,000	4830.0%
Total Non-Operating Expense	6,464,000	6,941,000	7.4%	6,460,000	6,943,000	7.5%
Net Revenue (Expense)	2,842,000	1,333,000	-53.1%	1,750,000	6,037,000	245.0%

\*\*Includes \$1MM in anticipated proceeds from sale of District's Wiegand parcel originally budgeted in FY 2023

\*\*\*Includes investment income on capital reserve funds

## Midterm Budget Update

### FY 2023 Completed Capital Improvement Projects (CIP)

Fund	Project Name	Total Budget	Appropriation thru FYE '23	Total Expenses	Remaining Appropriation	(Over) / Under Approved Total Budget	
Potable	DCMWTP Analyzer Replace.	305,000	305,000	296,558	-	8,442	
Potable	Network User Enhancements	200,000	200,000	169,560	-	30,440	
Potable	DCMWTP Backpulse Pipeln Repair	34,000	34,000	33,925	-	75	
Potable	DCMWTP PH Control System	737,000	737,000	689,432	-	47,568	
Potable	Landscape HQ Courtyards	54,000	54,000	51,993	-	2,007	
Potable	Lone Jack PRS	385,000	385,000	398,144	-	(13,144) (2	2)
Potable	Vault Upgrades	20,400	20,400	20,395	-	5	
Recycled	Manchester Recyc PL Exten.	5,225,000	5,225,000	4,722,262	150,000	<sup>1)</sup> 352,738	
Watewater	4SWRF Emergency Wiring Replmnt	240,000	240,000	134,931	-	105,069	

<sup>(1)</sup> \$150,000 retained to cover conversion costs of connecting customers to pipeline and warranty period

<sup>(2)</sup> Overage is due to more staff labor on the project than anticipated to complete the project in a timely manner.

#### Other Completed Routine CIPs:

Fund	Project Name	Total Budget	Appropriation thru FYE '23	Total Expenses	Remaining Appropriation	(Over) / Under Approved Total Budget
Potable	Replace Valves	8,856,000	1,085,000	799,767	-	285,233
Potable	Replace DCMWTP Membranes	8,970,000	800,000	796,137	-	3,863
Potable	Replace Potable Meters	4,921,000	315,000	314,453	-	547
Potable	Steel Mains Protection	3,375,000	281,000	228,149	-	52,851
Potable	Network Security	1,175,000	165,000	111,933	-	53,067
Potable	Replace Meter Anodes	1,754,000	146,000	108,671	-	37,329
Potable	Replace Pot. Pumps and Motors	1,022,000	94,000	92,239	-	1,761
Potable	Replace PRS Valves	602,600	56,600	38,108	-	18,492
Potable	Rehab Concrete Tanks	904,000	45,000	70,466	-	(25,466) (1)
Potable	Physical Security Upgrades	250,000	25,000	2,372	-	22,628
Recycled	Recycled Conversions	719,000	60,000	66,799	-	(6,799) (2)
Recycled	Meter Replacement, Recycled	241,000	21,000	17,648	_	3,352
Wastewater	Replace WW Pumps/ Motors/Equip	2,024,000	169,000	80,546	-	88,454
Wastewater	4S System Manhole Lining	206,000	17,000	12,920	-	4,080

<sup>(1)</sup> Project overage due to encumbrance from prior fiscal year that was not rolled forward and timing of capital expenditures.

<sup>(2)</sup> Project overage due to more recycled water conversions completed throughout the fiscal year than anticipated.

## Midterm Revised Key Assumptions

## Water and Wastewater Operating Budget for FY 2024

### **Operating Revenues:**

- Potable and recycled water sales
  - FY 2024 Volume: Decrease from 19,400 (AF) to 19,000 (AF) to more align with FY 2023 projected actual sales (wet weather and hardened conservation).
  - Assume 6.8% revenue adjustment for 2024 subject to Board's approval
    - Assume maximum pass-through of 9% on purchased water wholesale costs and 7% inflation pass-through on SD-CPI
  - Selling of excess treated water to Vallecitos
    - Assume historical 2 years average of actual water deliveries (prior to shut down in 2022 for maintenance and repairs)
  - Sewer service revenue: Revenue adjustment of 3% effective 7/1/23 per the sewer rate ordinance adopted by the board in June 2021. Sewer revenue estimate based on FY 2023 actual consumption (or lowest winter months' usage for single family)

### **Operating Expenditures:**

- Pass-through Purchased Water Wholesale Cost Increases:
  - SDCWA and MWD: rates as of 1/1/23 and projected cost increases on 1/1/24. SDCWA water rates and charges for 2024 have not been approved by their board as of today.
  - Vallecitos, City of San Diego, San Elijo JPA, RSF CSD: projected cost increases for FY 2024
- Proposed decrease of \$147k (or -1%) from Adopted FY 2024 budget and includes allowance for increases in power, labor, supply, and other O&M costs from FY 2023 projected actuals
- One less position (FTE) for FY 2024 than was previously approved and budgeted

### **Non-operating Revenues:**

- Property tax: assume based on FY 2023 projected actual receipts
- Investment Income: @ 2% annually
- Capacity Fees: \$115,000 for FY 2024 based on engineering estimate
- Anticipated Grant Funding: \$2.49 million

### Midterm Revised Key Assumptions

## Water and Wastewater Operating Budget for FY 2024 Cont'd

### Labor:

- Includes 6% anticipated increase in salary and wages based on the District's current MOU
  - The maximum for SDCPI: 3.5% (actual 5%), and Merit Pool: 2.5%
- Staffing Analysis:
  - Two new FTEs: One Customer Service Rep and One Wastewater Collections Operator
  - Temporary Freeze on 2 (two) vacant utility positions
  - Net one less position than originally budgeted

#### **Benefits:**

- SDRMA based on estimated payroll for fiscal year 2023/24 and 60% mod factor
- Kaiser: estimated at 5% increase effective 1/1/24
- ACWA- JPIA estimated at 10% increase effective 1/1/24
- PERS:
  - Classic Employer Annual Contribution @13.34% and an additional \$1,184,000 for annual unfunded liability payment
  - PEPRA Employer Annual Contribution @7.68% and no additional annual unfunded liability payment
  - Planned Annual Additional Discretionary Payment (ADP) to CalPERS (subject to Board approval)
    - \$500k transfer from the Operating Fund to the Pension Stabilization Fund
    - \$311k transfer from the Pension Stabilization Fund to CalPERS for the ADP as planned per the Pension Funding Policy

#### **Others:**

- Proceeds from selling of District's assets will be used to offset capital and equipment costs
- Revised General Liability Insurance Premium: based on ACWA JPIA quote

### Fiscal Years 2023 and 2024 Midterm Biennial Budget Update

artmontal Operating Costs, Net of Capitalized Operating Expanses

- For the biennial budget midterm review staff reviewed the departmental operating costs and amended the FY 2024 budget
- The chart below illustrates the Adopted Budget for FY 2023, Estimated Actual for FY 2023, Adopted Budget for FY 2024, the Revised (Draft) FY 2024 Budget (reduced) proposed by staff, and the change from the Adopted Budget for FY 2024.
- The Adopted Budgets for FY 2023 and FY 2024 illustrated below were approved by the board in June 2022.

epartmentar Ope	ating costs, Net	or capitalized O	perating cypense	5		
	Adopted	Estimated	Adopted	Revised (Draft)	\$ Variance	% Variance
	Budget	Actual	Budget	Budget	Adopted Vs.	Adopted Vs.
	FY 2023	FY2023	FY 2024	FY 2024	Amended	Amended
Operating						
Departments	\$ 24,561,500	\$ 23,654,000	\$ 26,156,000	\$ 26,009,300	\$ (146,700)	-1%

# Summary of Proposed Changes to the Adopted Budget at Midterm (FY 2024)

Description	Original Budget	Proposed Adjustments	Revised (Draft) Budget	% Change From Original
Operating Revenues	1200		- 10 March 10	
Water Sales and Service Revenue	59,074,000	(386,000)	58,688,000	-0.65%
Sewer Service Revenue	5,766,000	(376,000)	5,390,000	-6.52%
Recycled Water Sales	5,089,000	555,000	5,644,000	10.91%
Total Operating Revenues	69,929,000	(207,000)	69,722,000	-0.30%
Non-operating Revenues				
Water - Property Tax and Other Income	5,175,000	164,000	5,339,000	3.17%
Debt Service	1,045,000	1000	1,045,000	0.00%
Wastewater - Standby and Other Income	66,000	14,000	80,000	21.21%
Recycled Water Operations	99,000	132,000	231,000	133.33%
Capacity Fee Revenues	582,000	166,000	748,000	28.52%
Anticipated Grant Revenue	514,000	1,915,000	2,429,000	372.57%
Anticipated Sale of Parcel (Weigand)	1 1 1 1 <del>1</del> 1	1,000,000	1,000,000	0.00%
Total Revenues	77,410,000	3,184,000	80,594,000	4.11%
Operating Expenses				
Cost of water (est. as of 5/8/2023)	34,194,000	(856,000)	33.338.000	-2.50%
Water Operations	22,887,000	(272,000)	22,615,000	-1.19%
Wastewater Operations	3,209,000	60,000	3,269,000	1.87%
EFRR (Parks) Operations	478,000	(27,000)	451,000	-5.65%
Recycled Water Operations	1,345,000	(52,000)	1,293,000	-3.87%
Other Operating Expenses - WFO	50,000		50,000	0.00%
Less: Capitalized Expenditures	(1,763,000)	144,000	(1,619,000)	-8.17%
Capital PAYGO Transfers	9,400,000	(700,000)	8,700,000	-7.45%
Less: Transfers from RSF to Operating for RRC	(600,000)	117,000	(483,000)	-19.50%
Total Operating Expenses	69,200,000	(1,586,000)	67,614,000	-2.29%
Non-operating Expenses				
Debt Service (principal and interest payments)*	6,420,000	-	6,420,000	0.00%
Capacity Fee Expenses	30,000	-	30,000	0.00%
Potable Water System (includes RRC)	10,000	483,000	493,000	4830.00%
Total Expenses	75,660,000	(1,103,000)	74,557,000	-1.46%
Net Revenue (Expense)	1,750,000	4,287,000	6,037,000	244.97%

\* Principal and Interest payments for all outstanding debt.

Capital contribution revenues are considered to be a non-operating measurement tool. Therefore, it is excluded for midyear budget purposes.

### **Capital Budget - Highlights**

### • Small Equipment Purchases

- A \$52k proposed increase in Shop and Field and Automotive equipment compared to FY 2024 Budget adopted by the Board in June 2022.
  - See next slide for details

### Water and Wastewater Capital Infrastructure Needs

- A net \$4.9 million proposed increase in the water, sewer, and recycled overall appropriations for fiscal year 2024
  - Proposed appropriation adjustments mainly due to change in project scope, increase in supply costs (higher inflation), and timing of capital expenditures on several active projects
  - 3 new Capital Improvement Projects to start in FY 2024, if approved:
    - Customer Information & Utility Billing System Upgrade
    - Fleet Electrification Strategic Plan
    - Bob Topolovac Memorial Courtyard (Annual Goal)

# Proposed changes to Approved Small Capital Item Purchases for FYE 2024

Asset Class				and the second s			Source of Fi	urce of Funds *		. denisionale .	
	Qty.	Item Description	Bud	get Amount	Potab	ole Water	Wastewa	ater	Recycled Water	COMMENT	
	1	Leak Detection Equipment Replacement for Engineering		20.000		18.000	-	-	2.000	New Reques	
Shop and Field Equipment	1	Influent Sample Collection Unit Replacement for Wastewater		11.000		-	1	1.000	-	New Reques	
Project # D139820 - Potable Water Project # D739820 - Wastewater Project # D839820 - Recycled Water	1	New Fireproof Filing Cabinet for HR (move offsite storage in house)		5,000		5,000		-		New Reques	
	Subtota	I Shop and Field Equipment	\$	36,000	\$	23,000	\$ 1	1,000	\$ 2,000		
Automotive Equipment	1	Ford F-650 Reg Dump Truck Replacement for Ops Construction		105,000		89,000	-	5,000	11,000		
Project # D139830 - Potable Water	1	Ford F-150 V-6 Replacement for Cross Connection Specialist		39,000		33,000		2,000	4,000		
Project # D739830 - Wastewater	1	Ford Explorer V-6 Replacement for Ops Supervisor		40,000		34,000	· · · · · · · · · · · · · · · · · · ·	2,000	4,000		
Project # D839830- Recycled Water	1	New CX36B Mini Excavator for Construction (new purchase to save on rentals)		100,000		90,000		5,000	5,000	New Request	
	1	535 Gallon Water Trailer for CS (replace current due to new license requirement)		9,400		8,000		-	1,400	New Request	
	1	ATV 4x4 Replacement for Parks (replace current '09 with maintenance costs)		12,000		12,000		-		New Request	
	Subtota	I Automotive Equipment	\$	305,400	\$	266,000	\$ 1	4,000	\$ 25,400		
Furniture and Fixtures Project # D139850 - Potable Water Project # D739850 - Wastewater Project # D809850 - Recycled Water	1	Office Workstations		35,000		35,000			-		
Toject # Dousdou - Netytieu Water	Subtota	I Furniture and Fixtures	\$	35,000	\$	35,000	\$	-	\$ -		
	4	Server Benjacemente (Detable)		50.000	-	50 000					
Computer	4	Lanton Replacements (Potable)		10,000		10,000		-			
Hardware/Software	1	Deskton Replacement (Potable)		1,500		1,500					
Project # D139860- Potable Water	1	Server Replacement (Recycled)		12,000	-	-,000	1	2.000			
Project # D739860 - Wastewater	1	Server Replacement (Wastewater)		12,000				-,	12,000		
Project # D839860 - Recycled Water	1	Laptop Replacement (Wastewater)		2,000	1 m			-	2,000		
	Subtota	Computer Hardware/Software	\$	87,500	\$	61,500	\$ 1	2,000	\$ 14,000	1	
				7.13	Potal	ble Water	Wastewa	ater	Recycled Water		
TOTAL			0	100 000		205 500	A 0'	7 000	A 11 100		

Original FY 2024 Total	\$ 411,500 \$	341,500	\$	26,000 \$	44,000	
Increase (Decrease)	\$ 52,400 \$	44,000	\$	11,000 \$	(2,600)	
	 		_			

Postpone to FY 2025 1 New Vehicle for Ops Construction Dump Truck / Ford F-650 Reg Dump Truck 105,000 89,000 5,000 11,000 Original FY 2024 budget included two dump truck replacements. Staff is proposing to delay the purchase of one dump truck until FY 2025 to cover the cost of the Mini Excavator added this year.

Surplus from selling District's vehicles and equipment: \$50-60k through competitive bids process.

## Fiscal Years 2023 and 2024 Planned Capital Spending

		а			b	с	= a+b+c
	FY 2023	FY 2024	Total		FY 2023	FY 2024	FY 2024
	Board Board Approved Approve Appropriation Appropria		Board Approved Appropriation		Unspent Carryover	Proposed Appropriation Adjustment	Amended Appropriation
Potable	13,002,000	11,308,000	24,310,000	1	4,946,000	2,962,000	19,216,000
Recycled	7,186,000	810,000	7,996,000	1	2,074,000	1,182,000	4,066,000
Wastewater	8,146,000	1,118,000	9,264,000	1	5,220,000	755,000	7,093,000
	28,334,000	13,236,000	41,570,000		12,240,000	4,899,000	30,375,000

<sup>1</sup> Total Board Approved Appropriation amounts are included in the more detailed schedules on slides 15 and 16. Amounts above do not reflect \$2.47 million in anticipated grant funding for fiscal year 2024.

## Capital Improvement Project (CIP) Budget Review Summary Fiscal Year 2024 Appropriation Adjustments

Bud (	lget Increase Decrease)		A	ppropriation Increase (Decrease)	Fund	Comments
		Projects with Changes in Cost Estimates				
\$	2.300.000	DCMWTP 4th Stage Improvements	\$	2.300.000	C&E	Expansion of project objective and inflation
	1,500,000	HOA Pipeline Extensions - Calle Barcelona, Village Park & Summer Hill		1 500 000	C&F	Increase in cost: eligible for grant funding
	214,000	District-Wide PLC Replacements (Potable)		600,000	C&E	Accelerate and increase to award together
	379,000	District-Wide PLC Replacements (Wastewater)		600,000	C&E/WW	Accelerate and increase to award together
	-	San Dieguito Desalination		431,000	C&E	Addnl environmental, hydrological and Water Rights investigations to seek grant opportunities
	400,000	Replace Neighborhood 1 SPS		400,000	C&E/WW	Increase due to potential claim
	151,000	Replace DCMWTP Membranes		151,000	C&E	Increase due to inflation
	917,000	EFRR Parking Lot Expansion		145,000	C&E	Selected for grant; pursue work
	87.000	Replace Potable Meters		87,000	C&E	Increase in aged meter failures
	50,000	Hydropower Turbine Refurbishment		50,000	C&E	Increase due to potential claim
	35 000	Replace Potable Pumps and Motors		35 000	C&F	Increase due to aging infrastructure and inflation
	30.000	DCMWTP Condition Assessment		30,000	C&E	Increase in staff support
	20,000	Chlorine Generator Room Lining Rehabilitation		20,000	C&E	Increase in cost to implement improvements
\$	6,083,000	Total, Increase in Estimated Costs	\$	6,349,000		
1		Projects with Decelerated Schedule			1.00	3 * - 3 * 6 M 27
\$	-	Encinitas Boulevard Inspection & Repair	\$	(537,000)	C&E	Deferred until FY 2025
	-	DCMWTP 2nd Stage Membrane Train	\$	(280,000)	C&E	Re-assessing approach; defer until FY 2025
		Replace Overflow Pond Strainer	\$	(206,000)	C&E/WW	Defer until FY 2025 to align with headworks construction
		Rancho Santa Fe Road - Unit A North Pipeline	\$	(200,000)	C&E	Decrease in cost estimate
	(100,000)	Ext. 153 Flow Meter	\$	(100,000)	C&E	Identified more cost effective approach
		Potable & Recycled Master Plan	\$	(75,000)	C&E	Portion of cost already accelerated to FY '23
		Rehabilitation of Concrete Tanks	\$	(47,000)	C&E	Deferred until FY 2025
	-	Replace Headworks Manual System	\$	(39,000)	C&E/WW	Deferred until FY 2025
	-	Rancho La Cima/Aliso Canyon Pipeline	\$	(5,000)	C&E	No progress from County; defer until FY 25
s	(100,000)	Total, (Decrease) due to Decelerated Schedules	\$	(1,489,000)		
		Cancelled Projects				
\$	(250,000)	Backup Generator Santa Fe Valley Recycled Water Pump		(250,000)	C&E	Re-assessed cost-benefit
s	(250,000)	Total. Cancelled Projects	\$	(250,000)		
	()		-	(200,000)		
-	224 22	New Projects			- 222	
\$	305,000	Customer Information & Utility Billing System Upgrade	\$	38,500	C&E	Upgrade CIS Infinity to latest version before v4 is no longer supported
	150,000	Fleet Electrification Strategic Plan		150,000	C&E	Develop District-wide assessment of EV needs and recommend a strategy
	100,000	Bob Topolovac Memorial Courtyard (Annual Goal)		100,000	C&E	Construct memorial courtyard in center courtyard
\$	555,000	Total, New Projects	\$	288,500		
0	6 200 000	Tatal	•	4 000 500	-	
\$	0,288,000	I OTAI	ð	4,898,500		

### Capital Improvement Project (CIP) Budget Review Summary DCMWTP 4<sup>th</sup> Stage Improvements

Description	2017 Esti Capacity	imate ] y Relia	Prepared for ability Study	2023 Estim I	nate f Desig	for the 90% n	Key Differences
Equipment		\$	321,000		\$	971,000	Cost increase and additional equipment for operational flexibility; ~40% increase on centrifuge; added diverter gate, centrate pump and VFD, centrate tank, polymer skid/tank
Demolition		\$	-		\$	46,000	Demolition of additional equipment
Structural		\$			\$	130,000	Added winch, bin mods, guardrail, pads for new equipment
Electrical		\$	32,000		\$	163,000	Added safety improvements to separate low voltage from high voltage
Instrumentation		\$	29,000		\$	82,000	Replace instruments and support additional equipment
Subtotal		\$	382,000		\$	1,392,000	
General Conditions	10%	\$	38,000	17%	\$	237,000	Increased to reflect scope expansion
Contractor OH&P	20%	\$	84,000	25%	\$	407,000	
Bonds and Insurance	3%	\$	15,000	3%	\$	61,000	
Construction Cost Estimate		\$	519,000		\$	2,097,000	
Annual Escalation to mid-point	3%	\$	620,000	7%	\$	2,401,000	Reflect current market conditions
Contingency	20%	\$	124,000	10%	\$	240,000	Decreased to reflect additional design detail
Estimated Construction Contract Value		\$	743,000		\$	2,641,000	

## Capital Improvement Project (CIP) Budget Review Summary HOA Recycled Water Pipeline Extensions

Year	Design Level	Length of Pipe	Assumed Unit Price (\$/LF)	Assumed Annual Escalation to 2023	Cost Estimate in 2023
2021	Planning	5,400	\$294	3%	\$1,735,000
2023	75% Design	5,650	\$638		\$3,605,000

Difference \$1,870,000

- Additional \$1.5M requested
- Recent bids in the \$500-750/LF range
- Project is eligible for funding
- Working with design consultant to value engineer

### Capital Improvement Project (CIP) Budget Review Summary HOA Recycled Water Pipeline Extensions (continued)





\*RW Meter No. 6 will replace existing meters No. 687 and irrigation demands from Meter 5.
\*\*Exist. Meter No. 5 Currently Serves a bathroom. Meter to be kept, but Irrigation to be combined on new Meter No. 6.

FIGURE 2-4



FIGURE 2-6

# Fiscal Years 2023 and 2024 CWIP Potable

		FY 23 & FY 24	FY 24	FY 23 & 24	
Fund	Project Name	Approved	Appropriation	Amended	Туре
		Appropriation	Adjustment	Appropriation	
Potable	San Dieguito Desalination	2,369,000	431,000	2,800,000	Multi-year
Potable	RSFe Rd Unit A North PL	2,082,000	(200,000)	1,882,000	Multi-year
Potable	Fixed Base AMI	1,532,000	-	1,532,000	Multi-year
Potable	DCMWTP 4th Stage Improvements	996,000	2,300,000	3,296,000	Multi-year
Potable	Village Park PRS	940,000	-	940,000	Multi-year
Potable	Gardendale PRS	940,000	-	940,000	Multi-year
Potable	Encinitas Blvd Insp. & Repair	682,000	(537,000)	145,000	Multi-year
Potable	District-Wide PLC replacements	680,000	600,000	1,280,000	Multi-year
Potable	Pot & Recycled Master Plan	658,000	(75,000)	583,000	Multi-year
Potable	Gaty II and other Tank Safety Improvements	590,000	(32,000)	558,000	Multi-year
Potable	DCMWTP Condition Assessment	585,000	30,000	615,000	Multi-year
Potable	DCMWTP 2nd Stage Membrane Train	550,000	(280,000)	270,000	Multi-year
Potable	Residuals Handling Bldg Canopy	404,000	-	404,000	Multi-year
Potable	Parking & Access Improvements	341,000	-	341,000	Multi-year
Potable	Units B & K Rehabilitation	327,000	-	327,000	Multi-year
Potable	District-Wide Scada Upgrades	256,000	-	256,000	Multi-year
Potable	Palms I and II Reservoirs	150,000	-	150,000	Multi-year
Potable	Golem 14" Pipeln Cond. Assess.	150,000	-	150,000	Multi-year
Potable	Chlorine Gen Rm Lining Rehab	125,000	20,000	145,000	Multi-year
Potable	Rancho La Cima/Aliso Canyon PL	107,000	(5,000)	102,000	Multi-year
Potable	SWPPP Facility Improvements	100,000	-	100,000	Multi-year
Potable	District-Wide Facility Securit	80,000	-	80,000	Multi-year
Potable	Catalytic Converter Theft Prevention	38,000	-	38,000	Multi-year
Potable	Customer Information & Utility Billing System Upgrade	-	38,500	38,500	Multi-year
Potable	Hydropower Turbine Refurb	479,000	50,000	529,000	Multi-year
Potable	Fleet Electrification Strategic Plan	-	150,000	150,000	Single
Potable	Annual Goal: Bob Topolovac Memorial Courtyard	-	100,000	100,000	Single
Potable	Replace Pipelines	2,375,000	-	2,375,000	Recurring
Potable	Replace Valves	2,191,000	-	2,191,000	Recurring
Potable	Replace DCMWTP Membranes	1,549,000	151,000	1,700,000	Recurring
Potable	Replace Potable Meters	643,000	87,000	730,000	Recurring
Potable	Steel Mains Protection	573,000	-	573,000	Recurring
Potable	Replace Meter Anodes	298,000	-	298,000	Recurring
Potable	Network Security	280,000	-	280,000	Recurring
Potable	Replace Pot. Pumps and Motors	182,000	35,000	217,000	Recurring
Potable	Rehab Concrete Tanks	92,000	(47,000)	45,000	Recurring
Potable	EFRR Parking Lot Expansion	73,000	145,000	218,000	Recurring
Potable	Physical Security Upgrades	50,000	-	50,000	Recurring
Potable	Replace PRS Valves	109,000	-	109,000	Recurring
Potable	DCMWTP PH Control System	586,000	-	586,000	Close
Potable	Network User Enhancements	60,000	-	60,000	Close
Potable	Landscape HQ Courtyards	54,000	-	54,000	Close
Potable	DCMWTP Backpulse Pipeln Repair	34,000	-	34,000	Close
	Potable Total	24,310,000	2,961,500	27,271,500	

## Fiscal Years 2023 and 2024 CWIP Recycled and Wastewater (Sewer)

		FY 23 & FY 24	FY 24	FY 23 & 24	
Fund	Project Name	Approved	Appropriation	Amended	Туре
		Appropriation	Adjustment	Appropriation	
Recycled	Manchester Recyc PL Exten.	4,465,000	-	4,465,000	Multi-year
Recycled	HOA Pipeline Ext - CB, VP, SH	2,610,000	1,500,000	4,110,000	Multi-year
Recycled	Ext. 153 Flow Meter	360,000	(100,000)	260,000	Multi-year
Recycled	Wanket RW Reservoir Rehab	150,000	32,000	182,000	Multi-year
Recycled	Recycled Conversions	122,000	-	122,000	Recurring
Recycled	Meter Replacement, Recycled	39,000	-	39,000	Recurring
Recycled	Backup Generator SFV RW Pump	250,000	(250,000)	-	Canceled
	Recycled Total	7,996,000	1,182,000	9,178,000	

Fund	Project Name	FY 23 & FY 24	FY 24	FY 23 & 24	Type
Wastewater	Replace Neighborhood 1 SPS	6,592,000	400,000	6,992,000	Multi-year
Wastewater	District-Wide PLC Repl (WW)	680,000	600,000	1,280,000	Multi-year
Wastewater	Replace Overflow Pond Strainer	231,000	(206,000)	25,000	Multi-year
Wastewater	Cielo SPS Flow Meters	193,000	-	193,000	Multi-year
Wastewater	Collection System SPS Rehab	169,000	-	169,000	Multi-year
Wastewater	Replace Headworks Manual Sys	155,000	(39,000)	116,000	Multi-year
Wastewater	WW Master Plan	110,000	-	110,000	Multi-year
Wastewater	4S WRF Scada Upgrades	64,000	-	64,000	Multi-year
Wastewater	4S Physical Security Upgrades	60,000	-	60,000	Multi-year
Wastewater	Replace WW Pumps/ Motors/Equip	344,000	-	344,000	Recurring
Wastewater Rancho Cielo Pipeline Replmnt		173,000	-	173,000	Recurring
Wastewater	4S Ranch Pipe Replacement	136,000	-	136,000	Recurring
Wastewater	Rancho Cielo Manhole Lining	98,000	-	98,000	Recurring
Wastewater	4S System Manhole Lining	35,000	-	35,000	Recurring
Wastewater	4SWRF Emergency Wiring Replmnt	224,000	-	224,000	Close
	Wastewater Total	9,264,000	755,000	10,019,000	
					_
	Potable, Recycled, and Wastewater Total	41,570,000	4,898,500	46,468,500	_

Note: Total approved appropriations above may differ from the amounts reflected in the Biennial Operating and Capital budget due to General Manager (up to \$75k) or Board approved adjustments throughout fiscal year 2023.

## Next Steps

- Staff will bring final midterm changes to the budget (fiscal year 2024) for consideration and approval by the Board next month
- Significant changes (\$50 thousand or more) to the budget changes after today will be itemized and presented to the Board in June for review
  - Including purchased water cost increases from SDCWA





## CWA Variable & Fixed Costs CY 2023 vs CY 2024 (CWA Initial Draft)

/ariable Charges	CY 2023	CY 2024	\$	%
	(\$/AF)	(\$/AF)	Inc. (Dec.)	Inc. (Dec.)
Supply Rate	1,085	1,225	140	12.9%
Transportation Rate	173	197	24	13.9%
Melded Treatment Rate	350	410	60	17.1%
	1,608	1,832	224	13.9%

Fixed Charges	CY 2023	CY 2024	\$	%
	Annual Fee	Annual Fee	Inc. (Dec.)	Inc. (Dec.)
Customer Service Charge	1,207,649	1,253,540	45 <mark>,</mark> 891	3.8%
Storage Charge	2,971,843	2,971,843	-	0.0%
Supply Reliability Charge	1,982,179	2,073,359	91,180	4.6%
Infrastructure Access Charge	1,446,516	1,473,855	27,339	1.9%
Capacity Charge (MWD)**	609,946	634,344	24,398	4.0%
Readiness to Serve Charge (MWD)*/**	328,774	341,925	13,151	4.0%
	8,546,907	8,748,866	201,959	2.4%

\* Readiness to Serve Charge (MWD) is billed on a fiscal year basis

\*\* Capacity Charge and Readiness to Serve Charge increases are not yet available and are estimated at 4% increases

Agenda Item 17



# Memo

Date: May 17, 2023

To: Olivenhain Municipal Water District Board of Directors

From: Kimberly A. Thorner, General Manager

Subject: CONSIDER STATUS UPDATE ON THE PROPOSED FALLBROOK PUBLIC UTILITIES DISTRICT AND RAINBOW MUNICIPAL WATER DISTRICT DETACHMENT FROM THE SAN DIEGO COUNTY WATER AUTHORITY AND CONSIDER COMMENTS TO BE SUBMITTED FOR THE JUNE 5, 2023 SAN DIEGO LOCAL AGENCY FORMATION COMMISSION MEETING

#### Purpose

The purpose of this agenda item is to receive a status report on the proposed detachment process of the Fallbrook Public Utilities District (FPUD) and the Rainbow Municipal Water District (RMWD) from the San Diego County Water Authority (SDCWA) and into the service area of Eastern Municipal Water District (Eastern) and to consider input from the OMWD Board and potential comments from OMWD to be submitted for the June 5, 2023 San Diego Local Agency Formation Commission's (SDLAFCO) Meeting.

Of note: A closed session is included at the end of this meeting if the Board determines a closed session is necessary.

#### Recommendation

The General Manager recommends that OMWD support Option Three in the attached report, which is to **administratively hold consideration of the reorganization proposals until SDLAFCO completes the currently scheduled municipal service review (MSR) covering the SDCWA.** This option would allow the comprehensive review of the SDCWA

with respect to current and planned service levels, community needs, and financial standing before taking any potential actions on the detachments. This would effectively leverage the pending detachments to accelerate a complete MSR on the SDCWA.

Option Three will comprehensively address the issues at SDCWA that are known major challenges going forward. As noted in the draft letter under the SDCWA report in this board packet, financial issues need to be reviewed at SDCWA with respect to declining water sale revenues as member agencies develop local supplies and roll off SDCWA. At every step in this three-year process on detachment consideration, the experts, the Ad Hoc Groups, and the Advisory Committees all acknowledged the "elephant in the room" was not just detachment. The true elephant in the room is that unless SDCWA leverages its fixed take or pay supplies; it will have more fixed take or pay supplies than it will have demand in the next ten years if its member agencies fully develop all of their local supply projects. Detachment would further exacerbate this problem. SDCWA water sales have declined from a peak of 670,000 acre feet per year in 2007 to projected water sales in 2024 of only 360,000 acre feet. This is before any future roll offs begin.

The detachment of Fallbrook and Rainbow should not be examined independently of all the other impending roll offs. The combined financial impact of detachments and roll offs should be analyzed collectively, as they both result in a reduced demand on SDCWA that currently has fixed take or pay supplies that may soon exceed the demand of the region.

While the SDLAFCO staff report indicates that the financial impacts of detachment can be mitigated to a level of "less than significance" through the imposition of an exit fee, when combined with the financial impacts of roll offs and the current inflationary environment, they collectively accumulate to a level of both significance and concern.

An OMWD comment letter, if the board chose to support Option Three, could be formulated to state that "OMWD opposes any action by SDLAFCO that would increase its costs in either the near or far term and while detachment can be mitigated in the near term with an exit fee, the long term consequence of detachment when combined with the impending roll offs are of great concern and why an administrative hold (and deep dive) is the most prudent path forward for the entire region."

The General Manager acknowledges that most member agencies of SDCWA will likely join SDCWA and request a disapproval right now of the detachments. This is also a potentially viable direction for OMWD to proceed. While disapproving detachments would provide immediate satisfaction to the issue at hand, it does nothing to address the long term cumulative impacts of roll offs, detachments, declining water sales and increasing fixed costs of SDCWA. Option Three addresses all of these concerns and allows for additional time to incorporate options for the preservation of agriculture in the San Diego region.

The last three successive Chairs of the SDCWA over the last six years have all recognized the significance of the declining demands and their impacts on the fixed take or pay supplies of the SDCWA and each Chair appointed a workgroup to address this issue during their term. Thus far, there has been no successful resolution. An external comprehensive review may be the needed catalyst for resolution of this impending financial challenge for the entire region.

### Alternative(s)

There are five different options in the report that OMWD could support. Of note, is that SDLAFCO staff believes that **only three of the options (Options Two, Three and Four) hold merit** based on statutory and local policy considerations, including public benefit and preservation of agriculture. SDLAFCO staff recommends Option Two.

- 1. Approve both reorganization proposals as submitted (no modifications) with standard conditions. (Option One) No exit fees would apply given deference to the County Water Authority principal act and its silence on the topic. Approval is prefaced on prioritizing the standalone merits of the proposals and its local benefits including direct support to agriculture in North County. Approval includes exemption findings under CEQA and subject to confirmation by registered voters within the affected territory.
- 2. Approve with Exit Fees (Option Two) Approve the proposals with conditions that are marked with a total exit fee of \$62.905 million spread out over five consecutive year payments less the \$38.6 million most recently budgeted by the County Water Authority to construct the ESP North County Pump Station. The total adjusted exit fee with the discount is \$24.305 million and translates to an annual payment of \$4.861 million. This option is appropriate should it be the Commission's collective priority to address the stand-alone merits of the applicants' proposals with the explicit paring of a policy enhancement of supporting a viable agriculture economy in North County. This policy enhancement provides justification in balancing the financial impact of detachments on the County Water Authority in tandem with applying an exit fee to cover the estimated revenue loss over the first five years less the cost-avoidance associated with the ESP North County Pump Station.

- **3.** Pause Consideration (Option Three) Administratively hold consideration of the reorganization proposals until the completion of the Commission's scheduled municipal service review covering the County Water Authority. This option would be appropriate should it be the Commission's collective priority to comprehensively assess the County Water Authority with respect to current and planned service levels, community needs, and financial standing before taking any potential actions to change baseline conditions such as the proposed detachments. The option notably ties to the analysis of the proposals to date and what appears as major structural challenges for the County Water Authority going forward in balancing declining water sale revenues (roll offs, etc.) versus fixed and increasing costs.
- 4. Disapprove without Prejudice (Option Four) Disapprove the proposals without prejudice. This option would be appropriate should it be the Commission's collective priority to retain and reinforce the role of the County Water Authority as the most appropriate policy vehicle to singularly govern and plan regional wholesale water supplies for all of San Diego County. This option notably would recognize the applicants' proposals in-and-of-themselves have merit, but the external considerations and overall detrimental impacts on the region, including loss of voting power at MET, negate the specific benefits to the Fallbrook and Rainbow communities. This option could also be merged into a hybrid alternative involving the completion of a municipal service review on the County Water Authority.
- 5. Disapprove the reorganization proposals. (Option Five) Disapproval is prefaced on weighing both the local and external disbenefits of the proposals.

Based on three years of involvement in this detachment process, the OMWD General Manager ranks the options from most preferential to least preferential to OMWD in the long term:

- Option Three Do not process and take deep dive into SDCWA issues comprehensively
- Option Four Disapprove detachments without prejudice
- Option Five Disapprove detachments
- Option Two Approve with exit fees
- Option One Approve without exit fees

#### Background

SDLAFCO is processing two related detachment proposals separately filed by RMWD and FPUD. These proposals request SDLAFCO approval for each agency to separately and concurrently detach from the SDCWA and annex to the Eastern Municipal Water District (Riverside County) for purposes of changing wholesale water suppliers. San Diego and Riverside LAFCOs have entered an agreement assigning all related approvals for both proposals to SDLAFCO.

The OMWD Finance Committee (then Directors Sprague and Watt) heard a presentation by the General Managers of FPUD and RMWD in February of 2020 regarding their position on the detachment. Both General Managers indicated that the savings to their ratepayers from the detachment was significant, saving each agency millions of dollars per year. Both also indicated that they were open to some type of exit fee or "true up" with SDCWA. They also stated their position that their agencies had paid for assets over the years that would remain as a benefit to other SDCWA member agencies were the detachments to proceed. They further noted that their uniqueness from other member agencies of SDCWA in that they are both physically connected to Metropolitan Water District for delivery of water.

The SDCWA passed a resolution in May of 2020 (included in **Exhibit C**), establishing conditions relating to the outcome of the SDLAFCO review of the detachment applications. The SDCWA has indicated that if these conditions are not satisfied, they are opposed to the detachments. In 2020, the SDCWA released a preliminary analysis of financial impacts that the detachment would have on its member agencies and calculated that the annual revenue loss from the detachments would have an annual estimated impact to OMWD of \$648,548. (This figure did not take into account any exit fee which could be imposed by SDLAFCO.)

SDLAFCO created an Advisory Committee in July of 2020 to assist in fulfilling the Commission's policies on detachment and to assist LAFCO staff in analyzing the FPUD and RMWD applications so that staff may make appropriate recommendations to the Commission on the applications. The OMWD General Manager was appointed to this Advisory Committee by SDLAFCO. The Advisory Committee came to consensus that independent consultants should be retained by SDLAFCO to analyze the following three topics related to the detachment:

• Water Supply Reliability: Reviewing the source, availability, and reliability of the SDCWA and the Eastern Municipal Water District (Eastern).

- **Ratepayer Impacts**: Reviewing the potential rate savings to the FPUD and RMWD customers versus the potential impacts to the remaining retail water agencies that comprise the SDCWA.
- **Potential Departure Fees:** What should the financial "true-ups" be for the departing agencies and should there be SDLAFCO conditions to make the member agencies of the SDCWA whole if the detachment moves forward.

In September of 2020, the OMWD Board approved a letter to SDLAFCO supporting SDLAFCO's analysis of these impacts with independent consultants who are experts in the areas of water supply reliability, financial impacts, and the development of departure fees. (Attached as **Exhibit A)** 

SDLAFCO hired an expert in late 2020, Dr. Michael Hanemann, to assist with developing answers to the three specific topics involving water supply reliability, ratepayer impacts, and possible true-up fees. Dr. Hanemann's report, which was finalized in early 2022, can be found at this link:

https://www.sdlafco.org/home/showpublisheddocument/6068/637777538812570000

The short summary of the Hanemann report was that Eastern was not as reliable as SDCWA, but that he could not quantify the reliability differences; that there would be a cost savings to Fallbrook and Rainbow customers, that SDCWA would see a change in net revenue of \$12.58 million (2020 numbers) in the short run if there were no detachment exit fee and both Fallbrook and Rainbow detached; and finally that a reasonable timeframe for an exit fee to be imposed was between 3 to 10 years.

The Hanemann report was accepted as complete by the Detachment Advisory Committee in April of 2022. In the summer of 2022, the OMWD General Manager was assigned to a four person sub-Workgroup of the Detachment Advisory Committee. Four members of the Detachment Advisory Committee were selected to address the following questions:

- 1. What are the cost impacts to Poway, Valley Center, and City of San Diego of detachment based on the Hanemann report? These agencies were selected by the parties as representing diverse entities in the region.
- 2. Do detachment and roll-off have the same impacts?
- 3. Are there any offsets to the cost impacts?

Baseline reasonable assumptions were formulated by the Workgroup in order to move forward with an estimate of impacts on the three agencies identified (City of San Diego, Valley Center, and Poway).

The assumptions were:

1. That there is no increase in water sales by the remaining water agencies after a deannaxation to offset any of the lost revenue. This is a reasonable assumption because of recent flat and/or decreasing water sales and the mandatory implementation of new conservation measures required by the state in the next 5 years.

2. That rates will be allocated in the same manner that they are currently allocated by SDCWA. This is a reasonable assumption as it is impossible to predict how future Boards will vote to allocate rates and the current SDCWA Board recently voted to postpone any changes to fixed and variable rate allocation until at least 2024.

3. The Hanemann report was used as the basis for the numbers and costs, as all parties had agreed that Dr. Hanemann's work was complete.

#### The Workgroup's Estimate of impacts on Poway, Valley Center, and City of San Diego

The best predictor of future cost allocations amongst water agencies from SDCWA is to look at past rolling averages of cost allocations and contributions. Each member agency of SDCWA has a different mix of fixed versus variable rates based on past purchases and also has different customer bases that purchase differing amounts of agricultural or Municipal & Industrial water.

SDCWA's fixed costs vary in allocation time periods from 3 to 10 year rolling averages. A 5 year time period takes into account both high water and low water demand years. (IE, rainy and dry years)

Based on information received from SDCWA in the chart below, Poway has a 5 year contributed asset share of 2.2%, City of San Diego has 37.2% and Valley Center has 4.2%. If none of those agencies significantly roll off of SDCWA in the near future, their cost allocation percentages from SDCWA for the next five years should be similar to the past five years.

	5-year Contributions (\$)	% Share (1yr)	% Share (5yr)	% Share (10yr)	% Share (Lifetime)
Carlsbad	\$166,400,036	4.9%	4.8%	4.5%	3.7%
Del Mar	\$10,665,817	0.3%	0.3%	0.3%	0.3%
Escondido	\$101,156,513	3.1%	2.9%	3.3%	3.5%
Fallbrook	\$71,558,859	2.1%	2.1%	2.2%	2.2%
Helix	\$194,382,714	5.7%	5.6%	5.6%	6.7%
Lakeside	\$27,119,110	0.9%	0.8%	0.8%	0.7%
National City (SWA)	\$18,966,416	0.5%	0.5%	0.7%	0.7%
Oceanside	\$185,318,306	5.3%	5.4%	5.3%	5.2%
Olivenhain	\$144,513,295	4.5%	4.2%	4.1%	3.4%
Otay	\$275,733,880	8.2%	8.0%	7.7%	6.0%
Padre Dam	\$98,251,567	2.9%	2.8%	2.8%	2.7%
Pendleton	\$508,056	0.0%	0.0%	0.0%	0.1%
Poway	\$74,690,419	2.3%	2.2%	2.2%	2.1%
Rainbow	\$133,246,992	3.9%	3.9%	4.0%	3.9%
Ramona	\$44,190,254	1.2%	1.3%	1.3%	1.5%
Rincon	\$52,328,006	1.6%	1.5%	1.6%	1.4%
San Diego	\$1,285,972,646	35.9%	37.2%	37.0%	39.7%
San Dieguito	\$35,493,779	1.1%	1.0%	1.0%	1.1%
Santa Fe	\$58,041,000	1.7%	1.7%	1.6%	1.6%
South Bay (SWA)	\$49,983,992	1.4%	1.4%	1.4%	1.9%
Vallecitos	\$157,741,869	4.5%	4.6%	4.2%	3.0%
Valley Center	\$146,368,851	4.2%	4.2%	4.6%	5.0%
Vista	\$92,909,811	2.7%	2.7%	3.0%	3.0%
Yuima	\$33,945,773	1.1%	1.0%	0.8%	0.5%

Dr. Hanemann produced a report that stated that *"The purpose of imposing some financial obligation* on FPUD or RMWD if they are permitted to detach from SDCWA is to provide a level of *financial protection for SDCWA and the remaining member agencies in the short run while* they adjust to the changed financial situation of a detachment." Specifically, Dr. Hanemann included the following calculations in his report for a detachment exit fee with a suggestion of 10 years as a reasonable planning timeline:

Item	FPUD	RMWD	FPUD + RMWD
REDUCTION IN REVENUE			
Without property tax loss	\$8,590,141	\$24,329,127	\$32,919,268
With property tax loss	\$8,750,141	\$24,519,127	\$33,269,268
REDUCTION IN EXPENDITURE			
Short-run	\$4,686,300	\$16,002,000	\$20,688,300
Long-run	\$5,047,100	\$17,234,000	\$22,281,100
CHANGE IN NET REVENUE			
SHORT-RUN			
Without property tax loss	\$3,903,841	\$8,327,127	\$12,230,968
With property tax loss	\$4,063,841	\$8,517,127	\$12,580,968
LONG-RUN			Contraction of the second
Without property tax loss	\$3,543,041	\$7,095,127	\$10,638,168
With property tax loss	\$3,703,041	\$7,285,127	\$10,988,168

### Annual Financial impact of detachment (CY 2022)

Based on the numbers provided by Dr. Hanemann, a change in net revenue of \$12.58 million (2020 numbers) would happen in the short run if there were no detachment exit fee and both Fallbrook and Rainbow detached. Based on the assumptions above, and assuming SDCWA collected the reduction in revenue from all remaining agencies and water purchases remained somewhat consistent with the past 5 year rolling average, Poway would see an increase of \$276,781 per year in the short term; City of San Diego would see \$4,654,958; and Valley Center would see \$528,400 as its annual increase. All of these are estimates, as no one can predict the exact volume of water each agency will purchase in any given year. (For OMWD purposes, under the same scenario calculations used by the Workgroup, the number would be \$528,360 per year if there were no detachment fee. This is less than the SDCWA staff calculations of OMWD impact of \$646,548 calculated in 2020.)

## The Workgroup's findings on the Question of "Are the impacts of detachment and roll off the same?"

It is important to note that there is no obligation for any member agency to take any amount of supply from SDCWA. However, a member agency that remains as a member of the SDCWA will still have to pay fixed costs to SDCWA, even if they do not take a drop of water. The elephant in the room is <u>not</u> if detachment and roll off are the same. They are not. The impacts of detachment and roll off are different in that an agency that rolls off will still be a member agency of the SDCWA and will be contributing to future cost increases and rates set by the SDCWA board. A detachment, once completed, means that a member agency is no longer a member agency of SDCWA and will not be contributing to future costs – unless an exit fee is conditioned by LAFCO for a certain time period.

The true elephant in the room is that unless SDCWA reduces (or leverages to others) its fixed take or pay supplies; it will have more fixed take or pay supplies than it will have demand in the next ten years if its member agencies fully develop all of their local supply projects. Dr. Hanemann also noted in his presentation to the LAFCO Detachment Workgroup that there is a "Financial exposure to reduction in water sales. With current rates, I estimate that for every 1,000 AF less that SDCWA delivers to member agencies, its net revenue falls on average by almost \$1M. This is of some concern given that SDCWA is projected to experience a reduction of about 60,000 AF in deliveries to member agencies by around 2030." If member agencies roll off to the tune of 60,000 acre feet by 2030 through the development of local supplies, (according to Dr. Hanemann) this will reduce the SDCWA net revenue by \$60,000,000. By way of comparison, FY 2022 Net Water Sales Revenue by SDCWA (in its annual budget) is \$108,586,236. A loss of \$60 million in net revenue is more than half of SDCWA's total current annual net revenue. This is not a sustainable future and does not bode well for future rate affordability. The Workgroup suggested that this topic be explored in depth via the upcoming SDCWA Municipal Service Review (MSR) and that the MSR review of SDCWA should also include a review of MWD and its operations and agreements within the SDCWA region.

## The Workgroup's findings on the question of "Is there an offset to Fallbrook and Rainbow for ESP North County Pump Station that was never built?"

Fallbrook and Rainbow assert that there is a cost savings to the remaining member agencies if they detach as the ESP North County Pump Station does not need to be built if they detach. The Workgroup stated that more information is needed to answer this question.

The Workgroup presented this information to the Detachment Advisory Committee in October of 2022. Comments were taken from the Detachment Advisory Committee, but in general there were no great exceptions to the findings.

On November 3<sup>rd</sup>, 2022, the San Diego LAFCO Special Districts Advisory Committee conducted a meeting wherein the draft Prospectus was presented by SDLAFCO staff. In November of 2022, the OMWD Board heard an update on the detachment and sent the letter attached as **Exhibit B** with comments to LAFCO on the draft Prospectus.

In April of 2023, the SDLAFCO Advisory Committee on Rainbow-Fallbrook conducted a meeting on the draft report on the detachment, however at that time SDLAFCO staff had not released its final recommendation. There was not consensus from the Advisory

Committee on a preferred Alternative. This was the conclusion of 13 different meetings of the Advisory Committee.

On April 28, 2023, SDLAFCO staff released its final report along with its recommended alternative, that the detachments move forward with an exit fee, which is Option Two in the attached report (**Exhibit C**). "Approve with Exit Fees (Option Two) - Approve the proposals with conditions that are marked with a total exit fee of \$62.905 million spread out over five consecutive year payments less the \$38.6 million most recently budgeted by the County Water Authority to construct the ESP North County Pump Station. The total adjusted exit fee with the discount is \$24.305 million and translates to an annual payment of \$4.861 million. This option is appropriate should it be the Commission's collective priority to address the stand-alone merits of the applicants' proposals with the explicit paring of a policy enhancement of supporting a viable agriculture economy in North County. This policy enhancement provides justification in balancing the financial impact of detachments on the County Water Authority in tandem with applying an exit fee to cover the estimated revenue loss over the first five years less the cost-avoidance associated with the ESP North County Pump Station."

The final report states that the monthly impact to OMWD ratepayers <u>without</u> an exit fee will be \$1.65 per month, but <u>with</u> an exit fee imposed, it will be "0". This is how the \$12.58 million dollar exit fee per year for 5 years was derived for Option Two to get to a net zero impact.

#### TABLE NO. 3

LAFCO's Estimate of <u>Detachment Impacts</u> to Member Agencies + Ratepayers: Applies Asset Shares (Water Sales) Between FY2017 and FY2022 (Source: SD LAFCO Staff)

Agency	Annual Agency Impact	Annual Ratepayer Impact	Monthly Ratepayer without Exit Fee	Monthly Ratepayer with Exit Fee
Carlsbad MWD	642,432	17.56	1.46	0.00
City of Del Mar	40.157	16.02	1.34	0.00
City of Escondido	388,136	10.90	0.91	0.00
Helix WD	749,504	11.44	0.95	0.00
Lakeside WD	107.072	13.06	1.09	0.00
City of National City	66,920	n/a	n/a	0.00
City of Oceanside	722,736	12.40	1.03	0.00
Olivenhain MWD	562,128	19.81	1.65	0.00
Otay WD	1,070,721	17.64	1.47	0.00
Padre Dam MWD	374,752	13.86	1.15	0.00
City of Poway	294,448	17.24	1.44	0.00
Ramona MWD	173,992	16.85	1.40	0.00
Rincon MWD	200,760	19.27	1.61	0.00
City of San Diego	4,978,851	12.60	1.05	0.00
San Dieguito WD	133,840	8.71	0.73	0.00
Santa Fe ID	227,528	21.55	1.80	0.00
South Bay ID	187,376	4-33	0.36	0.00
Vallecitos WD	615,664	22.42	1.87	0.00
Valley Center MWD	562,128	38.27	3.19	0.00
Vista ID	347,984	9.65	0.80	0.00
Yuima MWD	133,840	224.56	18.71	0.00
TOTALS	\$12,580,968	\$26.41	\$2.20	0.00

The reasoning behind the discount for the ESP North County Pump Station in Option Two is that the SDCWA must complete the pump station if the two entities remain with SDCWA. SDCWA has recently stated that the cost to complete the pump station is \$38.6 million. If the detachments happen, SDCWA does not need to complete the pump station and can remove it from their Capital Improvement Program. OMWD General Manager stated her concern in a recent SDLAFCO Advisory Committee meeting that the costs of building the pump station would be spread over 30 years to SDCWA due to financing, but the proposed Option Two would grant the savings offset to FPUD and RMWD over a shorter term of the 5 year exit fee. This issue was not addressed in the final report.

The complete record to date on the applications are voluminous, but can be found here: <u>https://www.sdlafco.org/resources/major-proposals/fallbrook-pud-RMWD-mwd-wholesaler-reorganization-2020</u>

Of note, OMWD is also currently undergoing an MSR. Every government agency is subject to a LAFCO MSR every five years. An MSR is defined as follows:

"Municipal service reviews serve as a centerpiece to the comprehensive rewrite to LAFCO law in 2001 and represent comprehensive studies of the level, range, and performance of governmental services provided within defined geographic areas. LAFCOs generally prepare municipal service reviews to explicitly inform subsequent sphere determinations. LAFCOs also prepare municipal service reviews irrespective of making any specific sphere determinations in order to obtain and furnish information to contribute to the <u>overall</u> <u>orderly development of local communities.</u> Municipal service reviews vary in scope and can focus on a particular agency or governmental service. LAFCOs may use the information generated from municipal service reviews to initiate other actions under their authority, such as forming, consolidating, or dissolving one or more local agencies. All municipal service reviews – regardless of their intended purpose – culminate with LAFCOs preparing written statements addressing seven specific service factors listed under Government Code Section 56430. This includes, most notably, infrastructure needs or deficiencies, growth and population trends, and financial standing."

The SDCWA will ultimately have to also complete an MSR regardless of detachments, however approval of the detachments would change the baseline assumptions of the MSR, as would any roll offs that happen before the MSR is completed.

#### **Fiscal Impact**

Each of the five options proposed in the SDLAFCO report have risks and financial impacts. As future water sales and rate setting are unknown, every financial risk estimate provided by Dr. Hanemann and the final SDLAFCO report is a best educated and calculated guess based on past allocations and sales data.

Option One is the most detrimental to OMWD, as it imposes no exit fee and results in an annual estimated \$562,000 impact.

SDLAFCO staff believes that the exit fee imposed with Option Two will not impact OMWD ratepayers. The exit fee is based on Dr. Hanemann's report, which all parties agreed was complete in 2022.

Denying the detachments as stated in Options Four and Five would have the least short term financial impact to OMWD, but could have an unintended long term impact of reduced water sales and revenue for SDCWA, as agriculture may no longer be viable due
to the burden from water rates. Single family homes use significantly less water than agriculture.

Option Three allows for a deeper dive into the unknowns of the ratepayer impacts, not just of detachment, but also roll offs. By way of comparison, the projected annual potable reuse roll off in the region is anticipated to be 50,000 acre-feet by 2029 and does not include the future Encina One Water project, recycled water development or brackish development in the region. The projected loss of sales from the detachment from both agencies is approximately 22,000 acre feet.

# Discussion

For OMWD expediency purposes, this staff report has primarily focused on the financial impacts of detachment. SDCWA, FPUD, and RMWD have each raised ancillary issues such as SDCWA's credit rating, reliability to ratepayers in FPUD and RMWD, voting rights at Metropolitan Water District, CEQA issues, preservation of agriculture, impacts on the Colorado River and State Water Project, contributed assets to SDCWA, which voters should vote in a detachment vote, etc. All of these issues are included in the final SDLAFCO report which is attached as Exhibit C and staff is knowledgeable on each topic and available to discuss at the board meeting if the Board so desires.

Staff will be available for discussion at the board meeting and is seeking board input and collective comments to be submitted for the June 5, 2023 SDLAFCO meeting.

# Attachments:

- Exhibit A OMWD's September 10, 2020, Comment Letter on LAFCO's Comprehensive Evaluation of the Fallbrook and Rainbow Detachments
- Exhibit B OMWD's November 30, 2022, Letter to LAFCO on LAFCO's Draft Prospectus
- Exhibit C LAFCO's June 5, 2023, Proposed "Rainbow Municipal Water District and Fallbrook Public Utility District Reorganizations: Wholesale Water Services" | Concurrent Annexations to Eastern Municipal Water District and Detachments from San Diego County Water Authority with Related Actions Combined Public Hearing Memo

Exhibit A

Board of Directors Edmund K. Sprague, President Robert F. Topolovac, Vice President Lawrence A. Watt, Treasurer Robert M. Kephart, Secretary Christy Guerin, Director



General Manager Kimberly A. Thorner, Esq. General Counsel Alfred Smith, Esq.

September 10, 2020

Chair Dianne Jacob San Diego County Local Agency Formation Commission 9335 Hazard Way, Suite 200 San Diego, CA 92123

RE: Fallbrook – Rainbow Water Detachment

Dear Chair Jacob,

On behalf of the Olivenhain Municipal Water District (OMWD), I am writing to express our agency's support for the currently underway comprehensive evaluation of the detachments of Fallbrook Public Utilities District (FPUD) and the Rainbow Municipal Water District (Rainbow) from the San Diego County Water Authority (SDCWA).

OMWD is a member agency of the SDCWA and our General Manager serves on both the Special Districts Advisory Committee (SDAC) for the San Diego Local Agency Formation Commission (SDLAFCO) and the Advisory Committee for the FPUD/Rainbow Detachment. As such, OMWD has a first-hand appreciation for the deliberation and thoughtfulness given to this detachment by SDLAFCO to date and supports your continued efforts to evaluate and study the impacts of both of the detachment proposals not only on the respective applicant agencies, but also on the retail water agencies that comprise the SDCWA.

OMWD supports the Advisory Committee's current consensus that independent consultants be retained by SDLAFCO to analyze the following three topics:

- 1. **Water Supply Reliability:** Reviewing the source, availability, and reliability of the SDCWA and the Eastern Municipal Water District.
- 2. **Ratepayer Impacts:** Reviewing the potential rate savings to the FPUD and Rainbow customers versus the potential impacts to the remaining retail water agencies that comprise the SDCWA.
- 3. **Potential Departure Fees:** What should the financial "true-ups" be for the departing agencies and should there be SDLAFCO conditions to make the member agencies of the SDCWA whole if the detachment moves forward.



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OMWD supports the detailed analysis of the aforementioned topics by an independent consultant who is familiar in water supply, water resources, and financial analysis. The potential detachments of these two water agencies will have lasting financial impacts to the remaining retail water agencies that comprise the SDCWA and analyzing those impacts now and developing a fair and equitable "true-up" for FPUD and Rainbow is a key important step prior to the detachment process moving forward. Thank you for your careful and thoughtful deliberation in this process.

Thank you for consideration of our comments.

Very Truly Yours,

ELIK Zage

Ed Sprague Board President Olivenhain Municipal Water District

cc. OMWD Board of Directors OMWD General Manager OMWD General Counsel SDLFACO Executive Director

Exhibit B

Board of Directors Lawrence A. Watt, President Kristie Bruce-Lane, Vice President Christy Guerin, Treasurer Robert F. Topolovac, Secretary Neal Meyers, Director



General Manager Kimberly A. Thorner, Esq. General Counsel Alfred Smith, Esq.

November 30, 2022

Adam Wilson, Moderator San Diego LAFCO 2550 Fifth Avenue, Suite 725 San Diego, CA 92103

Via email: priscilla.mumpower@sdcounty.ca.gov

# Subject: Comments on the SDLAFCO Prospectus for the Fallbrook PUD and Rainbow MWD Proposed Reorganizations

Dear Mr. Wilson,

Thank you for the opportunity to comment on the San Diego Local Agency Formation Commission (SDLAFCO) Prospectus for the Fallbrook Public Utility District (Fallbrook) and Rainbow Municipal Water District (Rainbow) Proposed Reorganizations. Below are Olivenhain Municipal Water District's (OMWD) formal comments on the key findings in bold from the draft Prospectus:

# Finding by SDLAFCO: LAFCO Statute Governs.

LAFCO statute – and not the County Water Authority Act – governs consideration of the proposals. Among other pertinent outcomes this means LAFCO has broad authority to condition any proposal approvals using the Commission's quasi-legislative powers.

OMWD Comments: This is a legal issue for SDLAFCO Counsel to determine, however OMWD does not take exception to this finding, as the ability for SDLAFCO to condition an exit fee ultimately protects the ratepayers of OMWD.

Finding by SDLAFCO: Eastern MWD's Supplies are Reliable.

Although the County Water Authority's potable supply portfolio is superior given its diversification, Eastern MWD's own supply via Metropolitan Water District of Southern California (MET) is adequate and can reasonably accommodate demands now and going forward for both Fallbrook PUD and Rainbow MWD.

Comments: OMWD believes that San Diego County Water Authority's (SDCWA) supply reliability is superior due to its diversified supply portfolio.





Finding by SDLAFCO: Eastern MWD's Finances are Healthy.

Standard measurements used to assess the Eastern MWD's financial standing shows it trended positively over the last five fiscal years with respect to liquidity, capital, and margin levels. The latter is highlighted by Eastern MWD finishing with positive total margins in four of the five years with an overall average of 4.5%.

Comments: OMWD does not take issue with this conclusion.

# Finding by SDLAFCO: Fallbrook PUD and Rainbow MWD's Ratepayers Will See Cost-Savings. LAFCO estimates the average monthly household impact for Fallbrook and Rainbow ratepayers is \$20.21 and \$26.79, respectively assuming full pass-through to ratepayers.

Comments: OMWD does not take issue with this conclusion. Both Fallbrook and Rainbow have expressed that their pursuit of detachment has been driven by cost savings for their ratepayers.

Finding by SDLAFCO: County Water Authority Member Agencies' Ratepayers Will See Cost-Increases.

LAFCO estimates through the help of an Ad Hoc Working Group the average monthly household impact for the remaining members agencies of the County Water Authority is \$2.20 assuming full pass-through to ratepayers. The City of San Diego impact (largest CWA customer) is estimated at \$1.05 per month/per household.

Comments: OMWD does not agree with this simplistic breakdown of the cost impacts to the ratepayers. Each SDCWA member agency will need to determine how it will pass along any cost increases to their own ratepayers. Estimations can be calculated for each member agency as a whole, but to take the agency level impacts and divide them by number of households within that agency is not an accurate impact calculation as it does not take into account commercial, industrial, irrigation and agricultural accounts nor does it take into account the unique rate structures at each of the member agencies. Reliance on the Ad Hoc Workgroup's calculations by member agency and a true up of the numbers since 2020 which were used in the Hanemann report would be a more accurate reflection of the impacts if there were no detachment fee.

Finding by SDLAFCO: Approval of the Proposals is Reasonable if Conditioned on an Exit Fee. It would be appropriate to condition approval to require an annual true-up – or exit fee – equal to the estimated revenue loss (water sales, property taxes, available fees) for the County Water Authority should both Fallbrook PUD and Rainbow MWD detach. The purpose of the exit fee is to provide the County Water Authority a period of adjustment. This annual amount has been estimated by Dr. Hanemann in the short run at \$12.6 million.

Comments: OMWD concurs with the exit fee concept and feels that the \$12.6 million figure needs to be trued up to 2023 numbers based on high inflation and rate increases since the data relied on in the Hanemann report was from 2020.

Finding by SDLAFCO: Five Years is an Appropriate Length for an Exit Fee.

As referenced, the purpose of an exit fee is to provide the County Water Authority and its remaining member agencies a level of financial protection in the short run while they adjust to the changed financial situation associated with Fallbrook PUD and Rainbow MWD detaching. Five years appears to be an appropriate standard to apply an annual exit fee.

Comments: OMWD believes that there needs to be a nexus between the length of the exit fee and the impact on member agencies. A nexus of water sales rebounding (for 3 years) to a level higher than the lost water sales from Fallbrook and Rainbow would be a reasonable and protective nexus for the length of an exit fee to be imposed.

Finding by SDLAFCO: Offsetting the Exit Fee to Reflect Ancillary County Water Authority Savings is Reasonable.

The County Water Authority would save money should Fallbrook PUD and Rainbow MWD detach that would otherwise be expended on proceeding with the previously planned construction of the ESP North County Pump Station. The value of the associated savings – however –remains a topic of ongoing analysis.

Comments: OMWD believes more analysis needs to be done on this. An offset would not be a 1:1 offset as Fallbrook and Rainbow ratepayers would also need to pay for a portion of the cost of the ESP North County Pump Station if they stayed.

Finding by SDLAFCO: Loss of Voting Rights at MET is a Valid Concern with a Possible Solution. Should Fallbrook PUD and Rainbow MWD detach from the County Water Authority and annex into Eastern MWD a proportional change in voting rights at MET would follow. The estimated value of voting rights – though relatively small – is substantive given it falls within the margin of a recent key vote at MET involving the selection of their new general manager. One possible and otherwise merited solution would involve applying a separate condition to require a MOU between Eastern MWD and County Water Authority to retain the voting apportionment associated with Fallbrook and Rainbow for at least the first five years.

Comments: OMWD agrees that this is a valid concern, however it does not agree that this is a legal nor feasible resolution. MWD voting rights are set by statute and cannot be legally contracted away by member agencies.

Finding by SDLAFCO: Other Terms and/or Measures May Also Be Appropriate Based on Commission.

**Preferences Possible examples:** 

 A LAFCO prescribed "roll-out" requiring Fallbrook PUD and Rainbow MWD to remain member agencies with County Water Authority for a specified period of time before allowing the detachments to formally proceed.
Comments: OMWD questions the legality of this proposal as it interferes with the independent autonomy and decision making of each of the government bodies involved, unless SDLAFCO itself decides to delay the processing of the detachments.

Finding by SDLAFCO: Other Terms and/or Measures Raised by Others Appear Problematic Example:

• The County Water Authority is on record requesting San Diego LAFCO condition any proposal approvals on expanding the "affected territory" for purposes of calling an election to include all registered voters within its member agencies' boundaries. Commission Counsel does not believe this option is available to the Commission.

Comments: This is legal issue within the purview of SDLAFCO General Counsel and no other information that this statement was made available yet to determine the reasoning behind this statement by SDLAFCO as to why this is not an option. Further information and reasoning by SDLAFCO counsel is necessary to fully understand this position.

Finally, of great importance to OMWD is the ability to participate in this public process. We are the voice of our ratepayers on this issue. We are requesting that SDLAFCO allow more time for public review and comment than is required under statute once the final report is released. A time period of 45 days would allow for us to analyze the final report and present it to the OMWD Board of Directors in order for our agency to provide meaningful input on our position to the LAFCO Commission. Your consideration of this request is appreciated.

Please let me know if you have any questions on this letter or the request for additional time to review the final report once it is available. Thank you to both you and the SDLAFCO staff for your herculean effort throughout this process and your transparency throughout the same.

Sincerely,

Limbuly A. Shorner

Kimberly A. Thorner, Esq. General Manager

cc. OMWD Board of Directors



**AGENDA REPORT** Public Hearing

June 5, 2023

TO: Commissioners

FROM: Keene Simonds, Executive Officer Priscilla Mumpower, Analyst II – Project Manager Carolanne Ieromnimon, Analyst I Chris Cate, Commission Consultant Adam Wilson, Commission Consultant

SUBJECT: COMBINED PUBLIC HEARING Proposed "Rainbow Municipal Water District and Fallbrook Public Utility District Reorganizations: Wholesale Water Services" | Concurrent Annexations to Eastern Municipal Water District and Detachments from San Diego County Water Authority with Related Actions (RO20-05 & RO20-04)

# SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider two separate reorganization proposals filed by Fallbrook Public Utility District (PUD) and Rainbow Municipal Water District (MWD) that have been administratively combined for hearing purposes by the Executive Officer. The proposals seek LAFCO approvals to transfer wholesale water service responsibilities within the applicants' jurisdictional boundaries from the San Diego County Water Authority to Eastern MWD. The purpose of the proposals is to achieve cost-savings to the applicants and their retail ratepayers based on the difference in charges between the two wholesalers. LAFCO staff independently estimates the average monthly cost-savings for the applicants' ratepayers is \$23.50 per household. LAFCO staff separately estimates the average monthly cost-increases to the remaining County Water Authority member agencies' ratepayers at \$2.20 per household.

Administration Keene Simonds, Executive Officer	Chair Jim Desmond County of San Diego	<mark>Kristi Becker</mark> City of Solana Beach	Vice Chair Stephen Whitburn City of San Diego	Jo MacKenzie Vista Irrigation	Andy Vanderlaar General Public
2550 Fifth Avenue, Suite 725 San Diego, California 92103-6624 T 619.321.3380	Joel Anderson County of San Diego	Dane White City of Escondido	Marni von Wilpert, Alt. City of San Diego	Barry Willis Alpine Fire Protection	Harry Mathis, Al General Public
www.sdlafco.org lafco@sdcounty.ca.gov	Nora Vargas, Alt. County of San Diego	John McCann City of Chula Vista		David A. Drake, Alt. Rincon del Diablo	

As detailed, five distinct alternative actions are available to the Commission at the conclusion of its deliberations. These alternatives are organized linearly as follows.

- Option One involves approving the proposals with only standard conditions.
- Option Two involves approving the proposal with additional conditions that include requiring the applicants to pay exit fees to County Water Authority.
- Option Three involves deferring consideration of the proposals until the completion of a scheduled municipal service review on the County Water Authority.
- Option Four involves disapproving the proposals without prejudice.
- Option Five involves disapproving the proposals.

Staff believes three of the five available alternatives – Options Two, Three, and Four – are readily merited based on the administrative reviews and distinguished by addressing different and otherwise appropriate Commission policy priorities. Among these three merited alternatives, staff recommends Option Two with special terms to require the applicants pay a combined annual exit fee payment for five years totaling \$24.305 million. This alternative prioritizes the stand-alone merits of the applicants' proposals and concurrent policy enhancement of supporting a viable agriculture economy in North County. Related actions in support of the staff preferred alternative are also recommended and include making exemption findings under the California Environmental Quality Act. Any approval would be subject to voter confirmation within the applicants' jurisdictional boundaries.

# BACKGROUND

## Application Filings & Requested Applicants' Terms

San Diego LAFCO has received separate resolution of applications submitted in March 2020 from Fallbrook PUD and Rainbow MWD each requesting Commission approval to transfer wholesale water supply responsibilities within their jurisdictional boundaries from the County Water Authority to Eastern MWD. The resolution of applications were both approved by unanimous votes. The proposals have been administratively combined for processing and hearing purposes by the Executive Officer with the applicants' consent. The proposals individually seek two concurrent jurisdictional changes as follows:

• Fallbrook PUD is requesting the detachment of the 28,193 acres comprising its jurisdictional boundary from the County Water Authority and concurrent annexation to Eastern MWD.

• Rainbow MWD is requesting the detachment of the 50,857 acres comprising its jurisdictional boundary from the County Water Authority and concurrent annexation to Eastern MWD.

Matching approval terms are included in both resolution of applications. Requested terms include limiting any voter confirmations to electors in the Fallbrook PUD and Rainbow MWD jurisdictional boundaries. The applicants also request the County Water Authority be allowed to continue to collect any unpaid bonded indebtedness on properties within the Fallbrook PUD and Rainbow MWD jurisdictional boundaries to the extent allowed under the law.

The underlying effects of the proposals if approved under LAFCO statute is two-fold. First, the County Water Authority's legal authority, rights, and duties to exercise a wholesale water supply function within the affected territory would cease. The County Water Authority would no longer receive any revenues collected on the property tax rolls within Fallbrook PUD and Rainbow MWD's jurisdictional boundaries with additional details footnoted.<sup>1</sup> Second, Eastern MWD would receive legal authority to exercise a wholesale water supply function within the affected territory with the corresponding ability to seek future voter approval to establish new fees, charges, and/or parcel assessments.<sup>2</sup>

# **Affected Territory**

The affected territory as submitted aligns with the existing jurisdictional boundaries of Fallbrook PUD and Rainbow MWD and totals 79,050 acres – or 123.5 square miles – with 99% involving unincorporated lands.<sup>3</sup> This acreage total represents 3.4% of all San Diego County. The estimated population in the affected territory is 56,116 with 32,781 registered voters. The total assessed value of the affected territory is \$8.99 billion and divided between Fallbrook PUD and Rainbow MWD at \$4.078 and \$4.912 billion, respectively.<sup>4</sup> An aerial map of the affected territory and its regional setting is provided on page five of this report.

# **Subject Agencies**

The proposed reorganizations before San Diego LAFCO involves two subject agencies: Eastern MWD and County Water Authority.<sup>5</sup> A summary of the subject agencies in terms of governance, population, municipal functions, and financial standings follow.

<sup>&</sup>lt;sup>1</sup> The portion of AB8 revenue (i.e., the portion of the 1% in property tax currently allocated to the County Water Authority) would be redirected in full to Eastern MWD consistent with an existing master property tax agreement adopted by the County of San Diego. The amount of AB8 revenue collected by the County Water Authority in 2021-2022 totals \$0.173 million within Fallbrook PUD and \$0.209 million within Rainbow MWD. County Water Authority also collects \$0.266 million and \$0.458 million annually in unitary and availability charges within these respective jurisdictional boundaries. These latter revenue sources would be eliminated if the proposals are approved. Additional discussion on the property tax exchange is provided in proceeding sections.

<sup>&</sup>lt;sup>2</sup> Eastern MWD does not presently collect any fees, charges, or assessments on the tax roll.

<sup>&</sup>lt;sup>3</sup> The affected territory is entirely unincorporated with the exception of an approximate 859.0-acre area within Rainbow MWD that overlaps with the City of Oceanside's Morro Hills neighborhood.

<sup>&</sup>lt;sup>4</sup> The Fallbrook community anchors the affected territory and serves as the economic and social center for the other subject communities that include Bonsall, De Luz, Gopher Canyon, Live Oaks, Rainbow Valley, and Winterhaven. The affected territory's exterior boundary is framed by Camp Pendleton to the west, Pala to the east, Valley Center to the south, and Riverside County to the north. The population density ratio is 0.7 residents for every one acre and reflects the semi-rural character prevalent within most of the affected territory and the historical relationship with agriculture and specifically commercial nursery flower, citrus, and avocados groves.

<sup>&</sup>lt;sup>5</sup> Reference to Government Code § 56077.

**Eastern MWD** is an independent special district governed by a five-member board of directors. An appointed general manager oversees day-to-day activities, and this includes a current full-time budgeted staff of 642.0. Eastern MWD was formed in 1950 with an existing jurisdictional boundary spanning 542 square miles and includes the Cities of Hemet, Moreno Valley, Murrieta, Perris, and Temecula. The estimated jurisdictional resident population is 816,000. Eastern MWD's active municipal functions and associated classes involve potable water (retail and wholesale), wastewater (collection and treatment), and recycled water (retail). Approximately 84.3% of water supplies presently accessed by Eastern MWD for wholesaling or retailing are drawn from MET (Colorado River and Sacramento Bay-Delta) with the remainder coming from local groundwater. The most recent audit shows Eastern MWD's net position at \$1.939 billion as of June 30, 2022. This accrued amount reflects an overall three-year change of 11.3% and includes an unrestricted portion of \$307.290 million. The unrestricted amount is adjusted to \$399.771 million less pension and related retiree dedications and equals 11.6 months of recent actuals. The current Board officers and senior management roster follows.

President, Phillip E. Paule Vice President, Randy Record General Manager, Joe Mouawad Deputy General Manager, Laura M. Nomura Deputy General Manager, Nicolas Kanetis

**County Water Authority** is an independent special district governed by a 36-member board of directors that represent 24 local member agencies. An appointed general manager oversees, and their senior staff oversees day-to-day activities, and this includes a current full-time budgeted staff of 249.50. The County Water Authority by special legislation in 1944 with an existing jurisdictional boundary spanning 1,486 square miles and includes all 18 cities in San Diego County. The estimated jurisdictional population is 3,224,678. The County Water Authority's lone active municipal service function is water (wholesale class). Approximately 75% of all wholesale supplies are drawn from the Imperial Irrigation District (Colorado River). Another 15% of wholesale water supplies are drawn from the County Water Authority's own desalination facility in Carlsbad. The remaining 10% of wholesale supplies are drawn from MET (Colorado River and Sacramento Bay Delta). The most recent audit shows County Water Authority's net position at \$1.625 billion as of June 30, 2022. This accrued amount reflects an overall three-year change of 1.9% and includes an unrestricted portion of \$318.232 million. The unrestricted amount is adjusted to \$364.076 million less pension and related retiree dedications and equals 5.5 months of recent actuals. The current Board officers and senior management roster follows.

Chair, Mel Katz (City of Del Mar) Vice Chair, Nick Serrano (City of San Diego) Secretary, Frank Hilliker (Lakeside Water District) General Manager, Sandra Kerl

# Deputy General Manager, Dan Denham Assistant General Manager, Tish Berge

# MAP NO. 1 SUBJECT AGENCIES + REGIONAL SETTING



# Affected Local Agencies

The affected territory lies within the jurisdictional boundaries and/or spheres of influence of 22 local agencies directly subject to San Diego LAFCO as listed below. These agencies qualify as "affected local agencies" and have been provided notice of the proposed actions.<sup>6</sup>

<sup>&</sup>lt;sup>6</sup> Reference to Government Code 56014

- City of Oceanside
- County Service Area No. 135 (regional communications)
- County Service Area No. 81 (parks)
- Deer Springs Fire Protection District
- Fallbrook Regional Healthcare District
- Metropolitan Water District of Southern California
- Mission Resource Conservation District
- Morro Hills CSD
- North County Fire Protection District
- North County Cemetery District
- North County Transit District
- Oceanside Small Craft Harbor District
- Palomar Health Healthcare District
- Resource Conservation District of Greater San Diego County
- San Diego County Water Authority
- San Diego County Fire Protection District
- San Diego County Flood Control District
- San Diego County Street Lighting District
- Tri-City Healthcare District
- Upper San Luis Rey Resource Conservation District
- Valley Center Cemetery District
- Vista Fire Protection District

The affected territory also lies in the following college and school districts and received notice of the proposed actions: Mira Costa and Palomar College Districts and Valley Center-Pauma Unified and Vista Unified School Districts.<sup>7</sup>

# **Proposals' Preambles**

The following actions were taken by San Diego LAFCO either in anticipation or in response to the proposed reorganization filings in consultation with the applicants and subject agencies.

• Preamble No. 1 Approval of Memorandum of Understanding with Riverside County LAFCO

At its October 2019 meeting, and based on preliminary discussions with the applicants, San Diego LAFCO entered into a memorandum of understanding (MOU) with Riverside LAFCO to establish responsibilities should the proposal filings proceed forward. The MOU delegates San Diego the responsibility to process any proposal submittals and prepare related analyses – including, but not limited to – a municipal service review on Eastern MWD to inform a conforming sphere of influence action.

<sup>&</sup>lt;sup>7</sup> Voluntary notice of the proposed actions has also been provided to all other County Water Authority member agencies.

The MOU specifies San Diego shall actively consult with Riverside LAFCO in processing the reorganizations and related studies.

• Preamble No. 2

Approval for Alternative Conducting Authority Proceedings

At its May 2020 meeting, San Diego LAFCO approved requests from the County Water Authority to apply alternative conducting authority proceedings should the Commission approve Fallbrook PUD and/or Rainbow MWD's reorganization proposals. Approval of the alternative process was based on the County Water Authority meeting certain criteria under statute. The substantive result means any approval of the proposals will bypass standard protest proceedings in LAFCO statute and directly proceed to a confirmation election of registered voters consistent with the County Water Authority's principal act.<sup>8</sup>

Preamble No. 3
Establishment of an Advisory Committee

At its June 2020 meeting, San Diego LAFCO approved the establishment of an advisory committee to directly assist the Executive Officer in the administrative review of the reorganization proposals. The establishment of the "Ad Hoc Committee" included the Commission setting the composition at 10 members with the overall task of addressing disputes among the subject agencies consistent with the provisions of the Commission's Legislative Policy 107 (L-107). The Ad Hoc Committee roster was subsequently finalized by the Executive Officer with consultant Adam Wilson contracted to serve as moderator. The Ad Hoc Committee membership as of the date of this agenda report follows.

TABLE NO. 1 Ad Hoc Committee Moderator Adam Wilson					
Member	Title	Agency	Representation		
Jack Bebee	General Manager	Fallbrook PUD	Applicant		
Tom Kennedy	General Manager	Rainbow MWD	Applicant		
Nick Kanetis	Assistant General Manager	Eastern MWD	Subject Agency		
Sandy Kerl	General Manager	County Water Authority	Subject Agency		
Gary Croucher	Board Member	County Water Authority	CWA Appointee		
Nick Serrano *	Board Member	County Water Authority	CWA Appointee		
Lydia Romero	City Manger	City of Lemon Grove	Cities Committee		
Kimberly Thorner	General Manager	Olivenhain MWD	Districts Committee		
Brian Albright	Parks Director	County of San Diego	At-Large		
Keith Greer **	Regional Planner	SANDAG	At-Large		

\* Successor appointee following resignation of David Cherashore

\*\* Successor appointee following resignation of Rachel Cortes

<sup>&</sup>lt;sup>8</sup> The Commission separately took no action involving two other related requests by the County Water Authority to suspend work on the reorganization proposals due to COVID-19 and condition any future approvals on an expanded vote in all member agencies' jurisdictions.

• Preamble No. 4

Completion of the Fallbrook Region Municipal Service Review

At its March 2022 meeting, San Diego LAFCO received a final report on a scheduled municipal service review on the Fallbrook region and the local agencies operating therein subject to the Commission's oversight – including Fallbrook PUD and Rainbow MWD. The final report and its accompanying prospectus outline nine central conclusions relative to LAFCO's growth management tasks and interests that collectively address the availability, need, and adequacy of municipal services in the Fallbrook region and based on data collected and analyzed between 2016 and 2020. Markedly, this includes finding Fallbrook PUD and Rainbow MWD have experienced clear and measurable financial stress during the report period and reflected in substantive declines in their liquidity, capital, and margin levels. The Commission formally received the final report and in doing so attested to its completeness in making the required determinations under the municipal service review statute, which were separately adopted by resolution.

# DISCUSSION

This item is for San Diego LAFCO to consider the merits of the proposed reorganizations and the principal actions to transfer wholesale water service responsibilities within the affected territory – Fallbrook PUD and Rainbow MWD's jurisdictional boundaries – from the County Water Authority to Eastern MWD. The Commission may consider exercising discretion to modify the physical scope of the reorganizations by adding and/or subtracting

State law delegates broad discretion to LAFCOs in acting on proposed jurisdictional changes. Within this broad discretion, statute orients LAFCOs' decision-making to consider the proposals' overall effects in facilitating accountable and efficient local government while also recognizing the potential to weigh competing goals.

lands. The Commission may also consider applying conditions so long as it does not directly regulate land uses, property developments, or subdivision requirements. Additional discussion on the proposals' purpose, ancillary development considerations, and the Commission's focus under statute and policy follows.

# **Proposals' Purpose**

The stated purpose of the proposed reorganizations before San Diego LAFCO is to accommodate cost-savings for the two applicants and by extension their retail ratepayers by transitioning wholesale water services within their jurisdictional boundaries from the County Water Authority to Eastern MWD. The immediate timing of the proposals follows the applicants negotiating agreeable terms with Eastern MWD for wholesale water service and memorialized in an MOU signed in August 2019.<sup>9</sup> The MOU specifies Eastern MWD offers to provide wholesale supplies to the applicants should the reorganizations be approved at the current MET rate plus a commodity charge of \$11 per acre foot. The substantive effect would

<sup>&</sup>lt;sup>9</sup> The applicants' MOU with Eastern MWD extends through August 2025.

adjust the current wholesale supply costs to the applicants from \$1,608 under the County Water Authority to \$1,195 per acre-foot under Eastern MWD – a savings of (34.6%).

The applicants' proposals similarly attest the following four key justifications for filing their respective reorganization proposals with LAFCO:

- 1. The reorganizations will produce cost-savings for the applicants and their ratepayers by only paying for infrastructure used for the delivery of wholesale water from Eastern MWD.
- 2. The applicants' direct access to MET eliminates the need for new infrastructure costs to their ratepayers to accommodate the change in wholesale water service.
- 3. The applicants' estimate the cost-impact to the County Water Authority and its other retail member agencies will be limited with a monthly household increase of \$0.40 cents or \$5.00 dollars per year.
- 4. The applicants' consultant analysis confirms Eastern MWD has a reliable water supply to meet their ratepayers' respective needs going forward.

# Current and Planned Development & Related Policies

No development plans are associated with the reorganization proposal. Exactly 99.0% of affected territory is unincorporated and under the land use authority of the County of San Diego and its adopted policies. Specific development policies for this portion of the affected territory are largely delegated in the County General Plan to the Bonsall, Fallbrook, and Rainbow Community Plans, which are three of 22 designated communities identified by the Board of Supervisors meriting stand-alone land use provisions. These three Community Plans collectively cover more than four-fifths of the affected territory and implemented with the direct participation of separately elected advisory sponsor groups.<sup>10</sup> The principal function of the sponsor groups is to serve as information links between the communities and the County on matters dealing with planning and land uses within their respective areas. Premising land use goals within each Community Plan follows.

# Fallbrook Community Plan

"Perpetuate the existing rural charm and village atmosphere surrounded by semi-rural and rural lower density development, while accommodating growth." G-LU-1.1

# Bonsall Community Plan

"A unique balance of Bonsall's rural agriculture, estate lots, ridgelines, equestrian uses, and open space land uses in the community, including open space and low-density buffers

<sup>&</sup>lt;sup>10</sup> The remaining portion of the unincorporated lands comprising the affected territory is covered under the incomplete Pendleton-De Luz Community Plan.

separating the community from adjacent cities and unincorporated community and new development that conserves natural resources and topography." G-LU-1.1

## Rainbow Community Plan

"Land use that retains and enhances the rural character of the community." G- LU-1-1.

#### **Commission Focus**

Three central and sequential topics underlie San Diego LAFCO's consideration of the proposed reorganizations and the decision to approve, approve with conditions, or disapprove relative to facilitating accountable and efficient local government. These policy items ultimately take the form of determinations and orient the Commission to consider the interrelated merits of (a) accommodating sphere of influence actions for both subject agencies, (b) timing of the reorganization, and (c) whether modifications or approval terms are appropriate. Consideration of these three policy items – markedly – includes the Commission balancing competing interests and goals as needed.

# ANALYSIS

San Diego LAFCO's analysis of the proposed reorganizations is divided into two subsections. The first subsection evaluates the central topics referenced in the preceding section. This involves analyzing the merits of conforming sphere of influence actions for the two subject agencies and the role spheres serve as the Commission's principal planning tool in directing orderly growth and development. This also involves assessing the overall public value of the reorganizations' themselves and their timing under statute and policy with the latter marked by addressing the inter-jurisdictional disputes underlying both proposals consistent with Policy L-107. Potential modifications and terms – including those requested by the applicants and subject agencies – round out the first subsection's analysis. The second subsection considers other germane statutory issues and includes making related findings under the California Environmental Quality Act (CEQA).

# **Central Topics**

# Item No. 1 | Conforming Sphere of Influence Actions

The proposed reorganizations necessitate San Diego LAFCO to consider conforming sphere of influence actions for the two subject agencies to achieve consistency with the requested jurisdictional changes as required under statute. Consideration of the amendments are premised on LAFCO's statutory responsibility to designate spheres to demark the affected agencies' appropriate jurisdictional boundary and/or service areas now and into the immediate future as determined by the Commission. This includes demarking the Commission's expectation of exclusive responsibilities for one or more municipal services.

Specific actions prompted by the proposed reorganizations involve (a) establishing a sphere for Eastern MWD specific to its wholesale function to include the affected territory and concurrently (b) removing these lands from the County Water Authority sphere. The proceeding analysis focuses on the lead action involving Eastern MWD as the receiving entity and organized to consider three related factors necessitated under statute and local policy. The statutory factors are divided between macro and micro

The analysis of the conforming sphere actions is three-fold. The first two factors tie to statute and involve considering Eastern MWD's overall standing via a recent municipal service review plus addressing the notional relationship between Eastern and the affected territory. The third factor ties to local policy and LAFCO's use of spheres for various policy purposes in San Diego County.

considerations and involve overall agency information analyzed in a municipal service review paired with addressing the notional relationship between the agency and affected territory.<sup>11</sup> Local policies involve consideration of L-102 and its provisions to guide sphere actions in San Diego County. Analysis of these three sphere factors follow.

• Sphere Factor No. 1: Consideration of a Municipal Service Review

Statute requires LAFCO to prepare municipal service reviews to inform its connected planning task to establish or update local agencies' spheres of influence. The statute further directs LAFCO perform sphere updates every five years as needed. The most recent municipal service review germane to these proposals covers Eastern MWD and was completed by Riverside LAFCO in May 2019.<sup>12</sup> The document evaluates Eastern MWD's full complement of active service functions (potable water, wastewater, and recycled water) as part of a regional report on western Riverside County. The municipal service review largely draws on data collected between 2014 and 2018 and generally affirmative with regards to assessing Eastern MWD's overall service capacities and related administrative controls.

In consultation with Riverside LAFCO through the MOU process, and as part of the administrative reviews of the applicants' reorganization proposals, San Diego LAFCO has prepared an addendum to the municipal service review. The addendum provides gap analysis on Eastern MWD with specific attention to its potable water function and financial standing through data collected between 2017 to 2021. Among other topics, and as outlined in the accompanying prospectus, the addendum concludes Eastern MWD maintains adequate infrastructure to meet current and anticipated potable water demands (retail and wholesale) with available capacity to accommodate additional growth. This conclusion is reflected in average annual and daily system demands for Eastern MWD equaling less than one-third of its available capacities (supplies and associated infrastructure) during the 60-month period. The addendum

<sup>&</sup>lt;sup>11</sup> Reference to Government Code Sections 56430 and 56425, respectively.

<sup>&</sup>lt;sup>12</sup> Municipal service reviews serve as a centerpiece to the most recent rewrite of LAFCO statute in 2001 and represent comprehensive studies on the level, range, and performance of governmental services provided within defined geographic areas. LAFCOs are tasked with preparing municipal service reviews to explicitly inform subsequent sphere of influence actions and done so to provide the Commission a holistic assessment of the subject agencies with respect to certain designated topics. These designated topics are headlined by growth and population projections, infrastructure needs and financial standing. LAFCOs are relatedly required to update spheres every five years.

also concludes Eastern MWD is fiscally sound overall and marked by finishing with positive total margins in the last four of the five years covered.

# Sphere Factor No. 2: Consideration of the Agency-Affected Territory Relationship

The Legislature prescribes consideration of five factors anytime LAFCOs act on spheres of influence. These factors parallel the macro topics in municipal service reviews with a notional focus on the relationship with the affected territory – including service needs and adequacy of available services. The factors also orient the Commission to broadly consider the relationship between current and planned land uses in the affected territory plus – and as needed – effects on qualifying disadvantaged unincorporated communities. The factors and staff analysis follow.

- With respect to present and planned land uses, the affected territory as submitted spans 79,050 acres with 99% being unincorporated.<sup>13</sup> Close to three-fourths of the affected territory is subject to the County of San Diego's Fallbrook Community Plan.<sup>14</sup> Four distinct subregions comprise the affected territory and include Bonsall, De Luz, Fallbrook, and Rainbow. Fallbrook and its "village" setting headlines the four subregions with its cultural, retail, medical offices, schools, and entertainment venues that residents in the other subregions regularly patron. The region overall remains mostly rural in character outside Fallbrook's "town" core and continues to function as a community separator between the more urban uses to the north (Temecula) and south (Escondido) along the Interstate 15 corridor. As addressed in LAFCO's recent municipal service review on the Fallbrook region, it appears the affected territory is at a pivot point with respect to substantive changes in development and land uses. Specifically, the affected territory's historical immersion in agriculture with avocados being the primary cash crop over the last 60 plus years appears to be waning. Measuring this transition is marked by the loss of nearly one-fifth – or (18.7%) – of the total number of avocado acreages in the affected territory over a recent five-year period. Some of this acreage has already been converted into housing with nearly 600 new units added over the same fiveyear period; an amount equal to an overall 2% increase in the housing stock and above historical averages. More of this acreage appears to have been left fallow and suggests - among other items - the cost of growing avocados in the "Avocado Capital of the World" for many local farmers has become unsustainable.
- With respect to **present and probable need for one or more public services**, the affected territory's existing and planned land uses merit a full range of municipal services. The present needs tie directly to the affected territory's current estimated population of 56,116, which makes it the one of the largest unincorporated communities with a resident total that exceeds 7 of the 18 cities in San Diego County. It is also reasonable to assume the need for a full range of municipal services will

<sup>&</sup>lt;sup>13</sup> The remaining portion of the affected territory – totaling 859 acres – lies in Oceanside and part of the Morro Hills neighborhood.

<sup>&</sup>lt;sup>14</sup> The Fallbrook Community Plan is premised on the following land use goal: "perpetuate the existing rural charm and village atmosphere surrounded by semi-rural and rural lower density development, while accommodating growth."

further intensify given the expectation of further growth and development within the affected territory. This assumption ties to the critical demand for housing in San Diego County paired with the region's available land supply with more than twofifths of private acreage remaining undeveloped paired with existing jurisdictional access to wholesale water supplies. Further, and whether for residential or agricultural purposes, the lack of available local water resources accentuates the paramount importance of imported supplies and related infrastructure to the area.

- With respect to **overall adequacy of the agency's public services**, a comprehensive evaluation of Eastern MWD was most recently prepared as part of a regional municipal service review by Riverside LAFCO. The municipal service review was completed in May 2018 and evaluates Eastern MWD's full complement of active service functions potable water, wastewater, and recycled water and largely based on data collected between 2014 and 2018. This municipal service review is generally affirmative with regards to assessing Eastern MWD's overall service capacities and administrative controls without the identification of any substantive infrastructure deficiencies. An addendum to the municipal service review prepared by San Diego LAFCO provides gap analysis to include data up to 2021 and similarly attests to Eastern MWD's overall service capacities and related administrative controls.
- With respect to **social or economic communities of interest if relevant to the agency**, the affected territory's existing development and land uses largely tie back to earlier annexations to the County Water Authority and Metropolitan Water District of Southern California ("MET"). These annexations and the associated availability of wholesale water supplies made available to the affected territory materially underlies its social and economic welfare. It is reasonable to assume these social and economic communities of interests within the affected territory tied to the provision of wholesale water supplies are transferable and would be readily assumed by Eastern MWD should the reorganizations be approved.
- With respect to **present and probable need for agency services involving any disadvantaged unincorporated communities** within the existing sphere of influence, two distinct considerations are identified. First, there are currently 22 distinct qualifying areas or DUCs located within Eastern MWD's existing sphere based on information independently evaluated by Riverside LAFCO. These DUCs range in size from 13.3 to 4,232.2 acres in size with the latter involving the Good Hope community with an estimated resident population of 8,681. Eastern MWD currently serves 5 of these 22 existing DUCs. Second, there are two DUCs located within the affected territory comprising approximately 15% and 3% of Fallbrook PUD's and Rainbow MWD's jurisdictional boundaries and generally cover the Fallbrook Village and Gopher Canyon communities.

# Sphere Factor No. 3: Consideration of Policy L-102

San Diego LAFCO's policies guiding sphere of influence actions are primarily codified under L-102. This policy was adopted in August 1990 and last substantively updated in June 2000. It directs the Commission to utilize spheres to guide deliberations on future changes of organizations and in doing so – and among other growth management objectives – help reflect and preserve community identities. The policy further directs LAFCO to use spheres to discourage duplication of municipal services and similarly encourages local agency consolidations, whether functional or political. The policy separately includes a provision for LAFCO to maintain a sphere for the County Water Authority that is coterminous with the spheres of its member agencies.<sup>15</sup>

The sphere of influence actions necessary to accommodate the proposed reorganizations – and precisely establishing a sphere for Eastern MWD to include the affected territory while removing the lands from the County Water Authority sphere – conforms with L-102. Most notably, the sphere actions would continue to designate one agency – Eastern MWD – as the chosen singular wholesale water service provider for the affected territory. The sphere actions would also establish a new and otherwise meritorious policy statement consistent with L-102 by recognizing a cohesive identity within the affected territory that is substantively distinct from adjacent areas.

#### CONCLUSION |

#### MERITS OF CONFORMING SPHERE OF INFLUENCE ACTIONS

The conforming sphere of influence actions to accommodate the Commission separately considering the proposed reorganizations appear sufficiently justified under both statute and local policy. Justification is marked by the preceding analysis and largely premised on the following two assumptions:

- First, it is assumed the Commission determines the municipal service review and associated addendum prepared by Riverside and San Diego LAFCOs, respectively, adequately informs the decision-making process in evaluating the overall service and fiscal standing of Eastern MWD with respect to its potable water function.
- Second, it is assumed the Commission determines the affected territory shares relevant communities of interests that are distinct from adjacent lands in San Diego County and can be appropriately preserved through placement in Eastern MWD's sphere.

Should either of these premising assumptions misalign with Commission preferences, it would be appropriate to disapprove or term the conforming sphere actions and remedy as needed.

<sup>&</sup>lt;sup>15</sup> The referenced policy provision deemphasizes the stand-alone function of the County Water Authority's sphere of influence under statute given any changes made therein are responses to changes to the spheres of the member agencies.

# Item No. 2 | Reorganizations' Timing

San Diego LAFCO's consideration of the proposed reorganizations' timing draws on analyzing baseline factors required in statute as well as applicable policies set by the Commission and related project-specific considerations identified by the Executive Officer. Most of the baseline factors in statute focuses on disclosing and otherwise addressing compatibility issues with external goals and policies of other State, regional, and local agencies as well as assessing the ability of Eastern

The analysis of the reorganizations' timing is three-fold. The first factor ties to statute and involves addressing multiple topics with most directed towards Eastern MWD's ability to provide wholesale water services to the affected territory. The second factor involves addressing consistency with local policies and headlined by L-107 and its provisions to address jurisdictional disputes. The third factor involves other local considerations identified by LAFCO staff.

MWD – as the receiving agency – to provide services.<sup>16</sup> Applicable local policies prompted for consideration are headlined by L-107 and its attention to addressing jurisdictional disputes, which are germane to the proposals given the numerous objections raised by the County Water Authority and some of its member agencies. LAFCO staff has also identified several other considerations underlying the proposal's timing and merits/demerits therein based on the administrative reviews of the proposals.

Analysis of these three related timing factors follows.

• Timing Factor No. 1:

Consideration of Eastern MWD's Ability to Serve

State law prescribes the mandatory consideration of certain and multifaceted factors anytime LAFCOs consider jurisdictional changes. These factors range in substance from disclosures – such as the affected territory's current land uses, assessed values, registered voter counts, and so on – to discretionary analyses. This latter category is highlighted by evaluating the proposed jurisdictional changes' relationship to community needs as well as the service capacities and related financial resources of Eastern MWD as the receiving agency in contrast to baseline conditions. A summary of key conclusions generated in the review of these discretionary matters for the proposed reorganizations regarding (a) service needs, (b) service availability and capacities, and (c) related financial considerations follow.

With respect to service needs, the provision of imported wholesale water supplies associated with the proposed reorganizations has proven necessary due to the overall limitation on local sources in the affected territory. These needs underlie the previous actions by both applicants' governing boards to pursue annexations to the County Water Authority to establish access to imported water supplies from the Colorado River and later Sacramento-Bay Delta.<sup>17</sup> The applicants assert the increasing costs for imported water supplies from the County Water Authority –

<sup>&</sup>lt;sup>16</sup> Reference to Government Code Section 56668.

<sup>&</sup>lt;sup>17</sup> The Fallbrook Public Utility District annexed upon their formation in 1944. The Rainbow Municipal Water District annexed shortly after their formation and in 1954 to provide access to Colorado River water supplies.

however – have begun to adversely affect the quality of life within the affected territory, and most notably for agricultural users. The applicants quantify the adverse impact by estimating an average cost increase in water rates at 8% annually over the preceding decade. The applicants relatedly attribute the size of the cost increases in large part to sustaining an expanding County Water Authority infrastructure portfolio that does not proportionally benefit the affected territory.

There are no disagreements that imported wholesale water supplies remain a critical need within the affected territory. These needs are paramount within Rainbow MWD given their absolute dependency – now and within the foreseeable future – on imported supplies given the lack of alternative local resources. These needs remain present also within Fallbrook PUD, albeit to a lesser extent. This distinction ties to Fallbrook PUD's recent investment in a conjunctive use project with Camp Pendleton that has the potential to provide PUD annually up to 4,200 acre-feet of potable water – or 46% of its current average annual demand – from the Santa Margarita Watershed.

There similarly appears to be sufficient evidence that the quality of life within the affected territory has been adversely affected by the otherwise significant rise in the County Water Authority's imported water supplies. The adverse effects tied to the rise in imported water costs on agricultural users also appears substantiated. This comment draws on the recent municipal service review prepared on the Fallbrook region (2022) and related analysis showing an estimated loss of nearly (one-fifth) of avocado acreage in the affected territory over the preceding five-year period. Further, and irrespective of other market factors, the increase in imported water costs is more than one-third the corresponding change in the per pound price of avocados in California in the last ten years.<sup>18</sup>

- With respect to **service availability and capacities**, the approval of the reorganizations would transfer wholesale water supply responsibilities – including all rights and duties – within the affected territory from the County Water Authority to Eastern MWD. The mechanics of this transfer are addressed in the applicants' plans of service and draw on a three-party MOU with Eastern MWD. Key items covered in the applicants' plans of service filed with LAFCO regarding access, supply and reliability, and contingency planning follows.

<sup>&</sup>lt;sup>18</sup> According to the California Association of Avocados Growers, the average price of Hass avocados per pound has increased from \$0.84 to \$1.22 in the last nine years and reflects a 45.5% increase.

<u>Access</u>. Fallbrook PUD currently maintains four connections to receive wholesale water supplies from County Water Authority via MET's Skinner Water Treatment Facility in Riverside County. Three of these connections are to pipelines owned by MET that extend into San Diego County. The fourth connection involves a pipeline owned by the County Water Authority. Post reorganization approval, Fallbrook PUD states it would continue to receive wholesale supplies from Skinner via Eastern MWD using only the three connections owned by MET. (The fourth connection to pipeline owned by the County Water Authority would be abandoned.)

The applicants' attest no new infrastructure is needed to access wholesale water from Eastern MWD with one qualifier. This qualifier involves Rainbow MWD and its preference to enter into a wheeling agreement with County Water Authority to continue to access four connection points along the San Diego Aqueduct to dependably supply Rainbow's southern distribution system. Absent a wheeling agreement, Rainbow would need to build new infrastructure.

Rainbow MWD currently maintains eight connections to receive wholesale supplies from the County Water Authority. These connections are equally divided between four pipelines owned by MET serving the northern distribution system and four pipelines owned by the County Water Authority serving the southern distribution system. Like Fallbrook PUD, nearly all of the wholesale water delivered to Rainbow MWD arrives from Skinner. However, and unlike Fallbrook PUD, Rainbow MWD can also receive wholesale water for its southern distribution system via the County Water Authority's Twin Oaks Treatment Facility under certain hydraulic conditions. Post reorganization approval, Rainbow MWD would exclusively receive wholesale supplies from Skinner via Eastern MWD using all eight existing connections including the four pipelines owned by the County Water Authority under a future wheeling agreement. If a wheeling agreement is not reached, Rainbow MWD would use its existing distribution system to pump wholesale water from Eastern MWD – via four northern connections – as well as construct new infrastructure to ensure service delivery to its southern service area. A wheeling agreement involving the City of Oceanside's Weese Filtration Plant will also need to be executed.<sup>19</sup>

<u>Supply and Reliability</u>. Fallbrook PUD and Rainbow MWD currently receive wholesale water supplies from County Water Authority that are imported from the Colorado River and Sacramento Bay-Delta. The quantity of supplies is unrestricted and based on overall availability. Until recently, the County Water Authority's imported supply from the Colorado River was exclusively purchased through MET. This changed in 2003 when the County Water Authority began to separately purchase Colorado River supplies also from the Imperial Irrigation District (ID), which have high-priority rights in the event of limitations enacted by the Federal

<sup>&</sup>lt;sup>19</sup> The Weese Filtration Plant is presently located in Rainbow MWD's service area. Rainbow MWD and the City of Oceanside entered into an agreement that commits the parties to the transfer and treatment of raw water – at the Weese Filtration Plant – and in doing so utilizing unused capacity. Should detachment be approved, the City of Oceanside, Rainbow MWD, the Water Authority, and Eastern MWD would need to establish a wheeling agreement.

government.<sup>20</sup> Access to purchased Colorado River supplies from Imperial ID, however, remains entirely dependent on MET conveyance facilities at this time.<sup>21</sup>

The applicants attest to the overall reliability of the County Water Authority's wholesale supplies relative to their demands. This includes attesting neither the County Water Authority or MET have taken actions to curtail the availability of supplies to its member agencies at any time during the last five years (i.e., all demands have requested been accommodated). Post reorganization approvals, Eastern MWD would provide Fallbrook PUD and Rainbow MWD with wholesale supplies. These wholesale

Post reorganization approvals, Fallbrook PUD and Rainbow MWD would continue to receive wholesale supplies from the Colorado River and Sacramento Bay-Delta. These supplies – whether through County Water Authority or Eastern MWD – have proven reliable with neither wholesaler curtailing availability over the last five years due to any shortfalls. Nonetheless, the Colorado River supplies available to the applicants post reorganizations would be materially lessened given they would no longer include access to grandfather rights currently held by the County Water Authority through its agreement with Imperial ID.

supplies, however, would be generated only from MET and purposefully excludes any of Eastern MWD's own local resources. This limitation is part of the current three-party MOU and would result in the applicants becoming entirely dependent on MET's two supply sources: Colorado River and Sacramento Bay Delta. This contractual arrangement mirrors existing wholesale relationships for Eastern MWD in supplying seven local retailers within its jurisdictional boundary. These existing wholesale relationships were established between 1964 and 2003 and divided between three cities (Hemet, Perris, and San Jacinto), three special districts (Lake Hemet MWD, Western MWD, and Rancho Water District), and one private entity (Nuevo Water Company).<sup>22</sup> Eastern MWD has not issued any of its own curtailments on wholesale deliveries at any time during the last five years.

Rainbow MWD's application materials include supplemental analysis on the topic of reliability and differences between the County Water Authority and Eastern MWD via MET. This supplemental analysis has been prepared by Ken Weinberg and includes three pertinent and intertwined conclusions.<sup>23</sup> The first conclusion states the County Water Authority supply is comparatively more certain given recent investments to diversify both imported and local resources. The second conclusion asserts planned MET investments to improve reliability paired with continued decreases in demands will reduce the existing margin of difference going forward. The third conclusion serves as a carveout for agricultural users and states these customers may experience an overall improvement in reliability as a result of the reorganizations. This carveout ties to eliminating the County Water Authority's

<sup>&</sup>lt;sup>20</sup> The Colorado River Quantification Settlement Agreement (QSA) signed in 1998 – between Imperial Irrigation District (IID) and the SDCWA – was a result of severe droughts in 1990 and 1991 which led SDCWA to seek less dependency on MWD for its water supplies. The agreement held the SDCWA financially responsible for the lining of the All-American and Coachella Canals while also legally binding MWD to delivering QSA water supplies from IID to the SDCWA. The agreement took effect in October 2003 and has since facilitated the SDCWA's reduced reliance on MWD for water and reflected in a 75% decrease since 1991 (95% in 1991 to 20% in 2022).

<sup>&</sup>lt;sup>21</sup> The applicants also materially benefit from the County Water Authority's seawater supply generated from its Carlsbad (Bud Carlson) Desalination Treatment Facility, which serves to increase the overall reliability of supplies available to Fallbrook PUD and Rainbow MWD.

<sup>&</sup>lt;sup>22</sup> All seven of these wholesale users rely on Eastern to supplement their systems and own local supplies.

<sup>&</sup>lt;sup>23</sup> Ken Weinberg is the principal with Weinberg Water Resources Consulting LLC.

Transitional Special Agricultural Water Rate (TSAWR) program, which provides eligible users with reduced costs in exchange for being subject to higher cutbacks in the event of supply shortages.

<u>Contingency Planning</u>. During an emergency event, causing disruption to water pipelines, facilities, and service delivery to residents the agencies would continue to receive water under storage programs available via the County Water Authority or - should detachment be approved - the Eastern MWD through Metropolitan. When implemented, these storage programs have the capacity to accommodate a 75% level of service to its member agencies. A distinguishing factor among the County Water Authority's program in comparison to Metropolitan's is that ratepayers under the TSAWR program, would not experience a higher cutback, which under CWA is equivalent to a 59% level of service. Should service be completely cutoff, Metropolitan maintains that repairs would be completed within 14 days. During this time, Rainbow MWD and Fallbrook PUD would need to supplement the loss of water with local supplies. Rainbow MWD's total storage capacity is 695.0 acre-feet and is equivalent to accommodating 15 days of average day demands without recharge. Should the emergency result in more than a 14-day lapse in service, Rainbow MWD has signed an MOU with Fallbrook PUD committing Fallbrook PUD to supply them with local potable water supplies from its Santa Margarita River Conjunctive Use Project and through an imported water system. The Fallbrook PUD has a total storage capacity of 1,453 acre-feet and is equivalent to accommodating 58 days of average day demands without recharge.

- With respect to **financial considerations**, the Fallbrook PUD and Rainbow MWD presently pay the County Water Authority \$1,565 and \$1,536, respectively, for every acre-foot of wholesale treated water delivered. These wholesale charges are incorporated into each applicants' adopted retail water use rates along with recovering operation and maintenance costs. The retail rates are similarly distinguished

Fallbrook PUD and Rainbow MWD's wholesale water supply costs currently account for 65% to 79% of their respective retail rates. Post reorganization approvals, Fallbrook PUD and Rainbow MWD would experience an approximate 24% and 22% annual savings in wholesale water supply costs.

by both applicants into two demand classes – agricultural and municipal and industrial – with different charges based on customer types (i.e., commercial agriculture rate v. special agricultural rate). The average portion of retail rates tied to recovering wholesale supply costs from the County Water Authority is approximately 65% for Fallbrook PUD and 79% for Rainbow MWD over the last five available years. Post reorganization approvals, and based on the negotiated MOU, the applicants would pay Eastern MWD \$1,195 for every acre-foot of wholesale treated water delivered. This equates to an introductory annual cost-savings to Fallbrook PUD and 23.7% and 22.2%, respectively.

# Timing Factor No. 2: Consideration of Policy L-107 & Associated Findings by Dr. Michael Hanemann

San Diego LAFCO adopted L-107 in May 2010 to require all applicants to disclose jurisdictional disputes associated with their proposal filings. If applicable, and unless waived by the Executive Officer, the policy requires applicants and/or their representatives to consult with opponents to resolve any known issues – concerns, disputes, etc. – before the item is formally considered by the Commission. The Executive Officer retains discretion to determine the extent of consultation needed. If an agreement is reached through the consultation process, the policy states the Commission shall consider the provisions as part of the application. If an agreement is not reached, and the Executive Officer concurrently determines good-faith efforts have been satisfied, the policy states the Commission shall proceed to consider the application as submitted.

Consistent with the reporting requirements under L-107, Fallbrook PUD and Rainbow MWD both disclosed objections to the proposed reorganizations from the County Water Authority in filing the coordinated applications with LAFCO in March 2020. The applicants summarized the objections from the County Water Authority at the time of the filings into three topical items. Two of the items overlap and involve a dispute over the County Water Authority's request that the applicants' detachments not cause any net loss in revenue ("revenue neutrality") or require exit fee payments. The third item involves a dispute over the County Water Authority's request that any detachment elections be conducted within its entire jurisdictional boundary as opposed to only Fallbrook PUD and/or Rainbow MWD. The applicants also disclosed a fourth objection raised by the Otay Water District with regards to the applicants' using Class 20 exemptions as lead agencies under CEQA.

At its June 2020 meeting, and at the recommendation of the Executive Officer, the Commission approved the establishment of an advisory committee to satisfy the consultation process required under L-107 given the abovereferenced dispute disclosures. The establishment of the Fallbrook-Rainbow Ad Hoc Committee ("Ad Hoc") included the Commission setting the composition at 10 members as detailed in an earlier section and tasked with advising the Executive Officer through the administrative review process on specific disputes and/or controversies tied to the proposals - including but not limited to the items disclosed by the applicants.

Fallbrook PUD and Rainbow MWD each disclosed four jurisdictional disputes to their reorganization proposals at the time of filing in March 2020 as follows.

- 1. Request by CWA for detachments to show revenue neutrality.
- 2. Request by CWA for exit fees in lieu of revenue neutrality.
- 3. Request by CWA that any detachment elections include voters throughout its (CWA) jurisdictional boundary.
- 4. Objection by Otay WD to exempt the detachments under CEQA Class 20.

The Ad Hoc subsequently held 13 public meetings between December 2020 and April 2023. Most of the meetings were dedicated to addressing three overlapping topics – (a) water supply reliability, (b) financial impacts, (c) potential exit fees – selected by the Ad Hoc with their related tasking of Dr. Michael Hanemann with Arizona State University to provide expert analysis. Dr. Hanemann proceeded to issue a draft report on all three topics to the Ad Hoc in September 2021 followed by a formal public review and comment period. A final report was presented to the Ad Hoc in February 2022 with the following key summary conclusions.

- With respect to **water supply reliability**, Dr. Hanemann concludes both the County Water Authority and Eastern MWD have established reliable wholesale supplies. Dr. Hanemann finds County Water Authority supplies are more reliable given they are more diversified and marked by having direct access to desalinated water. However, Dr. Hanemann does not define the reliability differences between the two as substantive relative to industry standards.
- With respect to **financial impacts**, Dr. Hanemann concludes the net cost-savings to Fallbrook PUD and Rainbow MWD if they detach and change wholesalers will be \$2.9 million and \$4.8 million each year, respectively, and generate a combined net annual savings of \$7.7 million. The individual amounts represent net savings of 35% for Fallbrook and 21% for Rainbow. Concurrently, Dr. Hanemann concludes the County Water Authority will lose \$4.1 million each year if Fallbrook PUD detaches and \$8.5 million each year if Rainbow MWD detaches. The combined annual loss for the County Water Authority should both applicants detach is \$12.6 million and represents a net loss of (2%) for the County Water Authority.
- With respect to **potential exit fees**, Dr. Hanemann concludes payments to the County Water Authority are economically justified for both Fallbrook PUD and Rainbow MWD if they depart. Dr. Hanemann defers to LAFCO to consider various options in deciding an appropriate metric in devising an exit fee. One specific option offered by Dr. Hanemann involves tying an annual exit fee to recover the applicants share of the County Water Authority's annual payment to Imperial Irrigation District for direct and grandfathered supplies to the Colorado River. These supplies are referred to as Quantification Settlement Agreement water or "QSA" water. Dr. Hanemann calculates an annual exit fee based on QSA recovery for Fallbrook PUD and Rainbow MWD at \$5.3 million and \$7.7 million, respectively. The combined annual exit fee is \$13.0 million (rounded). Dr. Hanemann further concludes it would be reasonable to require Fallbrook PUD and Rainbow MWD to pay an annual exit fee to the County Water Authority for no less than three years and no more than 10 years.

In receiving the final report in February 2022, each Ad Hoc member was asked to go on the record with respect to determining whether they believe Dr. Hanemann's analysis positions LAFCO to make informed decisions on each of the three topics. The Committee unanimously responded "yes." A copy of the final report is attached.

# Timing Factor No. 3: Other Material L-107 Considerations

LAFCO staff has identified a range of other considerations relative to L-107 meriting the Commission's attention in assessing the overall timing of the proposed reorganizations and related merits and/or demerits. These other considerations incorporate topics largely sourced to affected agencies – including the County Water Authority and several of its member agencies – that have been generated during the approximate three-year span of the administrative reviews. Other topics are sourced to comments received by the Cities and Special Districts Advisory Committees as well as the general public. A listing of these other considerations number eighteen and are summarized below along with staff analysis.

# - (a) MET's Position on the Detachments

The applicants – Fallbrook PUD and Rainbow MWD – and the subject agencies – Eastern MWD and County Water Authority – are all members of MET. The MET Board has taken no formal position on the proposed reorganizations. However, LAFCO staff is in receipt of two separate comment letters from MET officials outlining their own observations on the proposals. These comments are materially divergent from one another as summarized below.

The first comment letter was received on September 17, 2020, from then MET General Manager Jeffrey Knightlinger. These comments, which followed formal notice of the proposals by LAFCO to all affected agencies, addresses several germane technical and policy topics. The substance of these topics ranges from describing the blended nature of supplies available to Eastern MWD and County Water Authority to assessing governance impacts at MET should the detachments proceed. The comments conclude with the following statement:

"In conclusion, the proposed reorganization would not impact Metropolitan's ability to provide reliable water supplies to its 26 member agencies. Nor would it increase the demands on the Bay Delta. It would have only a de minimis impact on voting entitlements and representation by SDCWA and Eastern at Metropolitan. It would not affect the County Assessor's ability to collect taxes to be distributed throughout Metropolitan's service area." (Knightlinger, September 17, 2020)

The second comment letter was received on March 22, 2023 from current Chair Adán Ortega. These comments followed the publication of an original draft report on the proposals for discussion at the Cities and Special District Advisory Committees' March 17<sup>th</sup> meetings and address several concerns with the reorganization proposals. This includes citing the proposals' potential to prioritize water affordability among MET members at the expense of regional water supply adaptation measures. These comments conclude with the following statement:

"If permitted by LAFCO in San Diego County, the implication of its decision would be relevant to Metropolitan's current master planning process. Efforts toward climate adaptation through investments in long-term water supply planning could become trapped in the immediate issues of affordability that could otherwise be addressed over the long-term. This would occur as communities chase after the lesser rates among adjacent Metropolitan Member Agencies in a potential race to the bottom compromising past investments."

# - (b) SANDAG's Position on the Detachments

During the administrative reviews the County Water Authority has raised various topics relating to the potential impacts of the detachments on SANDAG. Specifically, the County Water Authority has commented the detachments would counter SANDAG's efforts to coordinate regional water planning among all land use authorities in San Diego County. Staff proceeded to communicate these topics directly to SANDAG in an April 19, 2022 letter to the Chief Executive Officer's Office with the invitation to provide comments. No comments have been received, and accordingly staff believes it is reasonable to assume there are no direct conflicts tied to the detachments with respect to SANDAG policies or programs.<sup>24</sup>

# (c) Financial Differences Between "Roll-Offs" and Detachments at CWA

The topic of "roll off" has been cited regularly during the administrative reviews and frequently by the applicants and their proponents as context to considering the financial impacts tied to detachment. The Ad Hoc Committee tasked a working group to independently address the topic and specifically key differences between roll-off and detachment with regard to financial impacts to the County Water Authority.<sup>25</sup> The working group's summary follows.

"It is important to note that there is no obligation for any member agency to take any amount of supply from SDCWA. However, a member agency that remains as a member of the SDCWA will still have to pay fixed costs to SDCWA, even if they do not take a drop of water. The elephant in the room is not if detachment and roll off are the same. They are not. The impacts of detachment and roll off are different in that an agency that rolls off will still be a member agency of the SDCWA and will be contributing to future cost increases and rates set by the SDCWA board. A detachment, once completed, means that a member agency is no longer a member agency of SDCWA and will not be contributing to future costs – unless an exit fee is conditioned by LAFCO for a certain time period. The true elephant in the room is that unless SDCWA reduces (or leverages to others) its fixed take or pay supplies; it will have more fixed take or pay supplies than it will have demand in the next ten years if its member agencies fully develop all of their local supply projects. Dr. Hanemann also noted in his presentation to the LAFCO Detachment Workgroup that there is a "Financial exposure to reduction in water sales. With current rates, I

<sup>&</sup>lt;sup>24</sup> This conclusion is further supported given a SANDAG appointee has continually participated as an at-large member on the Ad Hoc Committee.

<sup>&</sup>lt;sup>25</sup> The Ad Hoc Committee's working group included the following members: Kim Thorner; Lydia Romero; Brian Albright; and Keith Greer.

estimate that for every 1,000 AF less that SDCWA delivers to member agencies, its net revenue falls on average by almost \$1M. This is of some concern given that SDCWA is projected to experience a reduction of about 60,000 AF in deliveries to member agencies by around 2030." If member agencies roll off to the tune of 60,000 acre feet by 2030 through the development of local supplies, (according to Dr. Hanemann) this will reduce the SDCWA net revenue by \$60,000,000. By way of comparison, FY 2022 Net Water Sales Revenue by SDCWA (in its annual budget) is \$108,586,236. A loss of \$60 million in net revenue is more than half of SDCWA's total current annual net revenue. This is not a sustainable future and does not bode well for future rate affordability. This topic should be explored in depth via the upcoming SDCWA MSR. Any MSR review of SDCWA should also include a review of MWD and its operations and agreements within the SDCWA region." (Ad Hoc Working Group Memo, August 11, 2022)

In further considering the topic, the County Water Authority recently presented to its Board of Directors an update on planned potable reuse projects and expected production (graph below). The presentation focused on three known and otherwise certain reuse projects that will generate roll-offs: City of San Diego Pure Water; City of Oceanside Pure Water; and East County Advanced Water Purification. The County Water Authority estimates these three projects will collectively generate annual potable resuse supplies starting at 3,000 acre-feet in 2025-2026 and incease to 50,000 acre-feet by 2028-2029.



Based on the financial estimate provided by Dr. Hanemann – and specifically the cost to the County Water Authority of \$0.940 million for each unsold acre-foot – the annual loss of water sale revenue tied to the three reuse projects would start at \$2.82 million in 2025-2026 and increase to \$47.0 million in 2028-2029. LAFCO staff has further apportioned the loss revenue among the member agencies as part of a rate recovery adjustment by the County Water Authority as shown in the following table with additional details footnoted. <sup>26</sup> In terms of translating revenue loss to a percentage impact on rates, the County Water Authority has stated as a rule of thumb that every \$5.0 million equates to a 1% rate impact.<sup>27</sup> This latter principle suggests the financial impact of roll-offs tied to the three resuse projects would produce an approximate 9.4% increase to ratepayers by the end of the decade. Converserly – and detailed further in (e) – the detachments financial impact would produce an approximate 2.5% increase to ratepayers by the end of the decade applying the same principle and absence (completed or omitted) of any exit fees.

#### TABLE NO. 2

Estimate of <u>Roll-off Impacts</u> to Member Agencies Involving San Diego, Oceanside, and East County Reuse Projects (Source: SD LAFCO)

Agency	% of 2022 Revenue T <u>otal</u>	Year 2026 3k <u>A</u> F	Year 2027 20k <u>AF</u>	Year 2028 43k <u>AF</u>	Year 2029 50k AF
Carlsbad MWD	4.02%	\$113,434	\$756,227	\$1,625,887	\$1,890,567
City of Del Mar	0.27%	\$7,660	\$51,068	\$109,797	\$127,671
City of Escondido	3.28%	\$92,537	\$616,915	\$1,326,366	\$1,542,286
Fallbrook PUD	0.00%	\$O	\$0	\$0	\$0
Helix WD	6.60%	\$186,198	\$1,241,319	\$2,668,837	\$3,103,298
Lakeside WD	0.99%	\$28,014	\$186,762	\$401,539	\$466,906
City of National City	n/a	n/a	n/a	n/a	n/a
City of Oceanside	5.94%	\$167,425	\$1,116,167	\$2,399,759	\$2,790,417
Olivenhain MWD	4.91%	\$138,467	\$923,112	\$1,984,692	\$2,307,781
Otay WD	9.27%	\$261,475	\$1,743,164	\$3,747,803	\$4,357,911
Padre Dam MWD	3.17%	\$89,490	\$596,602	\$1,282,695	\$1,491,506
Camp Pendleton	0.01%	\$362	\$2,410	\$5,182	\$6,025
City of Poway	2.57%	\$72,468	\$483,121	\$1,038,710	\$1,207,802
Rainbow MWD	0.00%	\$O	\$O	\$O	\$0
Ramona MWD	1.27%	\$35,846	\$238,971	\$513,788	\$597,427
Rincon MWD	1.60%	\$45,154	\$301,030	\$647,214	\$752,575
City of San Diego	39.79%	\$1,122,131	\$7,480,874	\$16,083,880	\$18,702,186
San Dieguito WD	1.07%	\$30,051	\$200,343	\$430,738	\$500,858
Santa Fe ID	1.78%	\$50,260	\$335,069	\$720,398	\$837,672
South Bay ID	1.17%	\$33,039	\$220,263	\$473,565	\$550,657
Vallecitos WD	3.51%	\$98,930	\$659,535	\$1,418,000	\$1,648,838
Valley Center MWD	4.84%	\$136,407	\$909,382	\$1,955,171	\$2,273,454
Vista ID	2.57%	\$72,365	\$482,435	\$1,037,235	\$1,206,088
Yuima MWD	1.32%	\$37,349	\$248,992	\$535,332	\$622,479
Contract Water	0.03%	\$936	\$6,238	\$13,411	\$15,595
	100.00%	\$2,820,000	\$18,800,000	\$40,420,000	\$47.000.000

<sup>&</sup>lt;sup>26</sup> It is assumed each member agency's apportioned share to true-up the County Water Authority's rates to recover the full revenue loss associated with the three reuse project will be the same percentage in collected water sale revenue. Additionally, the apportionment assumes the approval of detachment by Fallbrook and Rainbow.

 $<sup>^{\</sup>scriptscriptstyle 27}~$  CWA presentation to Board of Directors. March 23, 2023. Slide 144.

Table Notes: 1) Assumes detachments of Fallbrook PUD and Rainbow MWD proceed.

#### - (d) Detachments' Impact on CWA's Credit Rating

At multiple intervals during the administrative reviews, representatives from the County Water Authority have asserted the proposed detachments would produce significant determinantal impacts on its credit rating. A recent review on the topic shows the County Water Authority's credit ratings via the three principal reporting agencies (Moody's, Standard & Poor's, and Fitch) have remained steady with high to highest placements since the detachments were filed in March 2020. These high to highest placements – at least notionally – position the County Water Authority to readily secure lower interest rates when seeking debt financing through the public bond market with repayment based on the pledge of future revenues – including water sales. The rating agencies have also provided the County Water Authority with "stable" outlook assignments over the same three-year period with one notable This exception occurred during 2020-2021 with Standard & Poor's exception. modifying the outlook assignment from "stable" to "negative." The following passage is drawn from Standard & Poor's March 2021 report and, among other considerations, cites the potential impacts from detachments:

"The authority has a higher degree of litigation and member discord than is standard in the sector, in our opinion. This includes ongoing rate litigation with Metropolitan Water District, some of which has been settled in the authority's favor and some of which is ongoing. In addition, the authority is currently resolving a \$6.1 million lawsuit with Vallecitos Water District regarding overcharges. Lastly, two member agencies have petitioned the Local Agency Formation Commission (LAFCO) for detachment from the authority because they believe they can receive their water supply more affordably directly from Metropolitan Water District (through an arrangement with Eastern Municipal Water). Given the geographic location of the members, they reportedly believe that they do not receive sufficient benefit from remaining with the authority. LAFCO may deny the detachments or approve the detachments with conditions. The authority's management reports that the LAFCO process will likely take up to two years with a draft report anticipated in Spring 2021. The authority has hired a consultant to advise on the proceedings and the authority intends to seek reimbursement for associated debt and costs attributable to the two agencies. Management believes they could adjust supply requirements through resource planning. While we do not believe any of the aforementioned issues will have a financial effect in the near-term, we do believe ongoing litigation has associated costs and introduces potential longer term political risk--especially if an approved detachment sets a precedent if members can easily detach from the authority. This would be further exacerbated if the two members are not required to pay for their portion of the associated debt and infrastructure costs that the authority has undertaken to provide reliable water sources." (Standard & Poor's Report on CWA, March 17, 2021)

Standard & Poor's reverted and upgraded its outlook assignment for the County Water Authority in 2022 to stable.

Given Standard and Poor's own observations on the topic, it is reasonable to assume detachments would impact the County Water Authority's credit rating. It is also reasonable to presume the impact would be less than significant given two factors. First, Standard & Poor's identified several reasons other than detachments contributing to downgrading the County Water Authority's outlook in 2021. Standard & Poor's decision to subsequently upgrade the outlook one year later suggests the detachments were not a primary reason in the original downgrading decision. Second, Standard & Poor's stated concerns with detachments tie to the uncertainty of whether the applicants will pay their share of outstanding debt and the potential precedent of other member agencies pursuing detachments. These latter concerns appear sufficiently controlled with the imposition of exit fees and the related true-up for the County Water Authority over a period of time to meet its pledge of future revenues in paying bonded long-term debt. The precedent concerns are separately controlled based on the geographic conditions that uniquely position Fallbrook PUD and Rainbow MWD to propose detachments given their ready ability to connect to the MET transmission line.

(e) Financial Impacts from Detachments:
Remaining County Water Authority Member Agencies + Ratepayers

Dr. Hanemann's final report calculates a total net revenue loss to the County Water Authority – and by extension the remaining member agencies – from detachments at \$12.581 million each year over the first 10 years ("short-run) based on 2022 projections.<sup>28</sup> The loss of net revenues attributed to Rainbow MWD accounts for two-thirds of the total at \$8.517 million. Fallbrook PUD accounts for the remaining one-third net revenue loss at \$7.285 million. Dr. Hanemann calculates the net revenue loss would decline to \$10.988 million (2022 base year) annually after the tenth year ("long-run"). Dr. Hanemann did not calculate total net revenue losses beyond 2022 given the existence of too many external variables as stated below:

"I will not present a multi-year analysis. I feel that there is now too much uncertainty about future water supply, future water demand, and future rate schedules to justify making a projection of the annual financial impact over the coming decade. Therefore, I restrict my analysis to an estimate of the financial impact in CY 2022." (Hanemann, December 31, 2021)

Both the applicants – Fallbrook PUD and Rainbow MWD – and the County Water Authority have separately forwarded their own estimates to LAFCO on financial impacts tied to the detachments. The County Water Authority estimates their total annual net-revenue loss associated with the detachments at \$16.884 million.<sup>29</sup>

<sup>&</sup>lt;sup>28</sup> The calculation assumes the loss of all property taxes for County Water Authority that are currently received within the affected territory. This assumption has been separately confirmed by the County Auditor's Office.

<sup>&</sup>lt;sup>29</sup> This amount is detailed in the County Water Authority's formal response to the notice of the reorganizations dated September 18, 2020.

Fallbrook PUD and Rainbow MWD estimate the total annual net-revenue loss to the County Water Authority due to the detachments at \$5.600 million.<sup>30</sup> Dr. Hanemann reviewed both estimates prior to making his own independent conclusion.

Using Dr. Hanemann's total estimated annual net-revenue loss for the County Water Authority at \$12.581 million (based on 2022), LAFCO staff has proceeded to calculate individual cost impacts for remaining member agencies and their ratepayers (equivalent meter units). The calculation assumes the County Water Authority would recover the full revenue loss by passing it in full to the remaining member agencies by increases in the wholesale rates going forward. The calculation uses the County Water Authority's water sale revenues over a recent five-year period as a baseline in identifying individual percentage shares among all member agencies. The share collectively tied to Fallbrook PUD and Rainbow MWD equals 6.0% and is the amount staff has reapportioned and added to the remining member agencies' share to keep the County Water Authority whole post detachments.

Overall, LAFCO staff estimates the remaining member agencies' ratepayers would experience an average increase to their water bills of \$26.41 annually and \$2.20 monthly. These amounts vary among the remaining member agencies and most notably based on the dependency level on wholesale supplies and their economies of scale to spread out costs among a larger pool of households. As the largest member agency, the City of San Diego's annual recovery share to make up for the loss net revenue should the detachments proceed is calculated by staff at \$4.979 million. This amount translates to annual and monthly ratepayer increases of \$12.60 and \$1.05, respectively. In contrast, the smallest member agency is Yuima MWD and their annual recovery share to make up for the loss revenue for the County Water Authority is calculated by staff at \$0.134 million. This amount translates to annual and monthly ratepayer increases of \$12.60 and \$18.71, respectively.

The calculated cost increases for the remaining member agencies should the detachments proceed is shown below with a full breakdown attached.

(continued)

<sup>&</sup>lt;sup>30</sup> This amount is detailed in the applicants' joint formal response to the notice of the reorganizations via London Moeder Advisors and dated September 20, 2020.

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#### TABLE NO. 3

LAFCO's Estimate of <u>Detachment Impacts</u> to Member Agencies + Ratepayers: Applies Asset Shares (Water Sales) Between FY2017 and FY2022 (Source: SD LAFCO Staff)

	Annual	Annual	Monthly Ratepayer	Monthly Ratepayer
Agency	Agency Impact	Ratepayer Impact	without Exit Fee	with Exit Fee
Carlsbad MWD	642,432	17.56	1.46	0.00
City of Del Mar	40,152	16.02	1.34	0.00
City of Escondido	388,136	10.90	0.91	0.00
Helix WD	749,504	11.44	0.95	0.00
Lakeside WD	107,072	13.06	1.09	0.00
City of National City	66,920	n/a	n/a	0.00
City of Oceanside	722,736	12.40	1.03	0.00
Olivenhain MWD	562,128	19.81	1.65	0.00
Otay WD	1,070,721	17.64	1.47	0.00
Padre Dam MWD	374,752	13.86	1.15	0.00
City of Poway	294,448	17.24	1.44	0.00
Ramona MWD	173,992	16.85	1.40	0.00
Rincon MWD	200,760	19.27	1.61	0.00
City of San Diego	4,978,851	12.60	1.05	0.00
San Dieguito WD	133,840	8.71	0.73	0.00
Santa Fe ID	227,528	21.55	1.80	0.00
South Bay ID	187,376	4.33	0.36	0.00
Vallecitos WD	615,664	22.42	1.87	0.00
Valley Center MWD	562,128	38.27	3.19	0.00
Vista ID	347,984	9.65	0.80	0.00
Yuima MWD	133,840	224.56	18.71	0.00
TOTALS	\$12,580,968	\$26.41	\$2.20	0.00

#### Table Notes:

- 1) Full breakdown of the LAFCO calculation provided as an attachment.
- 2) The calculation assumes the County Water Authority would recover the full revenue loss i.e., the \$12.581 million by passing it in full to the remaining member agencies by increases in the wholesale rates going forward. The calculation uses the County Water Authority's water sale revenues over a recent five-year period as a baseline in identifying individual percentage shares among all member agencies.
- 3) The County Water Authority's estimated individual member agency impacts tied to the detachments and net-revenue losses is listed on page 59 (Table 4.9) of its September 18, 2020 formal response to the reorganization proposals. The Authority's estimated base year rate impact for the City of San Diego is \$7.338 million and represents a 47.4% difference above the estimate calculated by LAFCO staff. This difference would similarly adjust the projected individual ratepayer impacts in San Diego to \$18.57 annually and \$1.55 monthly.
- 4) The final column in the table reflects impacts to ratepayers within the five-year exit fee period and assuming an annual exit fee of \$12.581 million is applied.
- 5) For illustrative purposes, a narrative detailing of the calculation for the City of San Diego is footnoted.<sup>31</sup>

<sup>&</sup>lt;sup>31</sup> Step One. San Diego contributed \$1.286 billion in water sales revenue over the five-year period. This amount equals 37.2% of the \$3.459 billion collected by the County Water Authority over the 60-month period. Step Two. San Diego's proportional share of the County Water Authority's net revenue loss of \$12.581 million should Fallbrook PUD and Rainbow MWD detach before any true-up is \$4.680 million. This amount equals 37.2% of the total. Step Three. San Diego's proportional share of the County Water Authority's net revenue loss of \$12.581 million should Fallbrook PUD and Rainbow MWD detach before any true-up is \$4.680 million. This amount equals 37.2% of the total. Step Three. San Diego's proportional share of the County Water Authority's net revenue loss of \$12.581 million should Fallbrook PUD and Rainbow MWD detach plus making up for the agencies' 6.0% contribution to water sales revenue over the five-year period is 39.6%. This post true-up adds 2.4% to San Diego's share of cost-recovery and the result of dividing 37.2% into 6.0%. Step Four. San Diego's proportional annual share for the County Water Authority to make up the net revenue loss of \$12.581 million should Fallbrook PUD and Rainbow MWD detach is \$4.979 million. This annual agency amount is the result of dividing 39.6% out of \$12.581 million. Step Five. San Diego's proportional annual share for the County Water Authority to make up the net revenue loss of 12.581 million should Fallbrook PUD and Rainbow MWD detach annual share for the County Water Authority to make up the net revenue loss of 12.581 million should Fallbrook PUD and Rainbow MWD detach loss. Step Five. San Diego's proportional annual share for the County Water Authority to make up the net revenue loss of 12.581 million should Fallbrook PUD and Rainbow MWD detach annog its ratepayers is \$1.60. This annual ratepayer amount is the result of dividing the agency total of \$4.979 million by its 395,266 equivalent meter units. Step Six. San Diego's proportional monthly share for the County
At the March 17<sup>th</sup> Special Districts Advisory Committee meeting, staff was asked to assess the "net" impact of detachment to the CWA's remaining member agencies to account for any proposed discounting (further detailed in (j)).<sup>32</sup> The below table reflects a high-level approximation of the resulting impact of detachment to each member agency, prior to the payment of the exit fee documented within the Hanemann Report. The figures are however inclusive of cost savings – or cost avoidance – associated with the construction of the ESP North County Pump Station divided over the five years. The below analysis utilizes the Fiscal Year 2022 revenue share by member agency as provided by CWA to LAFCO staff.<sup>33</sup>

#### TABLE NO. 4

LAFCO's Estimate of <u>Net Detachment Impacts</u> to Member Agencies with Discount: Based on Actual 2022 Revenues with Cost Escalators (Source: SD LAFCO Staff)

Agency	2022 Revenue Share	Annual Agency Impact	(a) Annual Impact w/ 7% Cost Escalator	(b) Less ESP Cost Savings	(c) Less ESP 7% Cost Escalator
	100%	\$12,580,968	\$13,461,636	\$4,858,168	\$5,738,836
Carlsbad MWD	4.02%	\$506,067	\$541,492	\$195,419	\$230,844
City of Del Mar	0.27%	\$34,175	\$36,567	\$13,197	\$15,589
City of Escondido	3.28%	\$412,839	\$441,738	\$159,419	\$188,318
Fallbrook PUD	0.00%	\$0	\$0	\$0	\$0
Helix WD	6.60%	\$830,691	\$888,840	\$320,773	\$378,922
Lakeside WD	0.99%	\$124,982	\$133,730	\$48,262	\$57,011
City of National City	n/a	n/a	n/a	n/a	n/a
City of Oceanside	5.94%	\$746,939	\$799,225	\$288,432	\$340,718
Olivenhain MWD	4.91%	\$617,747	\$660,990	\$238,544	\$281,787
Otay WD	9.27%	\$1,166,526	\$1,248,183	\$450,457	\$532,114
Padre Dam MWD	3.17%	\$399,247	\$427,194	\$154,170	\$182,117
Camp Pendleton	0.01%	\$1,613	\$1,726	\$623	\$736
City of Poway	2.57%	\$323,305	\$345,936	\$124,845	\$147,476
Rainbow MWD	0.00%	\$0	\$0	\$0	\$0
Ramona MWD	1.27%	\$159,919	\$171,114	\$61,753	\$72,948
Rincon MWD	1.60%	\$201,449	\$215,551	\$77,790	\$91,892
City of San Diego	39.79%	\$5,006,204	\$5,356,639	\$1,933,157	\$2,283,591
San Dieguito WD	1.07%	\$134,070	\$143,455	\$51,771	\$61,156
Santa Fe ID	1.78%	\$224,228	\$239,924	\$86,586	\$102,282
South Bay ID	1.17%	\$147,400	\$157,718	\$56,919	\$67,237
Vallecitos WD	3.51%	\$441,361	\$472,256	\$170,433	\$201,328
Valley Center MWD	4.84%	\$608,559	\$651,158	\$234,996	\$277,595
Vista ID	2.57%	\$322,846	\$345,445	\$124,668	\$147,267
Yuima MWD	1.32%	\$166,625	\$178,289	\$64,343	\$76,007
Contract Water	0.03%	\$4,174	\$4,467	\$1,612	\$1,904

<sup>&</sup>lt;sup>32</sup> In the staff report, Option Two outlines a recommendation to the Commissioner that includes the payment of an exit fee over a fiveyear period. If inclusive of the cost savings associated with the ESP North County Pump Station would result in an net exit fee payment of \$22.9 million, or an annual payment of \$4.58 million for five years.

<sup>&</sup>lt;sup>33</sup> CWA Letter to LAFCO August 10, 2022.

June 5, 2023 Meeting Agenda Item No. 6a | Combined Public Hearing: Proposed "Rainbow MWD and Fallbrook PUD Reorganizations" (RO20-04/RO20-05)

#### Table Notes:

- 1) The County Water Authority's forecasted rate impact of detachment, and corresponding 2022 Estimated Revenue Share percentages is outlined in the County Water Authority's June 9, 2022 correspondence.
- 2) In the June 9, 2022 County Water Authority Correspondence, the Authority costs have increased by 7% since 2021. The columns in the table reflect amounts with and without this cost escalation.
- 3) The County Water Authority's Fiscal Year 2022-2023 Adopted Budget indicates a cost of \$38.6 million for the North County Emergency Storage Project. This amount, with and without a 7% cost inflation factor are divided amongst the member agencies using the revenue share apportionment provided by the County Water Authority.
- 4) Fallbrook Public Utility District and Rainbow Municipal Water District show an impact of \$0.00 as this table assumes detachments are approved.

#### - (f) Assessing the "Significance" of the Financial Impacts to CWA + Ratepayers

Parallel to the preceding differences addressed in (d) involving the overall financial impact of the detachments, the applicants – Fallbrook PUD and Rainbow MWD – and the County Water Authority similarly have disparate views on assessing the associated "significance." LAFCO staff believes assessing the overall significance on the calculated financial impacts on the County Water Authority relative to inflation serves as a reasonable and certain measurement for purposes of this analysis. The appropriate period to determine the comparative inflation rate, however, is less certain and could reasonably involve one-year or multiple-years. Relying on the current one-year inflation rate – 6.4% in the San Diego-Carlsbad region – appears most reasonable given it best aligns with Dr. Hanemann's analysis. <sup>34</sup> Using this inflation benchmark, LAFCO staff has focused on two distinct one-year measurements in assessing whether the financial impacts to the County Water Authority are significant. The first measurement ties to Dr. Hanemann's calculated annual net-revenue impact to the County Water Authority of \$12.581 million based on one-year estimates for 2022. This measurement represents 4.4% of the County Water Authority's 2023 gross water sales revenue requirement and below the one-year inflation rate of 6.4%, and therefore reasonably considered less than significant.<sup>35</sup> The second measurement ties to staff's calculated average annual ratepayer impacts among the remaining member agencies of \$26.41 based on reapportioning the full net-revenue loss identified by Dr. Hanemann. This measurement represents a 3.6% increase in ratepayer charges and below the one-year inflation rate of 6.4%, and it too is considered reasonably less than significant.<sup>36</sup>

A second reasonable measurement to assess the significance of the proposed detachments and their financial impacts involves recent rate adjustments approved by the County Water Authority. This measurement draws on the calculation made in (e) to estimate the overall rate impact on the remaining member agencies should the detachments proceed is 2.5% less any exit fees. Since 2019, rate adjustments enacted by the County Water Authority has generated average annual rate increases above

<sup>&</sup>lt;sup>34</sup> Reference to U.S. Bureau of Labor Statistics at <u>http://data.bls.gov</u>. Inflation rates for the San Diego-Carlsbad region over the preceding ten and five year periods have been 3.6% and 4.6%.

<sup>&</sup>lt;sup>35</sup> The County Water Authority's CY2023 Cost of Service Study states Gross Water Sales Revenue Requirement for 2023 is \$282.97 million.

<sup>&</sup>lt;sup>36</sup> Measurement further utilizes methodology established in section (e) by dividing annual average revenues by total number of EMU's to establish annual EMU baseline.

detachment at 3.8% for untreated water and 3.9% for treated water. This second measurement on detachments also produces a less than significant outcome.

# (g) Merits and Options to Impose Exit Fees and Other Payments: Mitigating Net Revenue Losses and/or Outstanding Debt

As discussed in considerable detail during the Ad Hoc Committee process, the applicants – Fallbrook PUD and Rainbow MWD – and County Water Authority have articulated distinct positions on the merits of LAFCO requiring exit fees and other payments as conditions to any detachment approvals. The applicants assert no payments are necessary given there are no provisions within the County Water Authority principal act to require exit fees should any of its member agencies leave. In contrast, the County Water Authority and several of its member agencies are on record with LAFCO requesting exit fees and related measures apply to help protect the Authority from any financial disadvantages – including net revenue losses and long-term debts – that tie to the detachments. Towards this end, the County Water Authority estimates its total net revenue losses tied to detachments at \$16.401 million annually. The County Water Authority – however – does not calculate a proportional share of the applicants' share of the Authority's \$21.1 billion in long-term debt given the "practical impossibility for Fallbrook and Rainbow to pay no matter how much time the debt might be stretched over."<sup>37</sup>

With respect to merits, LAFCO staff believes it is reasonable to require exit fees on the applicants should the detachments proceed. This conclusion aligns with the uniformly accepted acknowledgment from all sides – albeit with different estimates – that the detachments will result in unavoidable financial impacts on the County Water Authority in the near term. As detailed in (e), while not necessarily meeting the threshold of significance as defined by LAFCO staff, these impacts are to the left of a decimal point and merit attention. Dr. Hanemann similarly has attested exit or departure fees are economically justified in the near term with the following statement in his final report to the Ad Hoc Committee:

"The purpose of a departure fee is to assist SDCWA in covering its financial obligations that are fixed, ongoing and unavoidable for a limited period while it adjusts to the changed financial situation." (Hanemann, December 31, 2021)

With respect to options, focusing on mitigating annual net revenue losses appears most appropriate in setting exit fees for the detachments. This focus addresses the most concrete and quantifiable impact to the County Water Authority and independently calculated by Dr. Hanemann at \$12.581 million annually. Materially, focusing on mitigating annual net revenue losses also covers long-term debt in the near term by helping to keep the County Water Authority whole and its ability to service debt on an annual basis. Any exit fees set to also recover outstanding debt over the same time would appear as double-counting.

<sup>&</sup>lt;sup>37</sup> Reference to page 62 to the County Water Authority's formal response to the notice of the reorganizations filed with LAFCO, September 18, 2020.

Establishing a dedicated payment from the applicants over a longer period to recover their proportionate share of the outstanding long-term debt obligations of the County Water Authority's appears impractical. This impractically ties to the uncertainty in fairly calculating each member agency's proportionate share of each debt issuance by the County Water Authority until maturity, while also reconciling the amount of water purchased by each member agency for the duration of the debt. As referenced above, the County Water Authority's rate-setting process includes determining the revenue requirements to satisfy annual debt service payments and covenants, which are thus included in the rates paid by member agencies. Relatedly, member agencies appear to be under no financial obligation to pay an annual predetermined fixed amount towards the County Water Authority's debt obligations – or at least they do not appear to be readily disclosed.

#### - (h) Identifying the Appropriate Length of an Exit Fee

Dr. Hanemann advised LAFCO and the Ad-Hoc Committee that a reasonable length of period to apply an exit fee to the applicants was three to ten years. Dr. Hanemann further advised any term beyond 10 years would be unreasonable. Drawing from this parameter, it appears five-years is a good and reasonable benchmark given the three relatable considerations. First, the Ad Hoc's working group made note that the best predictor of future cost allocations is to look at past rolling averages and a five-year period account for high water and low water demand years. (This five-year period was then used in their evaluation in determining the specific rate impacts to the City of Poway, City of San Diego and Valley Center.) Second, Urban Water Management Plans are prepared by urban water suppliers every five years and are submitted to the state for their review. These plans support the suppliers' long-term resource planning to ensure that adequate water supplies are available to meet existing and future water needs. Third, municipal service reviews serve as a centerpiece to the comprehensive rewrite to LAFCO law in 2001 and represent comprehensive studies of the level, range, and performance of governmental services provided within defined geographic areas. Statute provides MSRs be prepared every five years.

- (i) LAFCO's Authority to Require Exit Fees: Reconciling the County Water District Act and Cortese-Knox-Hertzberg Act

The applicants – Fallbrook PUD and Rainbow MWD – have been consistent in their comments during the administrative reviews that the principal act governing the County Water Authority does not contemplate the imposition of exit fees should a member agency leave. The applicants advise instead the principal act provides only the continued payment of property taxes to cover any "bonded and other indebtedness." Though the principal act does not require the imposition of an exit fee beyond, when applicable, the continuation of property taxes for purposes of bonded indebtedness should a member agency leave, it also does not prohibit imposing one, and LAFCO staff does not believe the principal act precludes the Commission's authority to condition approval on payment of such a fee. This

conclusion draws on LAFCO's authority in its own principal act – Cortese-Knox-Hertzberg Act – and the following material sections in California Government Code:

"56100. (a) Except as otherwise provided in Section 56036.5 and subdivision (b) of Section 56036.6, this division provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. All changes of organization and reorganizations shall be initiated, conducted, and completed in accordance with, and as provided in, this division." (Cortese-Knox-Hertzberg Act, 2022 Update)

"56886. Any change of organization or reorganization may provide for, or be made subject to one or more of, the following terms and conditions. However, none of the following terms and conditions shall directly regulate land use, property development, or subdivision requirements."

"56886. (v) Any other matters necessary or incidental to any of the terms and conditions specified in this section."

While concluding LAFCO has authority to condition approval on payment of an exit fee, LAFCO staff does not believe it has authority to condition approval on the continued imposition and collection of the San Diego County Water Authority's Availability Charges. Once detached territory is excluded from the County Water Authority, the County Water Authority will no longer be authorized to impose such charges. Thus, the conditional continuation of such fees to mitigate the financial impacts of detachment is not an option.

Additionally, the applicants have also commented during the administrative reviews that LAFCO's authority to impose exit fees as part of any approval conditions without their consent are not options given Antelope Valley-East Kern v. Los Angeles County LAFCO (1988). Commission Counsel concludes the reference court decision does not impact LAFCO's decision-making on the topic of exit fees. Antelope Valley involved a detachment where LAFCO purported to relieve the detaching territory of tax obligations that the district's principal act provided would continue upon detachment. There, the court of appeal determined that LAFCO's general powers did not extend to "relieve detached territory of the tax obligations which the Legislature has deemed essential to the successful financing of the state water project." LAFCO's resolution purporting to relieve the territory of that obligation directly conflicted with the principal act. Here, LAFCO does not suggest that the applicants' territory be relieved of any tax obligation the Authority's principal act mandates continue post-detachment. And nothing in the Authority's principal act prohibits LAFCO from conditioning detachment on payment of a fee. At most, the principal act sets the floor for a fee—at a minimum, any existing property tax or assessment that funds bonded indebtedness must continue. It does not set a ceiling for other possible fees on detachment. Thus, the proposed exit fee does not conflict with the principal act and otherwise falls within LAFCO's discretion.

#### - (j) Discounting Exit Fees:

#### Accounting for the Budgeted but Unbuilt ESP North County Pump Station

The County Water Authority has plans to implement the final phase of its multi-phase Emergency Water Storage Project (ESP) to extend emergency water supply service to the northernmost portions of San Diego County. To extend ESP service to these areas, the ESP North County Pump Station phase proposes two new pump stations which together will lift and convey water to these northern service areas. Due to the potential detachments, the CWA Board directed that all work ceases on the project segments serving these members agencies (Fallbrook PUD and Rainbow MWD) until the detachment proposals are resolved.

The topic of crediting Fallbrook PUD and Rainbow MWD for the cost-avoidance to the County Water Authority involving the ESP North County Pump Station should the detachments proceed was evaluated by a working group formed by the Ad Hoc Committee. None of the working group members are affiliated with the applicants or subject agencies. The working group's conclusion on the topic follows.

"Fallbrook and Rainbow assert that there is a cost savings to the remaining member agencies if they detach as the ESP North County Pump Station does not need to be built if they detach. SDCWA asserts that there is no cost savings, as construction of the ESP North County Pump Station is not included in their current budget. Both of these statements are true. However, almost \$21 million was identified in the SDCWA 2010/2011 Budget for the ESP North County Pump Station. According to a mid-term budget review, this project was deferred in 2011, however bond documents appear to show inclusion of this project in 2008. If debt was already issued to pay for this project and rates were set accordingly, there should be some costs that are avoided by not having to build this pump station. SDCWA should look at its older documents to identify and address this issue. This was a project included in the CIP (and some funds were spent on design) that set rates and debt issuance over a decade ago to pay for construction this project." (Ad Hoc Working Group Memo, August 11, 2022)

The County Water Authority more recently referenced the ESP North County Pump Station to cost *"about \$40.0 million"* as indicated in footnote on Page 61 of their September 18, 2020 response to LAFCO.

"A planned Water Authority infrastructure program for the Rainbow/Fallbrook service areas has been temporarily deferred by the Water Authority Board, with the concurrence of the applicants, pending this reorganization proceeding. If the Water Authority did not have to construct this infrastructure, it would save about \$40 million in planned costs. This would in essence cover roughly about 2.5 years of uncompensated Rainbow/Fallbrook detachment under the base year."

Additionally, the CWA in its adopted budget for FYs 2022 and 2023, identifies the ESP North County Pump Station in their Capital Improvement Program. While the project components related to Rainbow and Fallbrook remain in a holding pattern, the work associated with serving Valley Center and Yuima remains on-going which results in a \$6.85M increase to the total project cost due to updated design and construction estimates. This brings the total estimated project cost to the ESP North County Pump Station to \$45.4 million. Extracting the on-going portion (Valley Center and Yuima), this leaves the total project cost associated with Rainbow and Fallbrook at \$38.6 million. (Page 148 – Adopted FY 22-23 CWA budget).

The preceding analysis provides sufficient justification to apply a full discount to Fallbrook PUD and Rainbow MWD should any exit fees apply between \$21.0 million and \$38.6 million. The latter amount would align with the most recent estimate provided by the County Water Authority.

Additional discussion is footnoted.<sup>38</sup>

- (k) Risks to Applicants in Greater Reliance on the Sacramento Bay-Delta and Related Policy Considerations

Dr. Hanemann has advised there are potential risks to applicants and their ratepayers with respect to increased reliance on the Sacramento Bay-Delta. As detailed in section (I), Dr. Hanemann concludes that while the applicants may face challenges if they switch wholesale suppliers, ultimately the challenge rests in "paying a higher price than they had anticipated to get by in a drought" rather than that of running out of water. (Hanemann, December 31, 2021) This identified risk is further illuminated by recent events involving cutbacks to the historically reliable water supplies of the Colorado River, which may inevitably result in cutbacks to MET. The State Water Resources Control Board's Delta Watermaster, Michael Patrick George, also provided insight on this topic with the following submitted comment:

"[T] he two agencies would be increasing reliance on the Delta because they would abandon a less Delta-dependent supply mix (available through their SDCWA membership) in favor of a more Delta-reliant supply mix (available under the contract with Eastern MWD)." (May 6, 2022)

Dr. Hanemann further advised the Ad-Hoc Committee:

<sup>&</sup>lt;sup>38</sup> It is material to assume that future costs and material will only increase over time resulting in a higher total cost to the project. Therefore, we have a significant range between costs to the proposed ESP North County Pump Station based on old and new figures. At minimum it would appear appropriate to assess a discount to the proposed detachment fee in the tune of \$21.0 million based on 2010/2011 figures; however, it would also be fair and reasonable to assess a discount of \$40M based on CWA 2020 correspondence and further affirmed in their FY2022-2023 Adopted Budget, as these are the most up-to-date costs associated with the project. Bottom line: the development of the ESP North County Pump station and the associated costs are contingent – one way or another – on the proposed detachment. Should approval of the detachments be granted, it is a reasonable consideration to conditionally credit the applicants \$38.6 million for the total project costs. Notably, comments have been received that any credit to the ESP North County Pump Station it would be proportional to the respective contributions for each member agency. However, since detachment is "directly dependent" to the development of the ESP North County Pump Station it would result in an overall "cost-avoidance" which means Rainbow and Fallbrook have mitigated or eliminated any potential costs to the project for the CWA and all remaining agencies. Based on this a full credit is with merit and warranted.

"If FPUD and RMWD switch from SDCWA to EMWD, they will switch from relying on SWP water for 24% of their supply to relying on SWP water for 63% of their supply." (Hanemann, August 16, 2021)

Notwithstanding the above comments and based on Hanemann's estimate of a combined reliance of 63.0% on the State Water Project (SWP) – representing 16,320 acre-feet of the applicants' total demand – and a 5-year review of SWP's deliveries through the Delta this would equate to a flow increase of 0.84% over baseline conditions.<sup>39</sup> If the applicants demand were to increase to 100% reliance on the Bay-Delta water supply this would result in an impact of 1.65%.

## - (I) Risks to Applicants in Changes to MET Wholesale Rates

Dr. Hanemann advised on this topic within his final report submitted to LAFCO:

"While FPUD and RMWD are taking something of a gamble on supply reliability if they switch from SDCWA to EMWD, the gamble ultimately is not one of running out of water but, rather, paying a higher price than they had anticipated to get by during a drought. For surface water users in Southern California (unlike some groundwater users) the risk is not that the tap runs dry but, rather, that a temporary solution in a drought emergency turns out to be a rather expensive proposition." (Hanemann, December 31, 2021)

LAFCO staff later confirmed with Dr. Hanemann that he refers to a "financial gamble," in which applicants risk paying more for water in the long run.

- (m) Detachments' Impact on CWA's Voting Power at MET

Eastern MWD presently has one representative while the County Water Authority has four representatives on the, MET Board. MET's principal act governs both director and vote entitlement for member public agencies. Under Section 52, assessed valuation is used to determine how many representatives an agency has on the MET Board. Each member agency is entitled to one board member and may appoint an additional representative for each full 5 percent of MET's assessed valuation of taxable property that is within each member agency's service area. Under Section 55, each member of the Board shall be entitled to vote on all questions, orders, resolutions, and ordinances coming before the board, and shall be entitled to cast one vote for each ten million dollars (\$10,000,000), or major fractional part thereof, of assessed valuation of property taxable.

As of August 2021, Eastern MWD's service area assessed valuation constituted 2.81% of the total MET service area and entitles Eastern to 9,492 votes at MET. The County Water Authority's service area assessed valuation constituted 17.26% of the total MET service area and entitles the Authority to 58,302 votes at MET. If the

<sup>&</sup>lt;sup>39</sup> LAFCO staff reviewed the Department of Water Resources Bulletin 132 reports from Fiscal Years 2014 through 2018.

applicants' – Fallbrook PUD and Rainbow MWD – service areas are detached from the County Water Authority the weight of the Authority's vote will be reduced by 1,021 votes and the weight of Eastern's vote will be correspondingly increased.<sup>40</sup> This would substantively result in a 0.3% transfer of voting power at MET from the County Water Authority to Eastern MWD.

In assessing the significance of the 0.3% transfer in voting power, LAFCO staff reviewed the last 900+ votes of the MET Board during the last 10 years. Within this period there have only been two votes in which the decision was within the margin of voting rights that would be shifted. These two votes follow.

On March 9, 2021, a motion to approve Director Michael Camacho as a nonofficer member of the Executive Committee was approved. This motion was approved by a margin of 0.28%.

On June 8, 2021, a motion to hold a vote on the appointment of the new general manager until after the Board had the opportunity to speak with the final candidate in open session. This motion was approved by a margin of 0.09%.

Neither of the two above votes appear significant in terms of generating long-term impacts on MET's member agencies. A third and otherwise substantive vote did come close to the margin difference and therefore does create an outlier in the Commission's consideration on the topic. This outliner involves the appointment of the current General Manager Adel Hagekhalil, which was approved by the MET Board on June 8, 2021 with a margin of 0.42%.

Additional discussion is footnoted.<sup>41</sup>

- (n) Detachments' Effect on Pure Water and Other Reuse Projects

The proposed reorganization of Rainbow MWD and Fallbrook PUD does not appear to have any material direct impacts on the City of San Diego's Pure Water project or other regional reusable projects such as Pure Water Oceanside and East County Advanced Water Purification. In offering this conclusion, staff is making a distinction that these reusable projects are predominately developed to resolve wastewater issues, such as treatment costs and therefore are on a separate merit track to proceed with the ancillary benefit of enhancing local supply portfolios. Updated projections for when these projects will be operational indicate a delay from the timelines provided in CWA's most recent Urban Water Management Plan. These delays do not appear to be associated with, or the result of, detachment proceedings

<sup>&</sup>lt;sup>40</sup> See attachment.

<sup>&</sup>lt;sup>41</sup> In evaluating the topic during the administrative reviews, LAFCO staff proposed two potential conditions that would serve as mediation to any impacts related to voting shift changes. The two following options were explored and presented. First it was proposed LAFCO impose a 5-year waiting period to the filing of the project's certificate of completion, as this would provide a benefit of delay and a transitional adjustment period to any shift in voting rights power. Second, it was proposed LAFCO require a MOU between Eastern MWD and the County Water that would outline terms and conditions related to the assignment and timeframe to any voting rights shift. Both options were opposed and gained no further traction with the latter also having legality issues being raised from all parties including MET.

or any potential financial impacts thereof. Indirect impacts – nonetheless – apply given these reuse projects will lessen the agencies (San Diego, Oceanside, etc.) reliance and associated demand on supplies from the County Water Authority, which will reduce sale revenues.

As stated by the County Water Authority, by 2029 regional potable reuse projects will account for 50 thousand acre-feet of water supply, thereby reducing annual water sales revenue to the wholesaler by \$47 million, based on the analysis by LAFCO staff and Dr. Hanemann. This is a long-term impact that CWA and its member agencies will have to address in order increase fixed revenues to cover fixed costs.

## - (o) Emergency Supplies During a Catastrophic Event

This topic has been raised by the County Water Authority and specific to raising concerns with regards to the applicants' – Fallbrook PUD and Rainbow MWD – ability to serve their ratepayers if entirely dependent on MET supplies via Eastern MWD should a catastrophic event disrupt flows from the north. LAFCO staff believes existing MET policy paired with supplemental analysis provided by Eastern MWD provides sufficient assurances these risks are reasonably controlled. The following two passages are drawn from Eastern MWD's Technical Memorandum filed with LAFCO on February 12, 2020 and materially states:

"FPUD and RMWD rely on the imported water that is transported through the San Diego Aqueduct operated by Metropolitan. Pipelines 4 and 5, which are part of this aqueduct system, cross the Elsinore Fault Zone in the Temecula Valley, with portions of the pipelines in areas with moderate to high liquefaction potential and may consequently be subject to disruption in the event of a major earthquake. However, Metropolitan maintains an emergency response plan for maintaining or quickly restoring service to its member agencies following a major earthquake or other catastrophic event" (Page 24).

"Metropolitan has also adopted a policy that allows for isolation of Metropolitan's system for the purpose of conveying potable water. This would allow either EMWD or Rancho California Water District (an agency covering much of the Temecula area that receives wholesale water service from EMWD and the Western Municipal Water District) to provide potable water through existing connections to the Metropolitan system to supply water to FPUD and RMWD in the event of an emergency." (Page 25).

LAFCO separately notes Eastern MWD via MET has the capacity to provide 75% level of service in an emergency based on current storage. Should pipelines or infrastructure completely disrupt service delivery, MET has a 14-day timeline for repairs. In the interim, and independent of MET, Rainbow MWD and Fallbrook PUD have a combined total local water storage capacity of 2,148.0 acre-feet and equivalent to accommodating 73 days of average day demands without recharge.

(p) Effect of Stipulated CEQA Settlements on LAFCO:
Otay Water District v. Rainbow MWD, Case No. 37-2020-00001510-CU-MC-CTL
Otay Water District V. Fallbrook PUD, Case No. 37-2020-00004572-CU-MC-CTL

In early 2020 and shortly after the receipt of the applicants' – Fallbrook PUD and Rainbow MWD – detachment proposals the Otay Water District filed separate petitions for writs of mandate asserting they had failed to comply with the California Environmental Quality Act (CEQA). The writs challenged the applicants' separate findings as lead agencies that the proposals qualified for exemptions under Class 20 (CEQA Guidelines Section 15320) and instead asserted additional environmental review was required under statute. The parties - the applicants and Otay Water District only as LAFCO was not named in the suit - subsequently entered into courtmandated settlement discussions and agreed to stipulated judgements. The parties agree the stipulated judgements do not bind LAFCO to the role of responsible agency under CEQA and could assume lead agency roles for the proposals and make different findings. However, and significantly, Otay Water District asserts the stipulated judgements prohibit LAFCO from remaining a responsible agency and relying on the applicants' Class 20 findings (i.e., LAFCO needs to do an initial study or a full environmental impact report.) The County Water Authority is on record in supporting the position of Otay Water District. The applicants believe otherwise and assert nothing in the stipulated judgements prevent LAFCO from retaining its responsible agency role under CEQA and relying on the applicants' findings as lead agencies that the Class 20 exemptions appropriately apply.

Irrespective of the dispute between the parties regarding the scope of the stipulated judgements, LAFCO staff does not believe there is any material impact on the Commission's decision-making and related discretion under CEQA. LAFCO is not a party to the stipulated judgements. Accordingly, and as advised by Commission Counsel, LAFCO is not bound – however the parties choose to interpret – by the stipulated judgements' provisions.

# - (q) Determining the "Affected Territory" for Election Purposes

Should the Commission approve one or both of the proposed detachments the registered voters within the affected territory would take up the item for purposes of confirmation based on a majority of votes cast (50% plus 1). The direct confirmation of registered voters deviates from standard process in LAFCO statute to hold a protest hearing and the results therein determine if an election is necessary. This direct confirmation follows the earlier request of the County Water Authority via their application for "non-district" status, which affects the Commission's discretion regarding protest and election proceedings. The County Water Authority had the option to seek "non-district" status, and it did so here as to Part 4 of the Cortese-Knox-Hertzberg Act on April 2, 2020. The Commission approved the County Water Authority via theority's application on May 4, 2020.

The issue of defining the affected territory specific to establishing registered voter eligibility in a confirming election for the detachments that extends beyond the applicant's jurisdictional boundaries (Fallbrook PUD and Rainbow MWD) has been a topic of interest during the administrative reviews. The County Water Authority and some of its member agencies are on record requesting any confirming votes be expanded to include all registered voters within the Authority. The substantive difference of expanding any confirming election from the applicants' jurisdictional boundaries to include all of the County Water Authority is a 51-fold increase in registered voters from 36,664 to 1,878,136. The applicants object to the request with an otherwise fair observation that defining the affected territory beyond the area directly subject to the jurisdictional changes through LAFCO's conditioning powers would be precedent setting. It would also considerably increase election costs.

Commission Counsel has reviewed the topic and concludes LAFCO's otherwise available discretion to expand the affected territory for purposes of expanding registered voter eligibility in a conforming election per the County Water Authority request is not available. The following summary in support of this conclusion is provided by Commission Counsel and commences with the material relevance of the non-district status request approved by the Commission on May 4, 2020:

"Government Code section 56036.6, subdivision (b) addresses the implications of such a determination:

If the commission determines that an entity described in this section is not a 'district' or 'special district,' any proceedings pursuant to Part 4 (commencing with Section 57000) for a change of organization involving the entity shall be conducted pursuant to the principal act authorizing the establishment of that entity.

Government Code section 56128 also states:

If the commission determines that any applicant district, agency, or authority enumerated in subdivision (a) of Section 56036.6 is not a district or special district, for purposes of Part 4 (commencing with Sections 57000) or Part 5 (commencing with Section 57300), then those provisions shall not apply to the change of organization or reorganization described in the application and proceedings for the change of organization or reorganization shall be taken under and pursuant to the principal act.

Government Code section 56036.6, subdivision (b), makes clear that if an agency is determined to not be a district, then protest and election proceedings take place under that agency's principal act, not Part 4 of CKH. An agency that is not a district is still subject to Parts 1–3 and, unless it requested exemption, Part 5 of CKH.

Because CKH does not apply to the protest or election proceedings regarding detachment, SDCWA's Principal Act, the County Water Authority Act, applies instead (Water App. Code, §45-1 et seq.) Water Code Appendix Section 45-11, subdivision (a)(2) states:

Any public agency whose corporate area as a unit has become or is a part of any county water authority may obtain the exclusion of the area therefrom in the following manner: The governing body of any public agency may submit to the electors thereof at any general or special election the proposition of excluding from the county water authority the corporate area of the public agency.

The "electors thereof" refers to the electors of the public agency seeking exclusion. In this case, Rainbow and Fallbrook voters would be the electors under the county water authority law, not the entire territory of SDCWA.

CKH's general provisions in Gov. Code §§ 56876 and 56886 do not permit the Commission to place conditions of approval regarding elections that override SDCWA's Principal Act. Under well-established rules of statutory construction, these general statutory provisions must give way to the specific provisions of Gov. Code § 56036.6, which expressly governs the rules regarding protests and elections when a district has been granted "non-district" status. The specific controls over the general, and as a result the Commission cannot place conditions that would ignore the provisions of SDCWA's Principal Act regarding elections to confirm the two detachments if approved.

Eastern MWD, by contrast, did not request a determination from the Commission regarding its exemption under Government Code section 56127. In the absence of such an exemption, CKH controls the election proceedings as they relate to annexation. Government Code section 56876 provides the Commission with the option to order an election, if required, regarding annexation just within the territory of Rainbow or Fallbrook or within all or a portion the territory of Eastern MWD."

#### - (r) Role of Agriculture in the Proposals + LAFCO Decision-Making

A central premise to the applicants' – Fallbrook PUD and Rainbow MWD – detachment proposals involve providing economic relief to their agricultural customers by securing less expensive water supplies from Eastern MWD. The economic relief ties to the approximate 26% cost-savings in the current "all-in" acrefoot charge between the County Water Authority and Eastern MWD (via MET). This cost-savings looms significant for both applicants. Agricultural customers presently represent 36% of all retail sales in Fallbrook PUD and 65% of all retail sales in Rainbow MWD; despite each applicant incurring no less than a (one-fourth) decline is ag user water sales over the preceding five-year period.

The specter of agriculture loss is a prominent consideration under LAFCO statute and adopted policy. Although independent, LAFCO is expected to act within a set of State-mandated parameters encouraging "planned, well-ordered, efficient urban development patterns" while concurrently providing for the "preservation of agriculture and open-space lands." This includes specific consideration of the effects of jurisdictional changes on agriculture. (Government Code Section 56668). LAFCO recently updated its own implementing policies relevant to preserving agriculture in September 2020 and – among other items – added a section to "enhance" agriculture in San Diego County. Staff believes the substantive tie between statute and policy in relationship considering the detachment proposals is the added allowance to treat agriculture as a unique and/or protected group and in doing make special accommodations as the Commission deems appropriate.

CONCLUSION | REORGANIZATION MERITS & TIMING

The analysis of the proposed reorganizations' timing and connectivity with statutory and local policy considerations produces three distinct and otherwise merited options. Consideration of these three options are prefaced on the Commission applying its collective preferences in assigning priorities in balancing public benefits and interests. These three options are:

#### Approve with Exit Fees (Option Two)

Approve the proposals with conditions that are marked with a total exit fee of \$62.905 million spread out over five consecutive year payments less the \$38.6 million most recently budgeted by the County Water Authority to construct the ESP North County Pump Station. The total adjusted exit fee with the discount is \$24.305 million and translates to an annual payment of \$4.861 million. This option is appropriate should it be the Commission's collective priority to address the stand-alone merits of the applicants' proposals with the explicit paring of a policy enhancement of supporting a viable agriculture economy in North County. This policy enhancement provides justification in balancing the financial impact of detachments on the County Water Authority in tandem with applying an exit fee to cover the estimated revenue loss over the first five years less the cost-avoidance associated with the ESP North County Pump Station.

(continued)

#### Pause Consideration (Option Three)

Administratively hold consideration of the reorganization proposals until the completion of the Commission's scheduled municipal service review covering the County Water Authority. This option would be appropriate should it be the Commission's collective priority to comprehensively assess the County Water Authority with respect to current and planned service levels, community needs, and financial standing *before* taking any potential actions to change baseline conditions – such as the proposed detachments. The option – notably – ties to the analysis of the proposals to date and what appears as major structural challenges for the County Water Authority going forward in balancing declining water sale revenues (roll-offs, etc.) versus fixed and increasing costs.

#### Disapprove without Prejudice (Option Four)

Disapprove the proposals without prejudice. This option would be appropriate should it be the Commission's collective priority to retain and reinforce the role of the County Water Authority as the most appropriate policy vehicle to singularly govern and plan regional wholesale water supplies for all of San Diego County. This option – notably – would recognize the applicants' proposals in-and-of-themselves have merit, but the external considerations and overall detrimental impacts on the region, including loss of voting power at MET, negate the specific benefits to the Fallbrook and Rainbow communities. This option could also be merged into a hybrid alternative involving the completion of a municipal service review on the County Water Authority.

#### Item No. 3 | Modifications and Terms

No modifications to the submitted reorganization have been identified by San Diego County LAFCO staff meriting Commission consideration at this time. This includes noting annexation of the affected territory to Eastern MWD would not result in any unserved corridors or other boundary irregularities for the subject agency.

Analysis of potential approval terms will be separately address in a staff memorandum.

CONCLUSION | MODIFICATIONS AND TERMS

No modifications to the proposed reorganization appear merited as detailed. Approval terms will be addressed under separate cover.

## **Other Statutory Considerations**

#### **Exchange of Property Tax Revenues**

California Revenue and Taxation Code Section 99(b)(6) requires the County of San Diego and subject agencies to submit an adopted resolution to LAFCO agreeing to accept the exchange of property tax revenues associated with the proposed reorganization. The County has determined one of their adopted master property tax transfer resolutions apply to the proposed reorganization. The application of the County's adopted master exchange resolution will result in 100% of all AB8 monies (the portion of the 1% in property taxes biannually collected) transferring to Eastern MWD. In the absence of consent of the applicants and affected agencies, LAFCO does not have the power to override application of the master exchange resolution. The total value of the property tax transfer is \$0.382 million and divided between \$0.173 within Fallbrook PUD and \$0.209 million in Rainbow MWD. (All remaining revenues collected by the County Water Authority off of the property tax roll within the affected territory involves unitary fees and availably charges would immediately cease at the time of recordation. These other revenues currently total \$0.723 million.)

#### **Environmental Review**

San Diego County LAFCO is responsible under CEQA to assess whether environmental impacts would result from activities approved under the Commission's authority. Accordingly, the Commission is tasked with making two distinct findings under CEQA in consideration of the proposed reorganization. Staff's analysis follows.

- San Diego County LAFCO serves as lead agency under CEQA for the conforming sphere of influence actions associated with accommodating the reorganizations. It is recommended the Commission find these actions and specifically establishing a sphere for Eastern MWD covering its wholesale function to include the affected territory and concurrently removing these lands from the County Water Authority sphere collectively qualify as a project under CEQA but exempt from further review under State Guidelines 15061(b)(3). This exemption appropriately applies given it can be seen with certainty that spheres are planning policies and any associated actions (establishment, update, or amendment) in and of itself does not change the environment or authorize any new uses or services.
- Fallbrook PUD's and Rainbow MWD's initiating actions involving the reorganization proposals position these agencies to serve as lead agencies in assessing the potential impacts and specifically the annexation to Eastern MWD and detachment from County Water Authority under CEQA. In their roles as lead agency, both Fallbrook PUD and Rainbow MWD have made findings that the proposal qualifies as a project but is exempt from further review under State CEQA Guidelines Section 15320. Staff independently concurs this exemption appropriately applies given the underlying action involves the transfer of existing municipal service functions within the same area with no additional powers or expansions therein.

## **Alternative Conducting Authority Proceedings**

San Diego LAFCO previously approved requests from the County Water Authority to apply alternative conducting authority proceedings should the Commission approve Fallbrook PUD and/or Rainbow MWD's reorganization proposals. Approval of the alternative process was based on the County Water Authority meeting certain criteria under statute and substantively means any approval of the proposals will bypass standard protest proceedings and directly proceed to a confirmation of registered voters with the applicant's service areas.

#### RECOMMENDATION

It is recommended San Diego LAFCO consider its collective policy priorities relative to the five alternative actions identified in the proceeding section. Staff believes three of these alternatives – Options Two, Three, and Four – have the most merit based on the preceding analysis. Staff recommends Option Two.

#### ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO and all premised on the Commission directing staff to return with conforming resolutions for formal action at the next regular meeting:

#### Option One

Approve both reorganization proposals as submitted (no modifications) with standard conditions. No exit fees would apply given deference to the County Water Authority principal act and its silence on the topic. Approval is prefaced on prioritizing the standalone merits of the proposals and its local benefits – including direct support to agriculture in North County. Approval includes exemption findings under CEQA and subject to confirmation by registered voters within the affected territory.

#### Option Two (recommended)

Approve both reorganization proposals as submitted (no modifications) with special conditions. This includes requiring the applicants to pay a combined adjusted exit fee of \$24.305 million divided equally over five years. Approval is prefaced on the stand-alone merits of the proposals and its local benefits – including direct support to agriculture in North County – while also providing net-revenue protection to the County Water Authority and its member agencies for the first 60 months. Approval includes exemption findings under CEQA and subject to confirmation by registered voters within the affected territory.

#### Option Three:

Continue consideration of the reorganization proposals in conjunction with completing a holistic assessment of wholesale water supply issues in San Diego County via the scheduled municipal service review on the County Water Authority.

#### **Option Four:**

Disapprove the reorganization proposals without prejudice. Disapproval is prefaced on weighing the external disbenefits of the proposals to the County Water Authority and its member agencies as of date. This option could be combined with Option Three.

#### **Option Five:**

Disapprove the reorganization proposals. Disapproval is prefaced on weighing both the local and external disbenefits of the proposals.

#### PROCEDURES FOR CONSIDERATION

This item has been placed on San Diego LAFCO's agenda for action as part of a noticed public hearing. The following procedures are suggested.

- 1. Commissioner disclosures, if any.
- 2. Receive verbal presentation from staff and consultants.
- 3. Presentation from applicant Fallbrook PUD.
- 4. Presentation from applicant Rainbow MWD.
- 5. Open the public hearing and invite testimony beginning with the subject agencies.
- 6. Discuss item and consider the staff recommendation.

On behalf of the Executive Officer,

Pale Munsource

Priscilla Mumpower Analyst II

#### Appendices:

A) Analysis of Proposal Review Factors

#### Report Attachments:

- 1) Fallbrook PUD Application to LAFCO
- 2) Rainbow MWD Application to LAFCO
- 3) County Water Authority Principal Act
- 4) San Diego + Riverside LAFCOs MOU
- 5) County Water Authority Request for Non-District Status for Fallbrook PUD Proposal
- 6) County Water Authority Request for Non-District Status for Rainbow MWD Proposal
- 7) San Diego LAFCO MSR on Fallbrook Region: Prospectus
- 8) San Diego LAFCO MSR Addendum on Eastern MWD: Prospectus
- 9) Dr. Michael Hanemann Final Report for Ad Hoc Committee10) LAFCO Spreadsheet Calculating Ratepayer Impacts

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#### APPENDIX A

# Government Code Section 56668 Mandatory Proposal Review Factors

a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to populated areas; the likelihood of significant growth in the area, and adjacent areas, in the next 10 years.

The affected territory as proposed comprises the entirety of Rainbow MWD's and Fallbrook PUD's jurisdictional boundaries located in north San Diego County. The affected territory is entirely unincorporated with the exception of an approximate 859.0-acre area within Rainbow MWD that overlaps with the City of Oceanside's Morro Hills neighborhood. LAFCO estimates the total resident population within the affected territory is 56,116. The elevation ranges from 673 feet to 1,800 feet above sea level with the latter point recorded on the foothills between the Aqua Tibia Mountain and Santa Margarita Mountain. Predominant land uses largely involve rural residential and agricultural uses. Total assessed value (land) within the affected territory is a combined \$8.99 billion and divided between \$4.078 billion within Fallbrook PUD and \$4.912 billion within Rainbow MWD.

b) The need for municipal services; the present cost and adequacy of municipal services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

The County of San Diego serves as the primary purveyor of general governmental services to the affected territory. These services include community planning, roads, street lighting, and law enforcement. Other pertinent service providers include Rainbow MWD, Fallbrook PUD, County Service Area No. 81, and North County Fire Protection District. The proposal affects only Rainbow MWD and Fallbrook PUD's functions and the proposed transfer of wholesale water services to Eastern MWD and is the focus of the following analysis.

#### • Transferring Wholesale Water Services to Eastern MWD

Rainbow MWD and Fallbrook PUD have experienced overall limitations on local sources of wholesale water in the affected territory. This is marked by the increasing costs of wholesale water supplies from the County Water Authority which has begun to adversely impact the quality of life for residents within the affected territory – most notably for agricultural users. Both Fallbrook and Rainbow quantify the adverse impact by estimating the average cost increase in water rates at 8% annually over the preceding decade. The two agencies relatedly attribute the size of the costs to sustaining an expanding County Water Authority's infrastructure portfolio that does not proportionally benefit the affected territory. The need for imported wholesale

water supplies remains critical given Rainbow's absolute dependency on imported supplies due to the lack of other local resources. The same applies to Fallbrook albeit to a lesser extent.

c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on local governmental structure.

None.

d) The conformity of the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies/priorities set forth in G.C. Section 56377.

Approval of the recommended reorganizations to transfer wholesale water supply from the County Water Authority to Eastern MWD serves as a viable alternative. Additionally, the proposal would not induce or otherwise facilitate the loss of open-space lands, and as such does not conflict with the provisions of Government Code Section 56377.

# e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by G.C. Section 56016.

Portions of the affected territory qualify as agricultural land under LAFCO law. The reorganization proposal, nonetheless, is specific to transferring wholesale water supply services between three local governmental agencies and would not adversely affect the physical or economic well-being of the agricultural lands.

f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment, the creation of islands or corridors of unincorporated territory, and other similar matters.

LAFCO is in receipt of a draft map and geographic description of the affected territory that details metes and bounds that appears consistent with the standards of the State Board of Equalization and conforming with lines of assessment. LAFCO approval would be conditioned on approval of the map and geographic description by the County Assessor's Office and address any modifications enacted by the Commission.

# g) A regional transportation plan adopted pursuant to Section 65080.

The reorganizations would not conflict with San Diego Forward, the regional transportation plan established by the San Diego Association of Governments (SANDAG).

#### h) Consistency with the city or county general and specific plans.

The affected territory recommended for reorganization is 99% unincorporated and subject to the land use policies of the County of San Diego. The County's implementing land use policy documents for the affected territory are the Fallbrook, Rainbow, Bonsall, and yet to be completed, Pendleton-De Luz Community Plan's. These documents guide development toward enhancing and preserving the existing rural character of the communities marked by semi-rural and rural lower density development. The incorporated portion of the affected territory lies within the City of Oceanside and part of the Morro Hills neighborhood. The Oceanside General Plan – which was last updated in September 1986 – designates the area for low density residential use.

#### i) The sphere of influence of any local agency affected by the proposal.

See agenda report analysis.

#### j) The comments of any affected local agency or other public agency.

Notice of the submitted reorganization proposals was distributed to all affected and subject agencies as required under LAFCO law. Notices were also provided to all local college and school districts. Copies of all correspondence received on the proposals has been posted online and available on a dedicated page cited at <a href="http://www.sdlafco.org">www.sdlafco.org</a>.

k) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

Eastern MWD is funded through General Fund allocations authorized by the Riverside County Board of Supervisors. The amount of the funding provided to Eastern MWD is considered reliable given the allocations have increased since 2009. At the end of FY 21/22, Eastern MWD's funding has increased over the last 5 years, with a budget of \$414.6 million.

I) Timely availability of adequate water supplies for projected needs as specified in G.C. Section 65352.5.

The affected territory lies within Rainbow MWD and Fallbrook PUD and eligible to receive potable water service with water supplies currently dependent on local and imported water supplies. The reorganization does not change these baseline conditions.

# m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs.

The proposed reorganization would not impact any local agencies in accommodating their regional housing needs.

#### n) Any information or comments from the landowners, voters, or residents.

All correspondence received from landowners, voters, and/or residents on the proposed reorganizations has been posted online and available on a dedicated page cited at www.sdlafco.org.

#### o) Any information relating to existing land use designations.

See above analysis for (h).

#### p) The extent to which the proposal will promote environmental justice.

The reorganization has the potential to promote environmental justice by reducing wholesale water supply costs within the affected territory and for any groups that are susceptible to pollution burdens and their effects. This latter category – notably – low-income communities, communities of color, tribal nations, and other disadvantaged groups. Consideration of existing environmental justice factors within the affected territory draw on staff analyzing data available from the California Environmental Protection Agency through its online assessment tool (CalEnviroScreen 4.0). Two composite percentile rankings for the affected territory are generated within this analysis and involves pollution burdens (exposures and environmental effects) and at-risk population characteristics (sensitive populations and socioeconomic factors) relative to all census tracts in California. Key results are summarized below followed by fulling table listings.

- The affected territory's composite **pollution burdens** ranking falls in the 35 percentile. Six pollution burden measurements exceed the 50 percentile and considered relatively high. These five measurements comprise (a) three exposures involving ozone, pesticides, and traffic as well as (b) three environmental effects involving groundwater threats, impaired water and solid waste sites.
- The affected territory's composite **at-risk population** ranking falls in the 26 percentile. Two at-risk population measurements exceed the 50 percentile and considered relatively high. These two measurements comprise two socioeconomic factors involving poverty and housing burden.

June 5, 2023 Meeting Agenda Item No. 6a | Combined Public Hearing: Proposed "Rainbow MWD and Fallbrook PUD Reorganizations" (RO20-04/RO20-05)

#### TABLE NO. 5

Pollution Burdens and At-Risk Population within the Affected Territory (Source: California Environmental Protection Agency and SD LAFCO)

Factor	Rainbow MWD + Fallbrook PUD
No. of Census Tracts	28
Estimated Population	245,597
Pollution Burden	Weighted Percentile
Percentile	35.29
Indicator   Air Quality: Ozone	54.07
Indicator   Air Quality: PM 2.5:	21.04
Indicator   Air Quality: Diesel PM:	20.91
Indicator Pesticides:	63.95
Indicator   Toxic Releases:	12.15
Indicator  Traffic:	58.57
Indicator   Drinking Water Contaminants:	47.42
Indicator   Lead in Housing:	29.36
Effects   Cleanup Sites:	47.42
Effects   Groundwater Threats:	52.42
Effects   Hazardous Waste:	49.44
Effects   Impaired Water:	74.78
Effects   Solid Waste:	56.19
At Risk Population Characteristics	Weighted Percentile
Percentile	26.59
Sensitive Population   Asthma:	13.23
Sensitive Population   Low Birth Weight:	34.27
Sensitive Population   Cardiovascular Disease:	30.83
Socioeconomic Factor   Education Attainment:	30.84
Socioeconomic Factor   Linguistic Isolation:	19.78
Socioeconomic Factor   Poverty:	50.67
Socioeconomic Factor   Unemployment:	30.84
Socioeconomic Factor   Housing Burden:	55.63

q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone or maps that identify land determined to be in a state responsibility area, if it is determined that such information is relevant to the affected territory.

The County of San Diego General Plan contains a hazard mitigation plan for potential fire, flooding, and earthquakes. The affected territory lies between Moderate to Very-High Fire Hazard Severity Zone.

r) Section 56668.3(a)(1) Whether the proposed annexation will be for the interest of the landowners or present or future inhabitants within the district and within the territory proposed to be annex to the district.

To be determined by the Commission.

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#### **RESOLUTION NO. 4985**

#### A RESOLUTION OF APPLICATION BY THE FALLBROOK PUBLIC UTILITY DISTRICT (FPUD) REQUESTING THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION TO COMMENCE PROCEEDINGS FOR THE DETACHMENT/ EXCLUSION OF FPUD FROM THE SAN DIEGO COUNTY WATER AUTHORITY AND ANNEXATION INTO THE EASTERN MUNICIPAL WATER DISTRICT AS MORE PARTICULARLY DESCRIBED HEREIN AND FINDING THAT THE ACTION IS EXEMPT FROM CEQA

WHEREAS, the Falibrook Public Utility District ("FPUD") is a Public Utility District formed in 1922, and is organized under the provisions of the Public Utility District Act, (Public Utilities Code § 15500 et seq.); and

WHEREAS, FPUD is authorized to provide water, wastewater, and reclaimed water services, within all or part of its boundaries; and

WHEREAS, FPUD is a member of the San Diego County Water Authority ("County Water Authority") from which it purchase water to serve its rate payers; and

WHEREAS, the County Water Authority is organized under the provisions of the County Water Authority Act (Water Code Appendix Chapter 45); and

WHEREAS, the County Water Authority is a member agency of the Metropolitan Water District of Southern California ("Metropolitan"), which serves as the County Water Authority's largest supplier; and

WHEREAS, since the formation of the County Water Authority in 1944, with FPUD as a charter member, FPUD has contributed almost \$300 Million to construct and operate assets owned by the County Water Authority; and

WHEREAS, over the last 25 years, the County Water Authority has made major investments in new storage and treatment facilities located well south of the FPUD service area, which investments have increased the cost of water to FPUD ratepayer adding several hundred dollars per acre foot to the cost of water; and

WHEREAS, to date FPUD receives the majority of its water directly from Metropolitan pipelines and FPUD's water distribution system is not directly able to receive deliveries from the County Water Authority's new storage and treatment facilities, and as a result FPUD's rate payers currently do not receive the full benefit of these County Water Authority's investments; and

WHEREAS, FPUD's mission is to benefit the community of Fallbrook by providing efficient and reliable services and as part of its efforts to fulfill this mission, FPUD seeks to identify opportunities to reduce the cost of providing efficient and reliable services to its ratepayers; and

WHEREAS, to that end FPUD is currently under contract for the construction of the Santa Margarita River Conjunctive Use Project, which after complete will provide FPUD with a local water supply equal to roughly 30 percent of its current total water supply, providing a

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buffer from escalating imported water costs and creating an additional shield against the impacts of drought; and

WHEREAS, Eastern Municipal Water District ("Eastern"), located in Riverside County, is a member agency of Metropolitan receiving water supplies from Metropolitan, which water it provides to retail waster service agencies such as cities and special districts in Riverside County; and

WHEREAS, FPUD has evaluated the possibility of annexing to Eastern as a means of obtaining a lower cost supply of reliable water; and

WHEREAS, based on FPUD's evaluation, the reliability of supplies from Eastern to FPUD in combination with FPUD local supply resources are sufficient to meet FPUD's needs; and

WHEREAS, Eastern has indicated its support of the possible annexation of FPUD into its boundaries; and

WHEREAS, if FPUD detaches from the County Water Authority, the County Water Authority and its remaining member agencies will realize future savings associated with no longer needing to complete construction of the North County EPS pump stations to serve FPUD and Rainbow Municipal Water District, which project is currently on hold, but is budgeted at \$40 million; and

WHEREAS, if FPUD detaches from the County Water Authority, the reduction in demand from FPUD for water supplies and expanded water facilities will result in benefit the County Water Authority and its remaining member agencies in that it will increase reliability of supplies from County Water Authority in times of drought and reductions in imported water supplies; and

WHEREAS, Board of Directors of FPUD desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Section 56000 of the California Government Code for the exclusion/ detachment of FPUD from the County Water Authority and annexation of FPUD into Eastern (the "Reorganization"); and

WHEREAS, the detachment of FPUD from the County Water Authority is expressly permitted and authorized by the County Water Authority Act, specifically Section 45-11; and

WHEREAS, the Riverside Local Agency Formation Commission and the San Diego Local Agency Formation Commission have executed a memorandum of understanding dated October 24, 2019 by which San Diego Local Agency Formation Commission will undertake the processing of any application by FPUD to proceed with the Reorganization; and

WHEREAS, the reasons for the proposed Reorganization are as follows:

1. Due to the combination of rising wholesale water costs and FPUD infrastructure needs, the Reorganization will help stabilize long-term water costs to address affordability and sustainability issues for FPUD for the benefit of its ratepayers.

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- 2. The Reorganization will enable FPUD to better provide water supplies to those within its boundaries undertaking agricultural activities, in support of the local economy.
- 3. FPUD already obtains its water supplies directly off of Metropolitan's infrastructure instead of off of County Water Authority's infrastructure, which is unique for County Water Authority member agencies but similar to other cities and special districts receiving water supplies from Eastern. Accordingly, the Reorganization requires no modifications to FPUD infrastructure and the water supply from Eastern can be obtained at significantly lower cost.
- 3. The Reorganization would permit FPUD to cease funding County Water Authority infrastructure throughout the County that it does not need nor use.
- 4. The Reorganization would benefit the County Water Authority and its remaining member agencies by permitting the County Water Authority to save, in the future, the \$40 million budgeted for completing construction of the North County EPS pump stations to serve FPUD and Rainbow Municipal Water District should Rainbow Municipal Water District also detach.
- 5. The Reorganization would benefit the County Water Authority and its remaining member agencies because the reduction in demand from FPUD for water supplies and expanded water facilities will result in increased reliability of supplies from County Water Authority in times of drought and reductions in imported water supplies; and

WHEREAS, the Reorganization is supported by the draft Plan for Providing Services required by Government Code section 56653 attached hereto as Exhibit "A," and by this reference incorporated herein; and

WHEREAS, the external boundaries of FPUD, County Water Authority and Eastern are generally depicted in the maps attached hereto as Exhibit "B," and by this reference incorporated herein; and

#### WHEREAS, FPUD is inhabited; and

WHEREAS, the Reorganization is not a project within the meaning of CEQA because it does not have the potential to result in a direct physical change in the environment or a reasonably foreseeable indirect physical change to the environment (Pub. Res. Code § 21065; CEQA Guidelines § 15378(a).) The Reorganization will not require the construction of any new infrastructure or any changes to the manner in which FPUD receives its water supplies; and

WHEREAS, even if the Reorganization is a "project" within the meaning of CEQA, it is exempt under the Class 20 exemption for changes in the organization of local agencies. (CEQA Guidelines § 15320.) Under section 15320, changes in the organization of local governmental agencies are exempt if the changes do not modify the geographical area in which previously existing powers are exercised. The Reorganization is a change in FPUD's organization structure that does not modify FPUD's service area; and

WHEREAS, even if the Reorganization is a "project" within CEQA's meaning, it is exempt under State CEQA Guidelines section 15061(b)(3)-Common Sense Exemption as "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." The Reorganization will not change the type, intensity, or manner of service that FPUD provides. Further, the Reorganization will not result in construction or other physical alteration of the environment because the Reorganization will not require any new infrastructure or any changes to the manner in which FPUD receives its water supplies. None of the exceptions identified in CEQA Guidelines § 15300.2, which prohibit the use of an exemption, apply here. The Reorganization does not present any unusual circumstances that would create a significant effect on the environment. Further, the Reorganization would not create cumulative impacts, damage scenic resources, be utilized on a hazardous waste site, or impact any historic resources.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Fallbrook Public Utility District as follows:

- 1. **Recitals.** The forgoing recitals are true and correct and are incorporated herein and are made an operative part of this Resolution of Application.
- 2. **Proposal.** A proposal is hereby made by FPUD to the San Diego Local Agency Formation Commission for a Reorganization as follows:
  - a. This proposal for the Reorganization is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 commencing with Section 56000 of the California Government Code.
  - b. The nature of the proposed Reorganization is detachment of FPUD from the County Water Authority and annexation of FPUD into Eastern.
  - c. FPUD is inhabited.
  - d. The boundaries of the proposal area are described in the legal description, and depicted on the corresponding maps attached hereto as Exhibit "B," and by this reference incorporated herein.
  - e. The reasons for proposed Reorganization are as follows:
    - i. Due to the combination of rising wholesale water costs and FPUD infrastructure needs, the Reorganization will help stabilize long-term water costs to address affordability and sustainability issues for FPUD for the benefit of its ratepayers.
    - ii. The Reorganization will enable FPUD to better provide water supplies to those within its boundaries undertaking agricultural activities, in support of the local economy.
    - iii. FPUD already obtains its water supplies directly off of Metropolitan's infrastructure instead of off of County Water Authority's infrastructure, which is unique for County Water Authority member agencies but similar to other cities and special districts receiving water supplies from

Eastern. Accordingly, the Reorganization requires no modifications to FPUD infrastructure and the water supply from Eastern can be obtained at significantly lower cost.

- iv. The Reorganization would permit FPUD to cease funding County Water Authority infrastructure throughout the County that it does not need nor use.
- v. The Reorganization would benefit the County Water Authority and its remaining member agencies by permitting the County Water Authority to save, in the future, the \$40 million budgeted for completing construction of the North County EPS pump stations to serve FPUD and Rainbow Municipal Water District should Rainbow Municipal Water District also detach.
- vi. The Reorganization would benefit the County Water Authority and its remaining member agencies because the reduction in demand from FPUD for water supplies and expanded water facilities will result in increased reliability of supplies from County Water Authority in times of drought and reductions in imported water supplies; and
- g. It is desired by FPUD that the proposed Reorganization provide for and made subject to the following terms and conditions:
  - i. Pursuant to the express provisions of the applicable portion of Section 45-11(a)(2) of the County Water Authority Act, establishing the process for detachments from a county water authority, that the portion of the Reorganization involving detachment from the County Water Authority be subject to the following conditions:
    - (1) That the matter of detachment of FPUD from the County Water Authority be submitted to a vote by only the electors of FPUD. (Water Code Appendix Section 45-11 (a)(2).)
    - (2) That to the extent that there is any, that the taxable property to be detached from the County Water Authority, i.e., FPUD, shall continue to be taxable by the County Water Authority for the purpose of paying the bonded and other indebtedness of the County Water Authority outstanding or contracted for at the time of the detachment and until the bonded or other indebtedness has been satisfied. (Water Code Appendix Section 45-11 (a)(2).)
    - (3) That if the taxable property to be detached from the County Water Authority is, at the time of detachment, subject to special taxes levied or to be levied by the County Water Authority pursuant to the terms and conditions previously fixed under Water Code Appendix Section 45-10 (c) or (d) for the annexation of the property to be detached County Water Authority, the taxable property within the excluded area so subject to the special taxes shall continue to be taxable by the County Water

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Authority for the purpose of raising the aggregate sums to be raised by the levy of special taxes upon taxable property within the respective annexing areas pursuant to the terms and conditions for the annexation or annexations as so fixed and until the aggregate sums have been so raised by the special tax levies. (Water Code Appendix Section 45-11 (a)(2).)

The full text of Water Code Appendix Section 45-11 (a)(2) is attached hereto as Exhibit "C," and by this reference incorporated herein.

- ii. That upon the effective date of the Reorganization, the County Water Authority shall retain FPUD's share of and interest in any County Water Authority infrastructure.
- iii. That upon the effective date of the Reorganization, that the County Water Authority ceases collection of the Standby Water Availability Charge from the properties within FPUD.
- iv. That upon the effective date of the Reorganization, that Eastern commence collection of its Standby Assessment/Fee from the properties within FPUD.
- 3. **CEQA Compliance.** 
  - a. For all the reasons set forth in the above Recitals, and based upon all of the substantial evidence in the record as a whole, the Board of Directors finds that proposed Reorganization: (1) is not a "project" subject to environmental review under CEQA pursuant to Public Resources Code § 21065 and State CEQA Guidelines § 15378(a); (2) alternatively, is exempt from CEQA under the Class 20 exemption as a "change in organization" (State CEQA Guidelines § 15320); and (3) alternatively, is exempt from CEQA under the "common sense" exemption because it can be seen with certainty that there is no possibility that Reorganization would have a significant effect on the environment. (CEQA Guidelines § 15061(b)(3)); and (4) none of the exceptions to the application of the exemptions exist under State CEQA Guidelines § 15300.2.
  - b. The Board of Directors hereby directs that all documents and other materials constituting the record of proceedings related to this Resolution of Application for approval of the power to exercise the Activated Powers, be maintained by the General Manager of the Fallbrook Public Utility District, or his designee, on file at the Fallbrook Public Utility District 990 East Mission Road, Fallbrook, CA 92028.
  - c. The Board of Directors directs Staff to file a Notice of Exemption with the County Clerk for the County of San Diego.
- 4. Adoption. This Resolution of Application is hereby adopted and approved by the Board of Directors of the Fallbrook Public Utility District and San Diego Local Agency Formation Commission is hereby requested to initiate proceedings as authorized and

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in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 for the Reorganization described herein.

- 5. **Plan for Services.** The Board of Directors directs the Fallbrook General Manager to finalize the draft Plan for Services attached hereto as Exhibit "A," and by this reference incorporated herein.
- 6. **Submission of Resolution of Application and other Application Materials.** The Board of Directors further authorizes and directs the Fallbrook General Manager to file a certified copy of this Resolution of Application together with the required LAFCO application, finalized Plan for Services, maps, other documents with the Executive Officer of the San Diego Local Agency Formation Commission. The Fallbrook General Manager is further authorized and directed to pay the required application filing fee and to pay such additional sums as may be invoiced from the San Diego Local Agency Formation Commission for services rendered in the processing of the Reorganization application.
- 7. **Effective Date.** This Resolution shall take effect immediately upon adoption by the Board of Directors of the Fallbrook Public Utility District.

**PASSED AND ADOPTED** by the Board of Directors of the Fallbrook Public Utility District at a regular meeting of the Board held on the 9th day of December, 2019, by the following vote:

AYES:	Directors Baxter, DeMeo, Endter, and Wolk
NOES:	None
ABSTAIN:	None
ABSENT:	Director McDougal
	( CAL ) A CAL

President, Board of Directors

ATTEST:

retary, Board of Directors

List of Exhibits:

Exhibit A: Plan for Providing Services

Exhibit B: Maps

Exhibit C: Text of County Water Authority Act Section 45-11 (A)(2)

#### EXHIBIT A PLAN FOR PROVIDING SERVICES

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Fallbrook Public Utility District

# Plan for Providing Service

Application for Proposed Reorganization

December 2019

# DRAFT

# **1.0 INTRODUCTION**

This document is part of the application for Reorganization from the Fallbrook Public Utility District (FPUD) to the San Diego County Local Agency Formation Commission ("LAFCO"). FPUD is requesting a governmental reorganization consisting of a) the detachment of FPUD from the San Diego County Water Authority (SDCWA) and b) annexation to the Eastern Municipal Water District (EMWD). The plan provides FPUD, LAFCO, affected property owners and voters, and other interested persons with information regarding existing and proposed local government services for the proposed reorganization.

# **2.0 MUNICIPAL SERVICES**

# 2.1 Description of Service Territory

#### 2.1.1. Fallbrook Public Utility District (FPUD)

#### **History**

Fallbrook is an unincorporated community in San Diego County. The first permanent recorded settlement in Fallbrook was in 1869, in the east area of FPUD, which later became Live Oak County Park. While agriculture has always played a major role in the community, the first plantings were olives and citrus. These crops were replaced in the 1920's by avocados and it wasn't long before Fallbrook became generally recognized as the "Avocado Capital of the World."

Fallbrook Public Utility District (FPUD), organized under the provisions of the Public Utility District Act, Public Utilities Code section 15500 et seq., was formed on June 5, 1922 to serve water from local area wells along the San Luis Rey River. Soon after it was established, FPUD began to grow. Annexations into FPUD have expanded the service area from 500 acres to 28,000 acres (44 square miles). To meet the growing demand for water, additional ground water supplies were developed along both the San Luis Rey and Santa Margarita rivers.

FPUD became a member of the San Diego County SDCWA (SDCWA) at its formation on June 9, 1944, and thus was eligible to receive a portion of Colorado River water that would be diverted by the Metropolitan Water District of Southern California (MWD). When Colorado River water became available in 1948, consumption within FPUD gradually increased to approximately 10,000 acre-feet per year by 1959. Then in 1978, MWD augmented its supply system with water from the California State Water Project and began delivering water from both systems to San Diego County. Today, virtually all of FPUD's water supplies are from the Colorado River and California State Water Project.

# DRAFT

FPUD's scope of operations grew in the 1990's with both the 1990 dissolution of the DeLuz Heights Municipal Water District and annexation of its 12,000-acre service area to FPUD, and the 1994 dissolution of Fallbrook Sanitary District, which was located entirely within FPUD's boundaries. The Sanitary District had provided parts of Fallbrook with recycled water and wastewater service within a 4,200 acre area of downtown. FPUD took over those services, and the same year the playing fields at Fallbrook High School started receiving reclaimed water as its source of irrigation water. So did two new large nurseries. For the next ten years, FPUD's Reclamation Plant (Plant) began receiving a series of awards for safety in operations. In 2015, FPUD completed a major overhaul, upgrade and expansion of the Plant. The \$27 million project took three years to complete, replacing aged and aging equipment, and allowed for a substantial expansion of FPUD's recycled water distribution system. The overhaul involved upgrades to the existing Plant to improve reliability in operation and created much-needed storage space for recycled water.

FPUD provides residents, businesses and agricultural customers with full-service water, wastewater and recycled water services within all or part of its boundaries. Figure 1 shows FPUD's service area and boundaries.

Because of its geographic location, FPUD is unique and mostly independent of the SDCWA Aqueduct system, its reservoirs and its water treatment plant. Almost all of FPUD's water is treated and delivered through MWD owned facilities. Although FPUD pays SDCWA for emergency water service, due to the lack of regional SDCWA infrastructure directly to FPUD, it cannot physically receive deliveries from SDCWA to serve the vast majority of it's service area in a catastrophic emergency or in the event of an extended SDCWA shutdown for repair.
### FIGURE 1—FPUD Service Area



### **Governance and Organizational Structure**

FPUD is governed by a 5-member Board of Directors who serve staggered 4-year terms. Each Director is elected by the registered voters of the subdistrict in which he or she resides. Previous to 2016 FPUD's Board of Directors were elected as at-large representatives. Legislation passed in 2016 allows FPUD to elect its directors by subdistrict. To run for office, a candidate must be a resident and qualified elector of the subdistrict they are running to represent. FPUD is administered by 68 Full Time employees organized by functional departments. The General Manager of FPUD is Jack Bebee, P.E.

#### Service Area and Local Economy

Currently, FPUD serves an area of 28,000 acres. Approximately 40% of the annual water deliveries are for agricultural use. This number is significantly lower than in prior years. The remainder is for municipal, residential and industrial uses. Total growth in population over the past 20 years has been about 24%, or about 1.6% annually. It increased from a population of 28,200 in 1995 to a population of 33,476 in 2015. Annual water consumption increased to a high of 19,597 acrefeet/year in 2007, then decreased to 9,000 in 2018 with a projection of even lower sales in 2019. This decrease in water consumption was due to the drought, water use restrictions placed on customers, as well as the increased cost of water.

As an unincorporated area of San Diego County, land use authority for Fallbrook resides with the County Board of Supervisors. The Fallbrook Community Plan (FCP), which is part of the County of San Diego General Plan, was adopted on Dec. 31, 1974 by the Board of Supervisors and updated in November 2015. The FCP did not project land use for intermediate future years but rather produced an ultimate land-use plan. While the Community Plan specifies land use, it does not constitute zoning. All future zoning is legally required to be consistent with the adopted community goals and objectives presented in the FCP.

The following general goal has been adopted in the FCP:

"Perpetuate the existing rural charm and village atmosphere while accommodating growth in such a manner that it will complement and not sacrifice the environment of our rustic, agriculturally oriented community."

The FCP attempts to fulfill this goal by limiting future multiple-use and high-density development to the designated town center and is referred to in the County General Plan as a "Country Town." Land outside the designated town center, extending to the community's boundaries, is intended for agricultural uses and rural, residential development and has parcel size limits of 1, 2, 4 or 8 acres, depending on topography and steepness of the land. Most population increase is occurring within the Country Town as land is developed into subdivisions and apartment units. Outside the Country Town land subdivision has been occurring gradually as 40-and 80-acre parcels are split up over many years down to the permissible minimum size of 2 or 4 acres. Based on the updated General Plan, larger parcels further from roads and utilities may be limited to minimum lot sizes, much larger than 2 to 4 acres.

Agricultural land use has been undergoing a gradual change from primarily avocados and citrus to a mixture of crops including other subtropical fruit and nut orchards such as macadamias, persimmons, kiwis, cherimoyas, grapes, dragon fruit, etc. In addition, ornamental flowers and commercial nurseries are increasing in prominence and will tend to preserve the agricultural orientation of the community. Decreases in agriculture, due to increasing water cost as well as development, are expected to remain close to the historic long-term trend.

### 2.1.2 San Diego County Water Authority (SDCWA)

**History** 

SDCWA was established pursuant to legislation adopted by the California State Legislature in 1943 (County Water Authority Act) to provide a supplemental supply of water as the San Diego region's civilian and military population expanded to meet wartime activities. Because of the strong military presence, the federal government arranged for supplemental supplies from the Colorado River in the 1940s. In 1947, water began to be imported from the Colorado River via a single pipeline that connected to MWD's Colorado River Aqueduct located in Riverside County. To meet the water demand for a growing population and economy, SDCWA constructed four additional pipelines between the 1950s and early 1980s that are all connected to MWD's distribution system and deliver water to San Diego County. SDCWA is now the county's predominant source of wholesale water, supplying from 75% to 95% of the region's wholesale water needs depending upon weather conditions and yield from local surface, recycled, and groundwater resources and projects.

#### **Governance & Organizational Structure**

The decision-making body of SDCWA is its 36-member Board of Directors. Each of the 24 member agencies of SDCWA has at least one representative on the SDCWA Board of Directors. Member agencies may appoint one additional representative for each additional 5% of total assessed value of property taxable by the CWA for purposes within the public agency's boundaries. As a result, FPUD is entitled to representation by 1 director. The City of San Diego, the largest member agency in terms of assessed value is entitled to 10 Directors.

Under the CWA Act, a member agency's vote is based on its "total financial contribution" to the CWA since the CWA's organization in 1944. Total financial contribution includes all amounts paid in taxes, assessments, fees, and charges to or on behalf of SDCWA or MWD. The CWA Act authorizes each CWA Board of Directors member to cast one vote for each \$5,000,000, or major fractional part thereof, of the total financial contribution paid by the member agency. Based on this formula, FPUD is entitled to 2.32% of the total vote in Calendar Year 2019. For comparison purposes the City of San Diego is entitled to 39.81% of the total vote in calendar year 2018. The four largest urban water agencies (City of San Diego, City of Oceanside, Helix Water District and Otay Water District) have a combined vote total over 58% in calendar year 2018.

#### Service Area and Local Economy

SDCWA's boundaries extend from the border with Mexico in the south, to Orange and Riverside counties in the north, and from the Pacific Ocean to the foothills that terminate the coastal plain in the east. With a total of 951,000 acres (1,486 square miles), SDCWA's service area encompasses the western third of San Diego County. **Figure 2** shows SDCWA's service area, its member agencies, and aqueducts (shown as blue lines). SDCWA's 24 member agencies purchase water from SDCWA for retail distribution within their service territories. The member agencies (six cities, five water districts, eight municipal water districts, three irrigation districts, a public utility district, and a federal military reservation) have diverse and varying water needs.

In terms of land area, the City of San Diego is the largest member agency with 210,726 acres. The smallest is the City of Del Mar, with 1,159 acres. Some member agencies, such as the cities of National City and Del Mar, use water almost entirely for municipal and industrial purposes. Others, including Valley Center, Rainbow, and Yuima Municipal Water Districts, deliver water that is used mostly for agricultural production.

#### FIGURE 2 –SDCWA Service Area and Member Agencies



#### Facilities

Imported water supplies from MWD are delivered to SDCWA member agencies through a system of large-diameter pipelines, pumping stations, and reservoirs. The pipelines deliver supplies from MWD are divided into two aqueduct alignments, both of which originate at Lake Skinner in southern Riverside County and run in a north to south direction through the SDCWA service area. MWD's ownership of these pipelines extends to a "delivery point" six miles into San Diego County. From there, Pipelines 1 and 2 comprise the First San Diego Aqueduct, which reaches from the delivery point to the San Vicente Reservoir. Pipelines 3, 4, and 5 from the Second San Diego Aqueduct. These pipelines are located several miles to the west of the First San Diego Aqueduct.

Storage facilities are used by SDCWA to both manage daily operations and provide reserves for seasonal, drought, and emergency storage needs. SDCWA seasonal, drought, and emergency storage capacity currently includes 234,000 AF of in-region surface water. In addition to the Twin Oaks Valley WTP, SDCWA entered into an agreement with the Helix Water District to purchase 36 MGD of treatment capacity from the R.M. Levy WTP. Water from the Levy plant supplements treated water service to eastern San Diego County, storage and 70,000 AF of out of region leased groundwater storage in the San Joaquin Valley.

#### Economy

SDCWA's service area characteristics have undergone significant changes over the last several decades. Driven by an average annual population increase of 50,000 people per year, large swaths of rural land were shifted to urban uses to accommodate the growth in population. This shift in land use has resulted in the region's prominent urban and suburban character. San Diego County also has a rich history of agriculture, beginning with the large cattle ranches established in the 18th century and continuing through the diverse range of crops and products grown today. Although the total number of agricultural acres under production has declined, the region maintains a significant number of high value crops, such as cut-flowers, ornamental trees and shrubs, nursery plants, avocados, and citrus. Based on the 2009 Crop Statistics and Annual Report by the San Diego County Department of Agricultural Weights and Measures, the region has 6,687 farms—more than any other county in the nation. San Diego County agriculture is a \$1.5 billion dollar per year industry, and ranks first in the state in gross value of agricultural production for flowers, foliage, and nursery products.

Today, San Diego boasts an economy that is not dominated by any one sector; in fact, no sector accounts for more than 15% of the regional economy. Several sectors are "economic drivers," specifically tourism, the military, and the "innovation" sector, which together make up a third of the regional economy. Tourism is an obvious strength, due in part to the weather, the beaches, the San Diego Zoo, and the Convention Center. The military is pivoting toward Asia and has committed to San Diego, as have many military contractors, like General Dynamics (makers of the Predator drone) and ViaSat (satellite communications leaders). Moreover, innovation will continue to drive San Diego's economy, with forward-looking technologies with massive growth potential from companies like QUALCOMM (pioneers in mobile phone technology), Illumina

(revolutionized DNA sequencing with tremendous potential to improve healthcare and quality of life), and ESET (cybersecurity experts). San Diego also fares well in industries like healthcare, education, and a lean government sector. These sectors are generally population-driven—they rise in tandem with population—and, like the economic driver sectors, have proven through the Great Recession to be less affected by economic cycles. In sum, "recession-resilient" sectors account for over 60% of the San Diego economy.

### 2.1.3 Eastern Municipal Water District (EMWD)

#### **History**

EMWD is a public water agency formed in 1950 by popular vote. In 1951, it was annexed into the MWD and gained access to a supply of imported water from the Colorado River Aqueduct. When EMWD was formed in 1950 it was a small agency, primarily serving agricultural customers. Since then, potable water use in EMWD's service area has shifted from primarily agricultural to urban use. The reduction in agricultural demand has two major causes: rural farmland has been transformed to urban housing, and most remaining agricultural demands have been shifted to the recycled water system. EMWD is organized under the provisions of the Municipal Water Law of 1911, Water Code section 71000 et seq.

Today, EMWD remains one of MWD's 26 member agencies and receives water from Northern California through the State Water Project (SWP) in addition to deliveries through the Colorado River Aqueduct. EMWD's initial mission was to deliver imported water to supplement local groundwater for a small, mostly agricultural, community. Over time, EMWD's list of services has evolved to include groundwater production, desalination, water filtration, wastewater collection and treatment, and regional water recycling. EMWD provides both retail and wholesale water service covering a total population of over 750,000. EMWD's mission is "to provide safe and reliable water and wastewater management services to our community in an economical, efficient, and responsible manner, now and in the future."

#### **Governance and Organizational Structure**

EMWD is governed by a 5-member Board of Directors who serve staggered 4-year terms, representing the district division they were elected to represent. As a member agency of MWD, EMWD also has a member appointed to the MWD Board.

#### Service Area and Local Economy

EMWD is located in western Riverside County, approximately 75 miles east of Los Angeles. (Figure 3.) EMWD provides potable water, recycled water, and wastewater services to an area of

approximately 555 square miles in western Riverside County. The 555 square mile service area includes seven incorporated cities in addition to unincorporated areas in the County of Riverside.



#### FIGURE 3—EMWD Service Area

EMWD is both a retail and wholesale agency, serving a retail population of 546,146 people and a wholesale population of 215,075 people. The agency was initially formed in 1950 to bring imported water to the area and in 1951 was annexed into the MWD. EMWD is now one of MWD's 26 member agencies.

#### **Facilities**

The majority of EMWD's supplies are imported water purchased through MWD from the State Water Project (SWP) and the Colorado River Aqueduct. Imported water is delivered to EMWD either as potable water treated by MWD, or as raw water that EMWD can either treat at one of its two local filtration plants or deliver as raw water for non-potable uses. EMWD's local supplies include groundwater, desalinated groundwater, and recycled water. Groundwater is pumped from the Hemet/San Jacinto and West San Jacinto areas of the San Jacinto Groundwater Basin. Groundwater in portions of the West San Jacinto Basin is high in salinity and requires desalination for potable use. EMWD owns and operates two desalination plants that convert brackish groundwater from the West San Jacinto Basin into potable water. EMWD also owns, operates, and maintains its own recycled water system that consists of four Regional Water Reclamation Facilities and several storage ponds spread throughout EMWD's service area that are all connected through the recycled water system. As of 2014, EMWD has used 100% of the recycled water it produces.

As stated above, since its formation as a water agency, EMWD has shifted from primarily serving agricultural uses to primarily serving urban uses. Today, EMWD's retail customers are mostly residential, with other uses consisting of commercial, industrial, institutional, landscape and agricultural. In addition to retail potable water demand, EMWD delivers water to seven wholesale customer agencies.

#### Economy

As the population within EMWD's service area continues to grow, the characteristics of the service area are continually changing. Tract homes, commercial centers and new industrial warehouses are replacing areas of agriculture and vacant land. Over the next 25 years, EMWD's total population is projected to grow by over 500,000 people, a 67% increase over the current population.

As part of the broader Inland Empire Southern Riverside county's economy reflects strong sectors in logistics, construction, health care, manufacturing, professional, management & scientific, and finance, insurance and real estate. Construction has historically been the major driver of the economy given its undeveloped land and Southern California's need for single family homes, apartments, industrial facilities, and infrastructure. Health Care firms are expanding in the Inland Empire. These same economic sectors are reflected within EMWD's service area. Much of the service area is characterized by being above the national average in median household income.

EMWD has a history of boom and bust development cycles. From the mid- 1980's to 1990's, population growth in EMWD routinely exceeded 10% per year. In the early 1990's, growth slowed during an economic recession. During the late 1990's, growth began to steadily increase, and the first five years of the 2000's again brought accelerated population growth to the area. Growth within EMWD's service area reached its peak rate in 2005, but then there was a major decline in housing development and growth slowed again. Starting in 2006 EMWD saw a sharp decline in

the number of new connections added, reaching a low point in 2010. Since 2010, new connections have slowly been increasing; but they remain well below the peak levels of new development seen in the early 2000's.

# 2.2 Existing Service Providers and Service Provider after Reorganization

**Table 1** provides the current public services provider for the FPUD service area and the responsible public service provider if LAFCO's approved the reorganization.

Table 1—Summar	y of Municipal Service	S
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Municipal Service	Current Provider	Provider After Reorganization
Wastewater Collection and Treatment	Fallbrook Public Utility District	Fallbrook Public Utility District
Water Service	Fallbrook Public Utility District *Imported Water from SDCWA	Fallbrook Public Utility District           *Imported Water from EMWD
Recycled Water	Fallbrook Public Utility District	Fallbrook Public Utility District

### 2.2.1 Level and Range of Services To Be Provided

#### **Imported Water**

FPUD imports 99% of its potable water from SDCWA with the remaining 1% coming from a local well. FPUD has four connections to SDCWA's system. Figure 4 provides a schematic of how imported water is delivered to FPUD. Three of these connections are to pipelines owned by the MWD and one connection is to a pipeline owned by SDCWA. SDCWA currently purchases treated water from MWD that is treated at the Skinner Water Treatment Plant (WTP) and delivered to FPUD's connections. With approval of the reorganization, imported water treated at Skinner WTP will continue to be delivered to the same FPUD connections with no physical or operational changes necessary. FPUD does currently have the ability to take deliveries to occur on one connection it has to SDCWA owned pipeline, but FPUD has recently determined that continued deliveries through this connection are not necessary and FPUD will stop taking deliveries on this connection. Because there are no physical or operational change in the delivery of imported water to FPUD under reorganization there are no facilities to be built by EMWD or FPUD to begin service at the same level as today.

### FIGURE 4—How FPUD Receives Water Deliveries



#### **Retail Water Distribution**

FPUD's water distribution system (Figure 5) is comprised of 270 miles of pipeline, 6,800 valves, an ultraviolet disinfection water treatment plant, nine steel reservoirs, a 300-million-gallon treated water reservoir, five pump stations and plans for a groundwater treatment plant. District staff operates the system, and conduct all system maintenance and repairs. FPUD is in the middle of an Advanced Metering Infrastructure (AMI) system upgrade that will enable real-time meter reading and provide customers with real-time water use. Reorganization will not result in any changes to retail water distribution in FPUD's service area.



### FIGURE 5—FPUD Water Distribution System

#### FPUD Local Water Supply

FPUD also recently signed an agreement with U.S. Marine Corps Base Camp Pendleton to share local water in the Santa Margarita River, of the SMRCUP. The river is expected to provide 30%-40% of FPUD's total water needs, reducing reliance on imported water. Construction of a bidirectional pipeline and groundwater treatment plant is expected to begin in the Fall of 2019 and be operational by 2023. These construction activities and the provision of a new, more reliable water supply will occur as planned under annexation to EMWD which will not affect the provision or cost of this service to District customers.

FPUD's five-year average annual water sales is 10,375 acre-feet. Residential and commercial customers represent 59% of sales, and agricultural customers make up the remaining 41%. FPUD's historic sales trend is down due to improved water efficiency for both residential and commercial indoor and outdoor use, combined with sharp decreases in agricultural water demands. The decrease in agricultural water demands is due to drought restrictions and the increases in water costs over the last decade driven by a sharp rise in the cost of the water we purchase. FPUD's agricultural water sales have reduced from 7,000 acre-feet in Fiscal Year 2008 to 3,200 in Fiscal Year 2017.

#### No Change In Water Operations

Since there is no change in service boundaries or inclusion of additional territory, FPUD will be able to continue to serve its customers in the same manner if the reorganization is approved. Reorganization approval will not result in the need for any additional infrastructure that would not otherwise be needed if reorganization were not approved and FPUD remained a member of SDCWA.

#### Other Services

Certain services provided by SDCWA to FPUD will be provided under similar circumstances by EMWD. These include current MWD funded water conservation programs available to FPUD customers under similar conditions as currently provided. Commercial, Multi-Family and Residential rebate programs similarly available as a member agency of SDCWA would be available to FPUD customers under membership in EMWD. Similar to SDCWA, EMWD provides supplement to MWD funding for water conservation programs to its member agencies.

EMWD does not offer agricultural customers a discount water program in exchange for lesser reliability equivalent to SDCWA's Transitional Special Agricultural Water (TSAWR) Program. The SDCWA Board recently took actions to move towards making TSAWR into a Special Agricultural Water Rate Program (SAWR) and allowing new customers to qualify for the program. In exchange for a lesser level of reliability in a water shortage commercial agricultural customers participating in the TSAWR receive a substantial discount on the price of water purchased from SDCWA. However, EMWD has proposed a nominal wholesale charge or mark up to the cost of

MWD water that results in a lower cost to FPUD customers than SDCWA's TSAWR. **Table 2** compares the different calendar year 2020 SDCWA water rates (TSAWR and Full Service (FS)) to those proposed by EMWD.

Rate	TSAWR	SDCWA FS	EMWD	
Treated	\$1,231	\$1,686	\$1,078	5.431
RTS	28	28	82	
СС	24	24	24	
IAC	43	43	0	
EMWD	Ball Martin		11	
Total	\$1,326	\$1,781	\$1,195	
Rate Differential From SDCWA FS	(\$455/AF)		(\$586/AF)	

#### Table 2-2020 SDCWA TSAWR, Full Service M&I and Potential EMWD Charges

Source :SDCWA and MWD websites

Note: IAC is converted to \$ per AF based on FPUD/RMWD 2020 shares divided by FPUD/RMWD 3 year average of SDCWA deliveries

MWD RTS is based on FPUD and RMWD 2020 shares divided by FPUD and RMWD 10 year deliveries MWD CC is based on FPUD and RMWD actual 2020 shares divided by FPUD RMWD 3 year average

Stand-By Availability charge is considered equivalent regardless of membership and not shown

#### **Reliability**

In contrast to SDCWA, EMWD is both a retail and wholesale water supplier. As a retailer, approximately 50% of EMWD's supplies consist of local groundwater and recycled water. The remainder are deliveries of imported water from MWD. As a wholesale water supplier EMWD delivers only imported water from MWD. In terms of delivery of water to FPUD, EMWD would act in its wholesale capacity and take delivery of MWD water in the same manner as SDCWA and FPUD would receive delivery of water from EMWD in the same manner as it receives deliveries of wholesale water from SDCWA. While the method of deliver is exactly the same, there are some potential changes in the overall reliability of the imported water supplies from EMWD versus SDCWA during cutbacks that are described in more detail below.

Over the last 25 years SDCWA as a wholesale water supplier, and many of its retail member agencies, have been successfully diversifying the region's water supply portfolio by developing local recycled water, groundwater and seawater desalination supplies. SDCWA has also invested in surface water storage and out-of-region groundwater storage to improve reliability in both drought related and catastrophic emergencies. Because of the success of supply diversification and the significant reduction in water demand through conservation, SDCWA's dependence on imported water from MWD has been reduced and the reliability of its service area has substantially

improved in the last two drought as compared to the maximum of 32% combined agricultural and non-agricultural shortages SDCWA experienced in 1991-1992 prior to the region's diversification program. The more reliable local supplies available to MWD member agencies, the less reliant they are on MWD imported water supplies in a drought induced shortage, and the higher the agencies level of reliability.

As noted previously, FPUD's TSAWR customers receive a lesser level of reliability in exchange for discounted water from SDCWA. TSAWR customers reliability in a shortage is set at the level of reliability and cutbacks that MWD places on its member agencies. TSAWR customers do not benefit from the reliability investments made through SDCWA's diversification and Carryover Storage Program. If the reorganization is approved FPUD's current TSAWR customers would not benefit from EMWD's local supplies or groundwater storage programs and would similarly be subject to a pass-through of MWD cutbacks.

The benefits of SDCWA's diversification program are realized by FPUD's non TSAWR customers (also referred to as Municipal & Industrial or M&I) in higher levels of reliability during drought related shortages. However, MWD and its member agencies (including SDCWA) have also made significant investments in reliability over the last 25 years and will continue to do so. Local supply development and water conservation has reduced demand on MWD for imported water by just over half of its peak demand. That result along with MWD investments in in-region and out-of-region storage has significantly bolstered its ability to withstand multiyear droughts at cutback levels much lower than 20% experienced by MWD M&I customers in the peak cutback year of 1991. Although MWD planning documents anticipate that it will not experience cutbacks if its assumptions on local and imported supplies are fulfilled, they have experienced two rounds of cutbacks within the last 10 years. Both instances (2010-2011 and 2015-2016) resulted in a maximum cutback level of 15%.

A comparative analysis, which follows, was conducted to estimate the reliability and cutback level FPUD would experience in shortage similar to the maximum cutback of 15% from MWD initiated in the last two droughts. In this analysis it is assumed that FPUD has fully implemented the SMR CUP currently under construction. Both SDCWA and MWD have detailed computer models that calculate member agency allocations including the various adjustments for highly reliable local supplies, extraordinary conservation and population growth used by both agencies. The final allocations to an individual member agency consider what other member agencies supplies and demands are in the allocation year. The analysis contained below uses simplified assumptions based on the allocation methodologies and supply and demand amounts contained in the most recent UWMPs for 2030. (Table 3.)

The analysis is for a single dry year in a prolonged multi-year drought event. The range includes whether SDCWA has carryover storage supplies and in circumstances where it has exhausted those supplies. Shortages under EMWD reduce available MWD supplies by the level of the overall MWD cutback and does not attempt to apply any adjustments to EMWD that may result in it receiving a higher allocation. The analysis also assumes EMWD does not provide FPUD any of its local or stored water supplies. For more accurate estimates of what FPUD's shortage allocation would be it would be necessary to request that SDCWA and potentially MWD run their allocation

models. A more complete report was prepared for Rainbow Municipal Water District, providing much of the background on SDCWA and MWD reliability planning for the assessment of water reliability that applies also to FPUD. (See Attachment A - Analysis of RMWD Water Supply Reliability November 2019.)

FPUD Reliabi 15% MWD Cι	lity Single Dry Y Itback	'ear 2030			
	M&I Cut	tback	TSAWR Cutback	Combi	ned Cutback
	Low*	High*		Low	High
SDCWA	0%	4%	15%	3%	8%
EMWD	10%	6	10%		10%
* Range is ba Water Shorta	sed on use of Ca Ige Allocation Pl	arryover Sto ant (WSAP)	rage supplies and a or Preferential Righ	illocation un	nder MWD

#### Table 3—Reliability Analysis Summary

Although the above reliability analysis supports that the overall range in reliability is better under SDCWA, FPUD believes the differences in the severity of the shortage will not have a significant impact given the rural characteristics of the District's service area and ability to encourage reduced outdoor water use to achieve the cutback target. FPUD benefits from both improved MWD reliability through local supply development and reduced demand on MWD and its own groundwater conjunctive use project. The range of shortages indicated above are well within the historic shortages managed by FPUD without economic harm to its customers. Article 26 of FPUD's Administrative Code provides the detailed actions FPUD takes in a water shortage. Additionally, the State of California through the Urban Water Management Planning Act (Water Code Section §10610 et seq.) requires preparation of a Shortage Contingency Plan. The Shortage Contingency Plan identifies the stages of action to be undertaken by the urban water supplier in response to water supply shortages, including up to a 50% reduction in water supply, and an outline of specific water supply conditions which are applicable to each stage.

#### Managing a Water Shortage

In SDCWA's 2008 Model Drought Response Ordinance provided to its member agencies for regional consistency in drought management, SDCWA established an up to 10% conservation target considered to be a voluntary stage <u>prior</u> to imposing mandatory restrictions. This is reflected in FPUD's Administrative Code Article 26 and its UWMP Shortage Contingency Plan.

WSDRP STAGE	DROUGHT RESPONSE LEVEL	USE RESTRICTIONS	CONSERVATION TARGET
Voluntary (Stage I)	1 - Drought Watch	Voluntary	Up to 10%
Supply Enhancement (Stage II)	1 - Drought Watch	Voluntary	Up to 10%
	2 - Drought Alert	Mandatory	Up to 20%
Mandatory Supply Cutback (Stage III)	2 - Drought Alert	Mandatory	Up to 20%
	3 - Drought Critical	Mandatory	Up to 40%
	4 - Drought Emergency	Mandatory	Above 40%+

#### Table 11-2. Correlation between WSDRP Stages and Model Drought Ordinance Levels

Source: SDCWA Urban Water Management Plan

Although a 10% shortage has resulted in mandatory water use restrictions in previous droughts. Achieving that goal is considered very manageable by most water suppliers. Because FPUD residential customers typically have larger lot sizes that are irrigated a reduction in 10% has been achievable and surpassed in the recent past. A 10% reduction in water use by commercial agricultural customers has also been achievable and is less than those customers would experience under continued participation in TSAWR in a similar 15% MWD cutback.

During the most recent drought, the State of California imposed an Emergency Conservation Regulation that required reduced water use over what was necessary given available MWD and SDCWA supplies. Below (**Table 4**) is an excerpt from an FPUD Water Supplier monthly report to the state of California addressing FPUD's performance during implementation of the Emergency Regulation. It compares monthly water use for the summer of 2015 at the height of the last drought and imposition of the most severe restrictions with pre-drought water use for the same months in 2013.

#### Table 4—FPUD Water Use Report (2015)

Supplier Name	Stage Invoked	Mandatory Restrictions	Reporting Month	REPORTED Total Monthly Potable Water Production	REPORTED Total Monthly Potable Water Production 2013	Redcution in Water Use
Fallbrook Public Utility District	Stage 2	Yes	Sep-19	960.8	1454.2	51%
Fallbrook Public Utility District	Stage 2	Yes	Aug-19	1097.5	1514.9	38%
Fallbrook Public Utility District	Stage 2	Yes	Jul-19	1006.9	1513	50%
Fallbrook Public Utility District	Stage 2	Yes	Jun-19	945.5	1307	38%

Source: https://www.waterboards.ca.gov/water\_issues/programs/conservation\_portal/docs/2019sept/uw\_supplier\_d ata090319.xlsx

FPUD can manage the differences in shortages between SDCWA and EMWD though demand management during a shortage consistent with its UWMP Shortage Contingency Plan. The large

amount of outdoor irrigation provides FPUD customers with a cushion with which to reduce water usage during a shortage without inflicting economic harm or hardship. FPUD considers this to be more cost effective for its customers than to consistently pay significantly more for its water supply as a member agency of SDCWA.

The most noticeable trend in reliability since the last drought (2015-2016) has been the continued decline in water use. (Table 5.)This continued drop in water use pertains to SDCWA an MWD as large wholesale agencies and to FPUD as an individual water district. In comparing FPUD's monthly water use in the summer of 2018 to its 2013 water use shows a continuance of lower water demand.

#### Table 5—FPUD Water Use Report (2018)

Supplier Name	Stage Invoked	Mandatory Restrictions	Reporting Month	REPORTED Total Monthly Potable	REPORTED Total Monthly Potable Water	Redcution in Water
				Water Production	Production 2013	Use
Fallbrook Public Utility District	Stage 1	Yes	Sep-18	944.8	1454.2	54%
Fallbrook Public Utility District	Stage 1	Yes	Aug-18	1143	1514.9	33%
Fallbrook Public Utility District	Stage 1	Yes	Jul-18	1201.7	1513	26%
Fallbrook Public Utility District	Stage 1	Yes	Jun-18	928.3	1307	41%

Source: https://www.waterboards.ca.gov/water\_issues/programs/conservation\_portal/docs/2019sept/uw\_supplier\_d ata090319.xlsx

Although the 2015 updates of the UWMP were used in conducting the above reliability analysis, updates will be prepared in 2020 with new water demand forecasts. It is assumed that continued decreases and slower growth rates will be included in UWMPs throughout the MWD service area. These lower demand forecasts along with continued local supply development will reduce demand on imported water and strengthen the reliability of imported water supplies from MWD. This continued trend will likely reduce the margin of difference for FPUD in reliability as a member agency of EMWD and SDCWA.

### **Catastrophic Emergency**

For the last 20 years SDCWA has been implementing the Emergency Storage Project (ESP). The ESP is a system of new, existing and expanded reservoirs, pipelines and pump stations that will ensure that its member agencies receive a 75% Level of Service during a catastrophic earthquake that severs San Diego County form MWD's imported water system. SDCWA's ESP manages the risk of seismic events on the San Andreas, San Jacinto and Elsinore faults. Although FPUD has been paying for the ESP through it water rates for 20 years, it is not able to receive ESP service due to a yet to be constructed pump station and appurtenant facilities by SDCWA. It should be noted that SDCWA's planning documents for these facilities indicate that SDCWA will need to use MWD's aqueduct system to make ESP deliveries to FPUD.

If the facilities are constructed FPUD's customers would be able to receive ESP water in a catastrophic emergency. FPUD's M&I customers would receive a 75% level of service while

FPUD's TSAWR customers would be cut at twice the rate of non-TSAWR customers (50% cutback compared to 25% for non-TSAWR customers). This lower level of reliability is in exchange for the discounted water rate TSAWR customers pay and in recognition that in an emergency outdoor irrigation water will be a low priority.

MWD also has an Emergency Response Plan and emergency water storage for its member agencies and their sub-agencies. MWD maintains sufficient storage in its 800,000 acre foot Diamond Valley Lake and other storage reservoirs to provide a similar 75% Level of Service in the event of earthquakes on the San Andreas and San Jacinto earthquake faults that would sever the imported water conveyance system for the State Water Project and Colorado River. The difference between SDCWA and MWD emergency storage programs is the response to a seismic event on the Elsinore Fault in southern Riverside County that disrupts service from MWD's treatment plants, reservoirs and local pipelines. The Elsinore Fault is considered the least active of the 3 earthquake faults, and MWD in its Emergency Response Plan intends to complete repairs on those facilities within 14 days of the seismic event and restore service to at least the 75% level. When facilities for SDCWA's ESP are completed it expects to provide emergency water for a 75% Level of Service to FPUD customers following the seismic event on the Elsinore Fault and the interruption of imported water deliveries.

In an effort to address the proposed reorganization's potential for 14 days with limited or no service in the event of an earthquake on the Elsinore Fault, FPUD customers will receive local water supply during an emergency from its Santa Margarita River Conjunctive Use Project (SMRCUP). FPUD is constructing the SMRCUP in partnership with U.S. Marine Corps Base Camp Pendleton to share local water in the Santa Margarita River through a groundwater storage and recovery project. Local supply from the SMRCUP will provide an additional layer of water supply reliability to the FPUD service area. Construction of a bi-directional pipeline and groundwater treatment plant is expected to begin in the Fall of 2019 and be operational by 2023. These construction activities and the provision of a new, more reliable water supply will occur as planned under reorganization which will not affect the provision or cost of this service to FPUD customers.

The SMRCUP is planned to produce approximately 9 acre feet per day on average and can meet all the daily indoor health and safety of FPUD residents for the 14 day expedited repair period. Additional drinking water will be available from the SMRCUP, FPUD's Red Mountain Reservoir and other storage tanks to meet very limited irrigation needs of M&I and agricultural customers during this period as well.

The below **Table 6** reflects the Level of Service FPUD customers can expect during a catastrophic emergency as a member agency of SDCWA and under reorganization as a member agency of EMWD.

FPUD Reliab	ility Catastrophic Emergency				
	San Andreas &	San Jacinto Faults	Elsino	re Fault	
	M&I Level Of Service TSAWR Level of Service M&I Level Of Service TSAWR Level				
SDCWA	75%	37%	75%	37%	
EMWD	75%	NA	20% to 75%**	NA	
**Range is based on MWD emergency planning for seismic event on Elsinore fault is to expedite repairs to facilities in southern					
Riverside county to restore service within 14 days. Indoor Health and Safety water use minimum level of service form local					
supplies and	storage for 14 day period. Sl	DCWA plans to provide emerger	cy deliveries with earthqual	ke on Elsinore Fault.	

#### Table 6—FPUD Reliability During a Catastrophic Emergency

While the SMRCUP is designed to be a baseline supply for FPUD and Camp Pendleton, FPUD is considering entering into an MOU with Rainbow Municipal Water District (RMWD) that will allow a portion of this FPUD's local water to be provided to RMWD in the event of a catastrophic emergency on the imported water system, such as an earthquake along the Elsinore Fault. A small amount of SMRCUP supply will be provided to RMWD during this 14 day period to supplement RMWD stored supplies in its local reservoirs and storage tanks.

### 3.0 FINANCING

In California, funding for special districts comes in two distinct types, based on their source (or sources) of revenue: Enterprise Districts and Non-Enterprise Special Districts.

Non -Enterprise Districts deliver services that provide general benefits to entire communities. They are primarily funded by property taxes. Enterprise Districts finance district operations via fees for public service, similar to a business. Under this model, the customers that consume goods or services such as drinking or irrigation water, waste disposal, or electricity, pay a fee. Rates are set by a governing board and there is a nexus between the costs of providing services and the rates customers pay. Sometimes enterprise district may also receive property taxes which comprise a portion of their budget.

FPUD operates as an enterprise fund, which has a set of self-balancing accounts that record the financial position of each of FPUD's services. The service funds track revenues from service fees and operating expenses specific to each service. This, in turn, makes each service fund independent and self-sufficient, and also ensures service fees are set to recover only costs associated with the particular service.

FPUD's accounting system and practices are based upon Generally Accepted Accounting Principles (GAAP) and are kept on an accrual basis. Under the accrual basis, revenues are recognized when earned and expenditures are recognized when a liability is incurred. FPUD's budget is prepared on a cash basis, which means that projected revenues are recognized when cash is assumed to be received and projected expenses are recognized when cash is disbursed.

#### Annual Budget Process

Each year, FPUD develops and adopts a new budget for the upcoming fiscal year. The budgeting process begins in January and starts with the budget message. The budget message establishes the priorities of FPUD in the next fiscal year and provides budget managers with guidance on how to prioritize their budget needs.

The capital and operating budget are included in FPUD's preliminary budget. Once assembled, the preliminary budget is reviewed by the General Manager and staff in a series of meetings. Adjustments are made to the preliminary budget and the revised preliminary budget is reviewed by the FPUD Board of Directors Fiscal Policy and Insurance Committee. Once the Committee's comments are incorporated and the proposed budget developed, budget workshops with the Board, if required, are held. The final proposed budget is then sent to the Board for review. Once Board comments are incorporated into the document, a public hearing, if necessary, is held and the recommended budget is adopted.

Budget adjustments are made if projects or expenditures are needed that fall outside FPUD's adopted budget. These items are brought to the Board for approval and to appropriate the funds. A mid-year budget update is also provided to the Board each year to update spending trends and identify early any potential shortfalls or surpluses. FPUD maintains a balanced budget, which means that sources of funds equals uses of funds in instances of shortfall. Reserve fund withdrawals, if necessary, provide a source of funds. Likewise deposits to reserves are a use of funds and are unappropriated balances.

#### **Financial Impacts of Reorganization**

The proposed reorganization will have financial impacts to FPUD, EMWD, and CWA. While FPUD has pursued discussions with SDCWA to identify a potential cost structure for detachment, the parties have not made significant progress on reaching consensus. The last communication requested that FPUD meet with each SDCWA member agency separately to negotiate a solution. While FPUD did in fact reach out to each member agency and met with many of them and provided potential concepts for a cost structure for detachment, the general consensus from these meetings is that development of separate agreements with each SDCWA member agency is unworkable. This is because any impacts or benefits to SDCWA resulting from the reorganization, if approved, will impact SDCWA's rate setting process, and the impact on each member agency will vary over time with that agency's water demands.

In absence of a negotiated agreement with SDCWA, FPUD proposes that the detachment from SDCWA be consistent with the County Water Authority (CWA) Act (Water Code Appendix section 45-1 et seq.), the law under which SDCWA exists and is organized. Section 45-11 of the CWA Act sets forth certain requirements a member agency must follow in order to detach (called an "exclusion" in the CWA Act) from SDCWA. In accordance with this provision if the detachment is successful, taxable property within the detaching member agency may still continue

to be taxable by SDCWA for the purpose of paying bonded and other indebtedness outstanding or contracted for at the time of detachment/exclusion. The amount currently collected annually from FPUD customers is roughly \$150,000. These payments would continue after detachment pursuant to the CWA Act even though FPUD will cease to receive any benefit from any SDCWA facilities.

The remaining SDCWA member agencies would also benefit from past investments made by FPUD in regional infrastructure. As of January 1, 2018 FPUD has contributed approximately \$300 million to help build SDCWA's infrastructure. These investments helped fund storage projects, emergency water supply projects and secure lower cost water supplies from canal lining projects. These investments will continue to provide benefits to the remaining SDCWA member agencies and FPUD will not recover any value from these regional investments that will continue to support all other member agencies of SDCWA. Further, there is no outstanding SDCWA debt associated with SDCWA facilities that only serve FPUD and that will, consequently, have no benefit to other remaining agencies after detachment.

Figure 6 shows the anticipated impact on SDCWA rates based on current FPUD and RMWD demand projections, including the reduction in SDCWA demands from the local groundwater development. As shown in Figure 6, the relative projected impact to SDCWA from FPUD detachment is \$10.18/AF. The current SDCWA rate is approximately \$1686/AF, so this represents an increase of 0.6%. The average rate increase experienced by FPUD over the last 10 years from SDCWA is over 8%. Using recent water usage for the City of San Diego of 91 gallons per capita per day (gpcd) and a rate impact of \$10.18 per AF for FPUD, the average person from the City of San Diego would see an annual cost impact of \$1 per year. Currently the average person from the City of San Diego pays an additional \$41 per year for SDCWA's desalinated water (excluding the conveyance pipeline costs) and Imperial Irrigation District's transfer water.



FIGURE 6—Rate Impact of FPUD/RMWD Detachment.

- \* Based upon SDCWA's August Preliminary Financial Impact Analysis | De-Annexation.
- \*\* Based upon updated water sales projections and includes 3,100 AF of local supplies.

Although all the water purchased by FPUD is received directly from MWD, there will be a reduction in revenue for SDCWA if FPUD began to purchase wholesale water through MWD. SDCWA prepared a summary of the anticipated costs based on FY 2018 water demands and CY 2020 rates in August 2019. This analysis results in an estimated revenue reduction to CWA of approximately \$36.37/AF on top of the existing rate of \$1686/AF for remaining agencies from the detachment of FPUD and RMWD based on their being no cost reduction in SDCWA operations due to detachment. (Figure 7.)



#### FIGURE 7—SDCWA Projected Rate Impact

\* Based upon CWA's Recommended Calendar Year 2020 Rates and Charges presentation.

\*\* Based upon updated water sales projection for CWA of 338,958 AF.

SDCWA's estimate is higher than the actual projected impact for two key reasons:

- 1. The FY 2018 flows are higher than current and projected flows largely due to a continued decline in agriculture in the region.
- 2. FPUD is constructing a new groundwater treatment plant that will supply 30-40% of anticipated annual water demands.

These factors will reduce the water demands on SDCWA, which will reduce the cost impact of on SDCWA of detachment.

SDCWA has also argued that the detaching agency must ensure revenue neutrality for the remaining agencies. Under this concept, FPUD would continue to make the same net payment to SDCWA, but would receive no services. In turn, SDCWA would use this money to subsidize other member agencies rates to be able to offset the potential 0.56% rate increase associated with the detachment of FPUD. We feel this concept is flawed at a number of levels:

- 1. This approach is inconsistent with the CWA act and would not have any cost of service basis and would violate proposition 26.
- 2. Currently member agencies can build local projects and reduce their water demands with a similar effect as detachment. The vast majority of rates allocated to a member agency are based on demands. While some are rolling averages, the costs paid by a District to SDCWA are largely proportional directed to water demands. Figure 8 shows an example of the rate impacts to other member agencies for three local supply projects that are underway. These projects include Phase I of the City of San Diego Pure Water Program, Pure Water Oceanside and the East County Advanced Purification Facility.



### FIGURE 8—Rate Impact of Roll-Off and Detachment

\* Based upon SDCWA's Recommended Calendar Year 2020 Rates and Charges presentation.

\*\* Based upon updated water sales projection for SDCWA of 338,958 AF.

\*\*\* Pure Water Phase I, East County AWP, Pure Water Oceanside.

As shown in **Figure 8**, the impact of these projects to other remaining member agencies is approximately \$137 per AF or over ten times times the projected impact of the FPUD detachment. If FPUD was required to make each agency revenue neutral for the impact of their reduced water

purchases then the same concept would need to be in place for entities that are rolling off SDCWA and shifting existing SDCWA costs to the remaining agencies including FPUD and RMWD if detachment is not successful.

The majority of water used by FPUD is currently delivered from MWD through MWD facilities, and FPUD pays SDCWA for this water. The cost of treated MWD water to SDCWA is \$1,184/AF. Currently, FPUD is charged by SDCWA over \$450/AF on top of the MWD price versus an additional \$11/AF if the water was supplied by EMWD (See Figure 9). If FPUD detaches from SDCWA and attaches to EMWD, there is a substantial long-term savings to FPUD customers due to this difference in unit water costs.

Figure 9 shows the projected water rate increases for FPUD with and without detachment. As shown in Figure 9, without detachment an annual increase of 8% is anticipated over the next three years. With the reorganization it is anticipated that no rate increase could be achieved for 3 years or rates could be slightly decreased based on the reduction in the cost of water with on-going savings in wholesale water costs of over 25%.









FPUD has had to implement significant rate increases over the past decade to address the combined impacts of increased water supply costs, declining sales and aging infrastructure needs. Increasing water rates has had a significant impact on the quality of life in our community due to the loss of agriculture and the inability to afford the water costs to maintain a rural lifestyle. These trends will continue into the future and further negatively impact our community unless LAFCO supports efforts by FPUD to reduce its water costs through the process of detachment from SDCWA and annexation to EMWD.

#### **RESOLUTION NO. 19-15**

#### RESOLUTION OF THE BOARD OF DIRECTORS OF RAINBOW MUNICIPAL WATER DISTRICT AUTHORIZING THE GENERAL MANAGER TO PREPARE AND SUBMIT AN APPLICATION TO THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION TO DETACH FROM THE SAN DIEGO COUNTY WATER AUTHORITY AND ANNEX TO EASTERN MUNICIPAL WATER DISTRICT

WHEREAS, Rainbow Municipal Water District was established in 1953 and is organized under Section 71000 of the California Water Code; and

WHEREAS, Rainbow Municipal Water District is a special district that provides – among other services – water to the unincorporated communities of Rainbow, Bonsall, and portions of Vista, Oceanside, and Fallbrook; and

WHEREAS, Rainbow Municipal Water District is a member of the San Diego County Water Authority; and

WHEREAS, over the last 25 years, the San Diego County Water Authority which supplies water to individual water districts in San Diego County, has made major investments in new storage and treatment facilities located well south of the Rainbow Municipal Water District service areas; and

WHEREAS, these investments have increased the cost of water to customers of Rainbow Municipal Water District, adding several hundred dollars per acre foot to the cost of water for the customers of Rainbow Municipal Water District, many of whom are engaged in agricultural activities; and

WHEREAS, while most water districts in San Diego County rely entirely on San Diego County Water Authority pipelines for the water they distribute to their customers, Rainbow Municipal Water District has connections directly to the Metropolitan Water District of Southern California (MWD)'s pipelines; and

WHEREAS, Eastern Municipal Water District located in Riverside County is adjacent to Rainbow Municipal Water District, is a special district that also receives water supplies from Metropolitan Water District and provides retail water service to cities and special districts in Riverside County, and has consented to the possible annexation of Rainbow Municipal Water District; and

WHEREAS, Eastern Municipal Water District was in October of 2019 awarded a \$36.3 million grant from the State Water Resources Control Board which will improve groundwater quality and supplies and reduce its reliance on imported water supplies; and

WHEREAS, since 1954 Rainbow Municipal Water District has contributed over \$500 million to construct assets owned by San Diego County Water Authority, which assets will be retained by the San Diego County Water Authority and used for the benefit of its remaining member agencies; and

WHEREAS, if Rainbow Municipal Water District detaches from the San Diego County Water Authority, the San Diego County Water Authority will not have to spend the \$40 million budgeted to complete construction of the North County EPS pump stations to serve Rainbow Municipal Water District and Fallbrook Public Utility District; and

WHEREAS, Rainbow Municipal Water District's detachment from San Diego County Water Authority will lessen the North County area's demand for expanded water facilities and will permit the remaining member agencies of the San Diego County Water Authority to have increased reliability of supplies from San Diego County Water Authority in times of drought and reductions in imported water supplies; and

WHEREAS, the reliability of supplies from Eastern Municipal Water District to the Rainbow Municipal Water District will be equivalent to the supplies received from the San Diego County Water Authority, and

WHEREAS, the Rainbow Municipal Water District and the Fallbrook Public Utility District have entered into a Memorandum of Understanding which would allow Rainbow Municipal Water District to receive emergency supplies from the Fallbrook Public Utility District's Santa Margarita River Conjunctive Use Project that will serve the residents of Rainbow Municipal Water District in the very unlikely scenario where an earthquake or other emergency condition constricts supplies coming from Metropolitan Water District facilities in Riverside County, and

WHEREAS, the detachment of Rainbow Municipal Water District from the San Diego County Water Authority and annexation to Eastern Municipal Water District will be mutually beneficial in that the ratepayers of Rainbow Municipal Water District will obtain water supplies at a lower rate permitting the continuation of agricultural activities as well as general ratepayer reductions in costs while the remaining member agencies of the San Diego County Water Authority will be relieved of expenses of providing water supplies to the North County and will have greater reliability of water supplies in times of drought; and

WHEREAS, the detachment of Rainbow Municipal Water District from the San Diego County Water Authority is authorized by Section 45-11 of the California County Water Authority Act, the law governing the creation and existence of the San Diego County Water Authority; and

WHEREAS, the commencement of such a proceeding is initiated by an application to a Local Agency Formation Commission in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the Riverside Local Agency Formation Commission and the San Diego Local Agency Formation Commission have executed a memorandum of understanding dated October 24, 2019 by which San Diego Local Agency Formation Commission will undertake the processing of any application by Rainbow Municipal Water District to proceed with a reorganization involving modifications of spheres of influence, detachment from San Diego County Water Authority and annexation to Eastern Municipal Water District; and

**WHEREAS,** the process will require the preparation of various documents and the payments of filing fees and subsequent expenses,

#### NOW, THEREFORE, the Board of Directors resolves as follows:

- The General Manager is authorized to prepare and submit to the San Diego Local Agency Formation Commission the application for the proposed reorganization and to provide any and all additional or supplemental forms, data, information, plans and documentation as the San Diego Local Agency Formation Commission staff may request and require from time to time during the processing of the application.
- The General Manager is authorized to pay the filing fee to the San Diego Local Agency Formation Commission and to pay such additional sums as may be invoiced from the San Diego Local Agency Formation Commission for services rendered in the processing of the application.
- 3. The General Manager is authorized to coordinate his efforts with such resources as may be needed to process the application and to pay the invoices for the resources with whom he coordinates.
- 4. This proposal is to be made pursuant to Part 3 of the Cortese-Knox-Hertzberg Local Government Reorganization Act.
- 5. The nature of the proposal is a reorganization to detach Rainbow Municipal Water District from the San Diego County Water Authority and to annex the Rainbow Municipal Water District to Eastern Municipal Water District in Riverside County.
- 6. All property within the boundaries of the Rainbow Municipal Water District as it now exists shall be included, and the General Manager is to provide a legal description and map to be provided to the Local Agency Formation Commission.
- 7. The proposal suggests the following terms and conditions:
  - That pursuant to the express provisions of Section 45-11 of the County Water Authority Act which provide for detachments from a county water authority, the matter be submitted to a vote only by those electors residing within the boundaries of Rainbow Municipal Water District.
  - That pursuant to Section 45-11 of the County Water Authority Act that the taxable • property within the excluded area shall continue to be taxable by the county water authority for the purpose of paying the bonded and other indebtedness of the county water authority outstanding or contracted for at the time of the exclusion and until the bonded or other indebtedness has been satisfied; provided further, that if the taxable property within the excluded area or any part thereof is, at the time of the exclusion, subject to special taxes levied or to be levied by the county water authority pursuant to the terms and conditions previously fixed under subdivision (c) or (d) of Section 10 for the annexation of the excluded area or part thereof to the county water authority, the taxable property within the excluded area or part thereof so subject to the special taxes shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of special taxes upon taxable property within the respective annexing areas pursuant to the terms and conditions for the annexation or annexations as so fixed and until the aggregate sums have been so raised by the special tax levies.

- 8. The reasons for the proposal are as follows:
  - Rainbow Municipal Water District will be better positioned to provide water supplies to its customers at significantly lower rates;
  - Rainbow Municipal Water District will be better positioned to provide water supplies to those within its boundaries who undertake agricultural activities, a major effort in support of the local economy.
  - Rainbow Municipal Water District already receives water supplies from Metropolitan Water District which also supplies water to Eastern Municipal Water District as it does to San Diego County Water District.
  - The detachment from San Diego County Water Authority will reduce both currently planned and future capital expenditures necessary to provide its water supplies to the North County area.
  - The detachment from San Diego County Water Authority will also eliminate the need to share its reduced water supplies in times of drought conditions and permit the remaining member agencies to share the allocation that would otherwise be made to Rainbow Municipal Water District.

**PASSED AND ADOPTED** at a Regular meeting of the Board of Directors of Rainbow Municipal Water District held on the 3<sup>rd</sup> day of December 2019 by the following vote, to wit:

AYES: Di NOES: No ABSENT: Di ABSTAIN: No

Directors Brazier, Gasca, Hamilton, and Rindfleisch None Director Mack None

ATTEST

Dawn Washburn, Board Secretary

Helene Brazier, Board President

### **Rainbow Municipal Water District**

# Supplemental Information Package for Reorganization Application

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### Introduction

The Board of Director of the Rainbow Municipal Water District (hereafter "RMWD" or "District") has adopted a resolution approving an application to the San Diego Local Agency Formation Commission (SDLAFCO) for a Change in Organization (Exhibit A). Specifically, the District seeks actions from SDLAFCO to detach from the San Diego County Water Authority (SDCWA) and annex the District into Eastern Municipal Water District (EMWD). This application is being made to SDLAFCO in accordance with a Memorandum of Understanding (MOU) between SDLAFCO and Riverside County LAFCO dated October 24, 2019 that established SDLAFCO as the primary agency for consideration of this Change in Organization (attached as Exhibit B).

This action is sought to provide more efficient water service to the customers of the District due to the unique circumstances regarding the distribution of wholesale water in this part of San Diego County.

### **Executive Summary**

RMWD is one of the last rural agricultural areas of San Diego County. Agriculture is the only significant economic activity in the District with 65% of its water demands serving the needs of growers. In over 80 square miles there are only about a dozen street lights, no Starbucks, no typical grocery store, no 7-11's – it is a rural place. Agriculture has been hit hard over the last 20 years by ever increasing water costs. Avocado production – the most famous of San Diego County exports – is down tens of thousands of acres. The I-15 is named 'The Avocado Highway" but that is at risk due to high water prices.

When the District joined SDCWA nearly 70 years ago, it did so in accordance with the rules contained in the County Water Authority Act. This Act set the terms for both entering and leaving SDCWA. In order to attempt to preserve the main economic activity of this part of the County, the Board of Directors at the District has decided to apply the methods outlined in State Law to detach from SDCWA and annex into the neighboring imported water wholesaler, EMWD.

This application to SDLAFCO is firmly grounded in both the County Water Authority Act and the LAFCO processes contained in the Cortese-Knox-Hertzberg Local Government Reorganization Act (CKH). It seeks the approval of SDLAFCO for RMWD to detach from SDCWA and then annex into EMWD – the water wholesaler that serves the exact same water to neighboring Districts in Southwest Riverside County. As part of this change, our customers will have the exact same water quality and reliability as they do with SDCWA. The water will come from the same treatment plant, through the same pipelines, and be conveyed through to the District just as before. The only change is that the water will cost significantly less.

Under the County Water Authority Act, SDCWA will still have access to certain property tax revenue from properties within the District. The cost impact to other agencies will be minimal – the increase in costs will be about 1% to other agencies. RMWD's detachment could increase costs per acre-foot about \$16.75. For comparison, the current wholesale cost for water from SDCWA is just under \$1700 per acre foot. At the household level since an acre foot will serve about four typical households for a year so the increased cost per household will be about \$5 <u>per year</u>.

The District has been attempting to engage with SDCWA in meaningful discussions about this proposed detachment since May of 2019. To date, SDCWA has refused to discuss its interpretation of the County Water Authority Act, saying that they would address this through the LAFCO process. While the District would rather have worked out details with SDCWA in advance of filing this application, their stance left no other options than to file now.

### Background

During World War II, the population of San Diego County increased rapidly due to wartime buildup of the Navy and other military bases in San Diego County. As local water supplies were insufficient to support this effort, the Federal Government began the construction of the first pipelines to bring Colorado River water into San Diego County. This pipeline connected to the existing Colorado River Aqueduct owned and operated by the Metropolitan Water District of Southern California (MWD). The first pipeline was connected to MWD's system near San Jacinto, CA and extended to the San Vicente Reservoir just east of San Diego.

MWD is allowed by statute only to sell water to public agencies who are members of MWD, so as part of the process of bringing imported water into San Diego County, the State of California formed SDCWA in 1944 to operate as the MWD member agency for San Diego County. The first water deliveries to the region began in 1947.

In 1952, as RMWD was forming, an application was made to SDCWA to join as a member agency. Over several months there was quite a bit of discussion and some controversy as to whether RMWD should be a member of SDCWA or simply connect directly to MWD as the pipelines were within the RMWD service area. After a series of back and forth actions by both SDCWA and MWD, RMWD was finally admitted to SDCWA in 1954. This history demonstrates that the question who should serve as our water wholesaler has been around since our inception.

#### The District is Unique in San Diego County

While the original political boundaries of SDCWA followed the County line as a separation, the engineers who designed the pipelines did not use those boundaries. For the first aqueduct, the separation between MWD and SDCWA was set at the halfway point between the connection near San Jacinto and the San Vicente Reservoir. The first aqueduct this separation point is several miles into San Diego County, located roughly where the aqueduct crosses State Highway 76 just east of I-15. MWD owns and operates stretches of the second, third, and fourth aqueducts well into San Diego County with the separation points being shown on the map below.



Both RMWD and the Fallbrook Public Utility District (FPUD) have connections directly to MWD's pipeline with no use of SDCWA facilities. For FPUD, all but one connection is on MWD's pipelines. For RMWD, four of the eight connections are on MWD's pipelines with one of the connections to SDCWA's pipeline being just 3000 feet from the point of separation.

The Districts are the only SDCWA member agencies who have direct connections to MWD. They are unique in the County – no other SDCWA member agency has now, nor practicably could have in the future, direct connections to MWD's system. Further, in MWD's service area SDCWA is the only MWD member agency that operates a large distribution system. In other MWD member agencies, MWD owns and operates the large wholesale pipelines and the member agency simply acts as the water purchasing coordinator.

#### No Real Benefit to Customers of the District Received from SDCWA Over EMWD

In the years following the construction of the aqueducts water was cheap and the arrangement worked well for all parties. However, over the last 25 years, SDCWA has made significant investments in the Emergency Storage Project (ESP) to construct new storage and treatment facilities located well south of the District. These investments have increased the cost of water significantly – adding several hundred dollars per acre foot to the cost of water.

While these investments may be good for agencies south of the District, RMWD does not receive commensurate benefits from these improvements. Virtually all the water delivered to the District comes from the Skinner Water Treatment Plant, owned and operated by MWD in Southwest Riverside County. The hydraulics of the aqueduct system are such that water flows from north to south, so apart from rare and unusual hydraulic conditions, all the water served to the District comes from an MWD owned treatment plant and is delivered through MWD pipelines into the service area. RMWD is more similar to water retailers in Southwest Riverside County than to other SDCWA member agencies.

Further, the ESP facilities constructed to date cannot properly serve the District. SDCWA has been implementing the ESP since 1996 and had contemplated constructing new pump stations to move water to the north, but those pump stations have not been constructed. SDCWA is still in planning stages for these facilities and no formal design work has commenced for their construction. RMWD ratepayers have paid ~\$25 Million in ESP related fees over the years to construct the ESP and yet can derive no benefit from it other than in a few areas in the southern part of the District.

RMWD and EMWD have performed an analysis of the relative reliability of water supply comparing being a member agency of SDCWA vs being a member agency of EMWD. This analysis shows that the reliability of supply from EMWD is higher than that from SDCWA. A full analysis is included in this application package.

#### Efficiency and Affordability of Service Would Be Much Higher From EMWD vs SDCWA

Since the District is not strictly reliant on SDCWA facilities and have no access to treatment plants and ESP facilities located to the south, it would be more efficient and affordable for the District to be annexed into EMWD. The Cortese-Knox-Hertzberg Local Government Reorganization Act (CKH) requires LAFCOs to evaluate the relative efficiency and affordability of municipal services when considering how a service is provided in a given geographic area. Should a change from SDCWA to EMWD is approved, customers within the District would see zero changes to the sources, quality, and reliability of the water service they receive from the District.

They would, however, see a significant improvement in efficiency and affordability. For RMWD, continued service from EMWD represents a decrease of approximately 20-25% in wholesale water costs over SDCWA.

#### The District Has a Pressing Need for Pipeline Rehabilitation

Prior to the establishment of the District in 1953, a good deal of this area was served by several Mutual Water Companies that served agricultural users in the area. Once imported water became available, all of these Mutual Water Companies eventually folded into the Rainbow system and the District assumed ownership of those pipelines. Many of these pipelines predate the District and are now well beyond their useful lifespan. Further, the hilly topography creates extremely high system pressures. These factors have lead to a high risk of pipeline failures that needs to be addressed.

The District embarked on a comprehensive Condition Assessment Program that carefully scrutinized pipeline failure history, pipeline materials, system pressure, age, and soil conditions. The result of this analysis conclusively showed that the District needs to make investments of at least \$4 Million per year just to hold the current water main breakage rate steady over time. More money will be needed to lower the break rate. While the break rate is a significant challenge now, with significant impact to customers in terms of property damage and water outages, failure to act will only cause more main breaks, water outages, and property damage.

While the District could just raise its rates, doing so would further damage the already challenged agricultural economy in our area. A sharp increase in rates would put even more farmers out of business and decrease volumetric water sales at the District. This would create a negative feedback loop as rates would need to rise again to offset the lower sales. Needless to say, the Board of Directors at Rainbow MWD are committed to avoiding that cycle.

The savings realized by moving to EMWD will allow the district to more aggressively deal with our ageing infrastructure. Detachment would provide the District the ability to both pass some of these savings on to our customers and allow us to invest in the rehabilitation and replacement of infrastructure at the same time.

#### **Existing Infrastructure Requires Few Changes**

With the change from SDCWA to EMWD as the wholesaler, no physical changes are required to provide wholesale water service to RMWD. RMWD has four existing connections to the MWD system and four on the SDCWA system. Due to the decline in agricultural water use related to high imported water costs, the four direct MWD connections now provide adequate capacity to serve the demands of the entire RMWD service area. Each connection to the aqueduct system was paid for by the District at the time of connection and ownership was granted to SDCWA. The only requirement to effect the change is the transfer of the SDCWA ownership of those connections to EMWD.

The remaining challenge is serving a few higher elevation areas in RMWD's southern service area during brief peak summertime demand periods. RMWD has done extensive studies to identify the best methods to serve these areas. The results of these studies determined that improvement projects that are included in previous Water Master Plans and other Capital Improvement Project forecasts would need to be moved up in time should the detachment be approved. These include:

- A new pipeline from the Rice Canyon Tank westerly to the area of new development north of Hwy 76 and east of Interstate 15
- Replacement of seasonal pumping facilities with more robust pump stations at the Moosa, Line P, and Gopher pump station sites
- Replacement of a short section of main (<2000 feet) along Gird Road that was slated for replacement in previous Condition Assessment studies
- Completion of Weese Treatment Plant Interconnect with the City of Oceanside
- Minor expansion or interconnection of a few other key points in the distribution system

There are other options to meet peak summertime demands through demand management. RMWD is currently developing demand management programs that would fund agricultural efficiency projects in the southern zones of the District to shave the peak summertime demands. Demand management can reduce, or eliminate, the need for some of the mentioned capital improvements.

The cost estimates for these projects range from \$10 - \$15 Million. While all of these projects were in the planning stages and slated for construction over the next ten years, detachment would necessitate them to move forward more quickly. During the process of review of this application by LAFCO staff, the District would like to have a discussion on the timing of potential approval, the resulting election, and when the actual detachment would take place so that we can efficiently coordinate project priorities and timing.

Since approval of this application is not guaranteed, the District does not want to use its precious capital on these facilities until the outcome of the proceeding is a bit more certain. As noted above, while these projects have been in the long-term plan for some time, moving them up ahead of other projects only makes sense in the context of the significant imported water cost reduction that would result from detachment. This cost reduction would accelerate other necessary pipeline replacement and rehabilitation projects.

### The County Water Authority Act

The County Water Authority Act (Water Code Appendix sections 45-1 et seq.), the law under which SDCWA exists and is organized, provides the organizational framework for county water authorities formed in California. Section 45-11 of the SDCWA Act sets forth certain requirements a member agency must follow in order to annex into or detach from SDCWA. RMWD followed the terms for annexation in 1953 when it joined SDCWA, including the requirement to make a payment as a condition of annexation in accordance with the Act. With respect to detachment, the Act contains provisions for bonded indebtedness that is secured by property taxes as well as a requirement for an election of the electors of the member agency seeking detachment.

The process for detachment/exclusion of the Districts from SDCWA and annexation of the Districts into EMWD, must be brought before the applicable Local Agency Formation Commissions (LAFCO) pursuant of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code section 56000 set seq.) (CKH Act). Under the CKH Act, LAFCOs are charged with conducting hearings, making
determinations, and imposing conditions on the approval of proposed changes in certain public agency boundaries within the county in which the LAFCO sits. Here the exclusion from SDCWA, and annexation of RMWD into EMWD, would result in EMWD being located in more than one county (San Diego and Riverside) and therefore proceedings before both San Diego LAFCO and Riverside County LAFCO would be involved. In October 2019, the San Diego and Riverside County LAFCOs entered into a Memorandum of Understanding in which San Diego LAFCO has exclusive jurisdiction over all proceedings related to the detachment of RMWD from SDCWA as well as the sphere of influence changes required for EMWD.

Ultimately, should RMWD's application to San Diego LAFCO for detachment from SDCWA be approved, the reorganization would not take effect until after the electors of RMWD vote in support of the reorganization. If the election is successful, the taxable property within the detaching member agency may still continue to be taxable by SDCWA for the purpose of paying bonded and other indebtedness outstanding or contracted for at the time of the detachment/exclusion. (Water Code Appendix section 41-11(a)(2).) This is separate from any debt obligations of SDCWA that are not secured by property taxes and is limited to SDCWA share of ad-valorem taxes.

# **Financial Implications of Detachment**

The proposed reorganization will have financial impacts to RMWD, EMWD, and SDCWA. RMWD has pursued discussions with SDCWA to discuss how to interpret the County Water Authority Act in meetings that started in May 2019. We held a number of meetings over the summer in an attempt to gain some consensus between RMWD and SDCWA as to how to interpret the act, all to no avail. The last formal meeting with SDCWA was held on October 9, 2019 in which we, once again, were unable to discuss the matter. In fact, in an email that was a follow up to that meeting (dated October 10, 2019), SDCWA General Manager Sandra Kerl stated the following:

*"Finally, you said that you wanted to know our Agency 's legal interpretation of the applicable law as to why your agencies should pay anything upon detachment. This is an issue that will be addressed in the course of LAFCO proceedings."* 

RMWD like to make it clear to LAFCO that we made multiple attempts to come to some sort of common understanding of the requirements of the SDCWA Act with SDCWA, but as Ms. Kerl's email indicates, they would rather address this at the commission level. Further, in her last communication, Ms. Kerl requested that RMWD and FPUD meet with each SDCWA member agency separately to negotiate a solution. While RMWD and FPUD reached out to each member agency and met with many of them and provided potential concepts for a cost structure for detachment, the general consensus from these meetings is the proposed approach to develop a separate agreement with each member agency is unworkable. In absence of a negotiated agreement, RMWD is proposing that the detachment be consistent with the County Water Authority Act (Water Code Appendix section 45-1 et seq.), the law under which SDCWA exists and is organized. Section 45-11(a)(2) of the SDCWA Act sets forth certain requirements a member agency must follow in order to detach from SDCWA. In accordance with this provision if the detachment is successful taxable property within the detaching member agency may still continue to be taxable by SDCWA for the purpose of paying bonded and other indebtedness outstanding or contracted for at the time of detachment/exclusion.

The amount currently collected annually from RMWD customers is roughly \$175,000. These payments would continue after detachment per the SDCWA Act even though the District will not receive any benefit of any SDCWA facilities.

The remaining member agencies would also benefit from past investments made by RMWD in regional infrastructure. As of June 30, 2019, RMWD has contributed over \$560 million to help build infrastructure in San Diego County. These investments helped fund storage projects, emergency water supply projects and secure lower cost water supplies from canal lining projects. These investments will continue to provide benefits to the remaining agencies and RMWD will not recover any value from these regional investments that support all other member agencies of SDCWA. There is no outstanding SDCWA debt for SDCWA facilities that only serve RMWD and ould have no benefit to other remaining agencies after detachment.

There will be a reduction in revenue for SDCWA if RMWD began to purchase its supply of water through EMWD. SDCWA prepared a summary of the anticipated costs based on FY 2018 water demands and CY 2020 rates in August 2019. This analysis results in an estimated revenue reduction to SDCWA of approximately \$17.98/AF on top of the existing rate of \$1686/AF for remaining agencies from detachment of RMWD based on there being no cost reduction in SDCWA operations due to detachment (See Figure 1). It should be noted that there will be operational cost reductions post detachment as SDCWA staff will not have to perform maintenance on some of the most remote facilities in their system.



\* Based upon SDCWA's Recommended Calendar Year 2020 Rates and Charges presentation.

\*\* Based upon updated water sales projection for SDCWA of 338,958 AF.

# **Figure 1 – SDCWA Projected Rate Impact**

The SDCWA estimate is higher than the actual projected impact for the simple reason that the FY 2018 flows are higher than current and projected flows largely due to a continued decline in agriculture in the region. This will reduce RMWD's water demands on SDCWA, which will reduce the cost impact of on SDCWA of detachment. Figure 2 shows the anticipated impact on SDCWA rates based on current RMWD demand projections. As shown in Figure 2, the relative projected impact to SDCWA from RMWD detachment is \$16.75/AF. The current SDCWA rate is approximately \$1686/AF, so this represents an increase of 0.99%. The average annual rate increase experienced by RMWD over the last 10 years from SDCWA is over 8%. Using recent water usage for the City of San Diego of 91 Gallons Per Capita Per Day (GPCD) and a rate impact of \$16.75 per AF for RMWD, the average person from the City of San Diego would see an annual cost impact of approximately \$1.71 per year.



\* Based upon SDCWA's August Preliminary Financial Impact Analysis | De-Annexation.

\*\* Based upon updated water sales projections

# Figure 2- Rate Impact of FPUD/RMWD Detachment.

SDCWA has argued that the detaching agency must ensure revenue neutrality for the remaining agencies. Under this concept, RMWD and FPUD would continue to make the same net payment to SDCWA but would receive no services. In turn, SDCWA would use this money to subsidize other member agencies rates to be able to offset the potential <1% rate increase associated with the detachment of RMWD. We feel this concept is flawed at a number of levels:

- 1. This approach is inconsistent with the SDCWA act and would not have any cost of service basis and would violate proposition 26.
- 2. Currently member agencies can build local projects and reduce their water demands with a similar effect as detachment. The vast majority of rates allocated to a member agency are based on demands. While some are rolling averages, the costs paid by a District to SDCWA are largely proportional to water demands. Figure 3 shows an example of the rate impacts to other member agencies for three local supply projects that are underway. These projects include Phase I of the City of San Diego Pure Water Program, Pure Water Oceanside and the East County Advanced Purification Facility.



\* Based upon SDCWA's Recommended Calendar Year 2020 Rates and Charges presentation.

\*\* Based upon updated water sales projection for SDCWA of 338,958 AF.

\*\*\* Pure Water Phase I, East County AWP, Pure Water Oceanside.

# Figure 3 – Rate Impact of Roll-off and Detachment

As shown in Figure 3, the impact of these projects to other remaining member agencies is approximately \$137 per AF or **over 8 times** the projected impact of RMWD detachment. If RMWD was required to make each agency revenue neutral for the impact of their reduced water purchases then the same concept would need to be in place for entities that are rolling off SDCWA and shifting existing SDCWA costs to the remaining agencies, including RMWD, if detachment is not successful. RMWD has a population of approximately 20,000 and currently project to purchase approximately 14,500 AFY of water annually so the cost impact of roll-off at \$137/AF to each person in RMWD is approximately \$100 per year.

RMWD is facing a situation where SDCWA's rate structure, which encourages roll off, will end up costing our customers about \$100 per year per person per year, while at the same time SDCWA has expressed opposition to our roll off that would only cost remaining member agencies less than \$2 per person per year.

The vast majority of the water used by RMWD is currently delivered from an MWD operated treatment plant through MWD facilities and the District pays SDCWA for this water. Currently, RMWD is charged over \$450/AF on top of the MWD price versus an additional \$11/AF for EMWD (See Figure 4). If RMWD detaches from SDCWA and attaches to EMWD, there is a substantial long-term savings to RMWD customers.





Apart from imported water costs, the largest driver for RMWD rate increases is the generation of revenue to address critical infrastructure that has served well beyond it's design lifespan. Well over half of RMWD's distribution system is over 50 years old and many are closer to 70 years old. Pipeline failures are becoming more frequent and unless significant funds are generated to repair and replace these aging pipelines the problem will only get worse.

RMWD has completed a multiyear (and ongoing) condition assessment project that has focused our capital spending on those pipelines that are at the highest risk of failure. This project has highlighted the amount of revenue needed to accomplish the goal of pipeline rehabilitation and those revenue increases, along with imported water costs, drive RMWD rates.

Figure 5 shows the projected water rate increases for RMWD with and without detachment. As shown in Figure 5, without detachment, cumulative rate increases of just under 25% are anticipated over the next three years. With the reorganization it is anticipated that RMWD could actually lower rates slightly and then have no rate increase for several years based on the reduction in the cost of water with ongoing savings in wholesale water costs of over 25%.



Figure 5 – Projected Rate Impacts of Detachment

RMWD has had to implement significant rate increases over the past decade to address the combined impacts of increased water supply costs, declining sales and aging infrastructure needs. Increasing water rates has had a significant impact on the quality of life in our community due to the loss of agriculture and the increasing impact on water customers in rural areas. Agricultural use consumes 65% of all of the water that RMWD sells, but the increasing cost of water over the years has been very harmful to the agricultural community.



**Figure 6: Water Costs and Agricultural Demands** 

Figure 6 above shows that as the costs related to SDCWA projects that do not benefit our region have increased over the last 15 years, there was a steep drop in agricultural water demand. Thousands of acres of avocado production were lost forever. Many thousands more are on the brink of going under due in large part to water costs. Agriculture is the only real economic activity in the RMWD service area that spans over 80 square miles with only a handful of signalized intersections, no other industry or commercial centers, and very little retail (there is not even a single Starbucks or 7-11 in the entire service area). These trends will continue into the future and further negatively impact our community unless LAFCO supports efforts by RMWD to reduce their water costs through the process of detachment from SDCWA and attachment to EMWD.

# "Revenue Neutrality" or "Exit Fee" Concept

In various public statements, SDCWA officials have indicated that RMWD must either maintain "Revenue Neutrality" for SDCWA over time or make some sort of "Exit Fee" payment to SDCWA as a condition of detachment. RMWD has requested on multiple occasions to meet with SDCWA officials to discuss this concept. Each time SDCWA refused to have any specific discussions about what they meant by these terms. Both of these concepts are flawed for a number of reasons:

- The County Water Authority Act has no provisions for either concept. If SDCWA's debt was secured on the basis of property taxes, those taxes would continue in accordance with the CWA Act. None of SDCWA's debt is secured by property taxes. The CWA Act has no mention of

"Revenue Neutrality" whatsoever and we could find no other reference to the concept in any LAFCO statute.

- Were RMWD compelled to continue to make payments for infrastructure that it does not use in any way – or have the legal right to use in any way – those payments would be a likely violation of the Proposition 26 Cost of Service principles and thereby illegal under the California Constitution.

Had the State Legislature wanted to have "revenue neutrality" or an "exit fee" be part of the detachment process, it would have included these in the CWA Act. However, those terms are nowhere to be found. What is included in the CWA Act are very clear and detailed provisions for dealing with the financial matters of detachment. We respectfully request that those provisions be followed in this application.

# **Benefits to Remaining SDCWA Member Agencies**

While most of the discussion of impacts to member agencies has centered on presumed negative financial impacts, there are a number of positive impacts for the remaining member agencies of SDCWA after an RMWD detachment is completed. These impacts are wide ranging and include operational and financial benefits:

While most of San Diego County already has the full benefit of SDCWA's Emergency Storage Project (ESP), there is one final component of the project that remains incomplete. The project has been under design and construction since 1996 with all other major facilities completed well over ten years ago, but the north county pump stations have not yet reached the design stage. These pump stations are required to move water stored in the ESP reservoirs to the south up into the Fallbrook and RMWD service areas. These northerly regions currently cannot receive the benefit of the ESP – despite the fact that RMWD ratepayers have contributed approximately \$25 Million (Through SDCWA's Storage Fee and other charges) to the project over the years.

Should RMWD and FPUD detach from SDCWA, these pump station projects can be cancelled. The current budgeted cost of these stations is \$40 Million, so a detachment would save each agency their pro-rata share of \$40 million immediately.

- There will be operational savings as well when the most remote water metering structures in the SDCWA system are transferred to EMWD for day to day operations. These facilities were paid for by RMWD when they were built and a key part of the reorganization will be to transfer control of these facilities to EMWD. SDCWA staff will be able to reduce the number of water metering stations by about 15% with the combined RMWD and FPUD connections no longer requiring their attention.
- Each and ever remaining member agency will receive an immediate increase in the amount of available water supply from the ESP once RMWD's (and FPUD's) demands are removed from the allocation pool. Valuing this type of reliability is tricky, but if you consider that the Carlsbad desal plant cost about \$1 Billion to produce ~50,000 AF per year, when RMWD's ~14,000 AF per year is made available to other agencies to use, relative to the desal plan, that water has a

"value" of about \$280 Million. Note that this is not intended to be a one to one type of comparison as water supply values are based on a melded average of all sources of supply, but the desal plant is a benchmark of what SDCWA felt was a prudent investment to generate 50,000 AF per year of water.

Per SDCWA record keeping, Rainbow MWD has contributed approximately 4% of the total financial contributions SDCWA has received over its history. This means that the customers at Rainbow MWD have paid for 4% of everything SDCWA has on its asset sheet. In their Comprehensive Annual Financial Report, SDCWA shows that the agency has current net assets of \$4.071 Billion and liabilities of \$2.569 Billion which results in a net position of \$1.577 Billion. RMWD ratepayers have contributed over \$560 Million to SDCWA over the years and that money paid for the RMWD "share" of the assets. With the detachment, the assets (pipelines, tanks, treatment plants, etc) that RMWD ratepayers paid for will be left behind to benefit those agencies that remain. 4% of the net position of SDCWA equates to just over \$62 Million in current net asset value that will be redistributed among the other member agencies. This will increase each other agency's "share" of SDCWA assets and will increase their voting rights percentage at the agency as well.

# Water Supply Reliability Analysis

During the course of the analysis leading up to this application to LAFCO, RMWD has conducted a series of studies to validate that the supply reliability from EMWD is equal to or greater than the supply reliability from SDCWA. The first studies were preformed by Ken Weinberg, a nationally recognized expert in water resources and the former Director of Water Resources at SDCWA. Ken's initial work demonstrated that there was no discernable difference in water supply reliability between EMWD and SDCWA as a wholesale supplier to RMWD.

Subsequent to Ken's work, EMWD preformed a comprehensive analysis of water supply reliability for their service area in order to ensure that the inclusion of RMWD (and FPUD) would provide proper supply reliability to their new, larger service area. This report (attached as Exhibit C) also demonstrates that under any potential supply condition, EMWD has ample supply resources to serve the demands of all of its wholesale and retail customers.

# Compliance with SDLAFCO Policy L-107

SDLAFCO Policy L-107 directs agencies who contemplate these sorts of reorganizations to reach out to affected agencies as well as interested parties in advance of filing an application. SDLAFCO's goal is for these parties to come to some sort of agreement related to the process and details surrounding the

detachment prior to coming to SDLAFCO. To be clear here, the only affected agency is SDCWA – all SDCWA member agencies may be interested parties, but the District does not seek detachment from those agencies, only SDCWA.

The District, in accordance with SDLAFCO Policy L-107, began its outreach with the primary affected agency, SDCWA, on May 21, 2019. On that day, RMWD General Manager Tom Kennedy met with Sandra Kerl, Acting General Manager of SDCWA and later in the day with SDCWA Board Chairman Jim Madaffer and Vice Chairman Gary Croucher. In these meetings, the District indicated that it was exploring this process and requested that we meet formally to discuss the County Water Authority Act's provisions related to detachment. At the conclusion of the meeting with SDCWA Chair and Vice Chair, we agreed to meet in a few weeks to discuss the matter.

Prior to that meeting, SDCWA served RMWD with a Public Records Act request for information, communications or other documents related to our exploration of the detachment. The meeting that was discussed in May was never set as SDCWA wanted to review the PRA information prior to holding a meeting. Those documents were produced to SDCWA in June 2019. The following is a chronology of the Districts efforts to comply with SDLAFCO Policy L-107:

- June 27, 2019 at the Regular SDCWA Board meeting, both Jack Bebee (GM at FPUD) and Rainbow GM Tom Kennedy notified all SDCWA Board Members in open session about our desire to meet with any of them to discuss this matter.
- July/August 2019 both Jack Bebee and RMWD GM Tom Kennedy met with several SDCWA member agencies to discuss the matter. There were also discussions at the SDCWA Member Agency Manager meeting that is attended by nearly every agency.
- July 30, 2019 Representatives from staff and legal counsel from SDCWA, FPUD, and RMWD met at the SDCWA offices to discuss the potential detachment. While FPUD and RMWD came prepared to discuss the provisions of the County Water Authority Act, SDCWA staff and counsel deferred from any such discussion, indicating that they were not up to speed on the Act.
- August 22, 2019 SDCWA held a closed session meeting on the detachment discussion and excludes both RMWD and FPUD from the discussion on the grounds of "risk of litigation". To be clear, neither FPUD nor RMWD has any basis for litigating anything with SDCWA, so our exclusion was questionable. RMWD and FPUD were allowed to make a statement, but each was only afforded three minutes to address the Board from the lectern where public comments are received. In his comments, RMWD GM Kennedy reiterated his willingness to discuss the detachment with any interested party. At this closed session, the SDCWA Board authorized a contract for \$1 Million for legal services related to the detachment.
- September 16, 2019 RMWD GM Kennedy and FPUD GM Bebee met at FPUD's offices with Sandra Kerl, SDCWA Acting GM and consultant Juanita Hayes to discuss detachment issues without their respective legal counsels present. This was a productive meeting at which we all agreed to meet again with our finance staff present to talk about specific details as to how the detachment would impact financial issues with the goal of finding a common ground.
- September 26, 2019 At the SDCWA regular Board meeting, FPUD's Bebee again informed the entire SDCWA Board in open session that both FPUD and RMWD would like to meet with any interested party to discuss the matter.
- October 9, 2019 FPUD GM Bebee and RMWD Gm Kennedy, along with FPUD CFO Shank, met with Sandra Kerl and Juanita Hayes at the SDCWA offices. This meeting was the follow up from

**Rainbow MWD Supplemental Information Package** 

the September 16, 2019 meeting and was intended to dig into the details of financial matters. At this meeting, when no SDCWA finance staff was present, SDCWA's Kerl indicated that we would not be having the discussion we had all agreed to a few weeks before. Ms. Kerl indicated that instead of discussions with SDCWA directly, their position was that we needed to meet with the other 22 member agencies. This outcome was memorialized in an email from Ms. Kerl to GM's Kennedy and Bebee on October 10, 2019.

- October 16, 2019 in an email communication to SDCWA and all member agencies, RMWD GM Kennedy again invited any interested party to meet with the District to discuss the detachment matter. As of the beginning of February 2020, RMWD and FPUD have met with at least 12 member agencies directly with more meetings still scheduled.
- November 6, 2019 RMWD sent out formal letters to SDCWA and all member agencies notifying them of the District's intent to consider a Resolution of Application at RMWD's December 3, 2019 Board meeting. This letter fulfilled the requirement to provide at least 21 day's written notice in advance of the meeting.

There were a great deal more informal communications regarding the detachment between the District and affected agencies at various meetings over the months, but this summary demonstrates that the District has greatly exceeded the minimum requirements of SDLAFCO Policy L-107.

# The Otay Lawsuit

The Rainbow Municipal Water District was sued in San Diego Superior Court by Otay Water District related to the CEQA exemption that the Rainbow board lawfully processed at its meeting where the Resolution of Application was approved. Otay's suit is based on an illogical and unsustainable claim that despite all facts and evidence the change in organization will result in potentially significant impacts on the San Juaquin/Sacramento River Delta and to the environment at large. Otay's petition does not identify or attach any evidence in support of these allegations. Otay also did not raise the legal and factual grounds for its suit at any time prior to the Board's action approving the Resolution of Application. The CEQA exemption is supported by substantial evidence that the Board reviewed and considered before it approved the Resolution of Application. This baseless suit is strongly opposed by both all factual evidence and the Rainbow Board. Settlement discussions are underway at this time. Beyond filing a petition and complaint, Otay has taken no further steps to advance its case toward trial.

# **Application Documents Attached**

Included with this application are a series of Exhibits:

- A- RMWD Resolution of Application
- B- SDLAFCO and RCLAFCO MOU regarding inter-county reorganization
- C- EMWD Supply Reliability Analysis
- D- Subject Agency Supplemental Information Form from EMWD
- E- RMWD Plan for Service
- F- SDLAFCO Form L-107
- G- EMWD Resolution 2019-130 Supporting Proposed Reorganization
- H- Rainbow MWD Boundary Description

# **COUNTY WATER AUTHORITY ACT**

(As of January 1, 2010)

From West's Annotated California Codes

Water Code-Appendix

Chapter 45

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# CHAPTER 45. COUNTY WATER AUTHORITY ACT

An Act to provide for the organization, incorporation and government of county water authorities, authorizing and empowering such authorities to acquire water and water rights, and to acquire, construct, operate and manage works and property, to incur bonded indebtedness therefor, to provide for the taxation of property therein, and the performance of certain functions relating thereto by officers of county within which any such authority may be located, to provide for addition of areas thereto, and the exclusion of areas thereform.

# § 45-1. Title of act

Section 1. This act shall be known as the County Water Authority Act.

### § 45-2. Public agencies

Sec. 2. The term "public agencies," wherever appearing in this act, shall be deemed to mean and include any municipal corporation of the State of California, whether organized under a freeholders' charter or under the provisions of general law, any municipal water district, any municipal utility district, any public utility district, any county water district, any irrigation district, organized under the laws of the State of California, or any other public corporation or agency of the State of California of similar character, with power to acquire and distribute water.

# § 45-3. Incorporation: incorporators; exercise of powers

Sec. 3. County water authorities may be organized and incorporated hereunder by two or more public agencies in any county, which public agencies need not be contiguous, and when so incorporated, such authorities shall exercise the powers herein expressly granted, together with such implied powers as are necessary to carry out the objects and purposes of such authorities. Each such authority when so organized, shall be a separate and independent political corporate entity.

# § 45-4. Organization and corporation procedure

Sec. 4. The procedure for organizing and incorporating a county water authority under the provisions of this act is as follows:

(1) **Resolutions; petition.** Resolutions shall first be passed by the legislative bodies of the public agencies designated to be incorporated in the proposed authority, declaring that in their opinion public interest or necessity demands the creation and maintenance of a county water authority to be known as the "(giving the name) County Water Authority." Said resolutions shall contain a statement of the names of such public agencies as are intended to be incorporated in said authority. Certified copies of said resolutions shall be presented to the board of supervisors of the county within which said public agencies are located, requesting said board to call an election without delay for determining whether such authority shall be created.

If for any reason the legislative body of any public agency designated as intended to be incorporated fails or refuses to adopt the resolution above referred to, then instead of said resolutions, a petition may be presented to the board of supervisors of said county on behalf of said public agency signed by qualified electors within the boundaries of any such public agency, in number to at least 10 per cent of the total vote cast at the last general State election within the territory of said public agency. Said petition shall contain substantially the same declarations and statements required to be contained in the resolutions hereinbefore mentioned. Such petition may be on separate papers but each paper shall contain the affidavit of the party who circulated it, certifying that each name signed thereto is the true signature of the person whose name it purports to be. The clerk of the board of supervisors of said county shall compare the signatures with the affidavits of registration and certify to the board of supervisors the sufficiency or insufficiency of said petition. If found and certified by said clerk as being sufficient such petition shall have all the force and effect of a resolution adopted by the legislative body of said public agency.

(2) Election; call. Upon the receipt of the resolutions and petitions hereinbefore mentioned, said board of supervisors shall call an election within the territorial boundaries of the public agencies who have adopted such resolutions or on whose behalf a proper petition has been presented, for the purpose of determining whether the proposed county water authority shall be created and established.

(3) Election procedure—notice of elections. The board of supervisors of said county shall give notice of said election by publishing the same once a week for at least three weeks before the date of said election in a newspaper of general circulation, published within the proposed authority. In case no newspaper of general circulation is published within said proposed authority, said notice shall be posted for at least three weeks in not less than three public places within said proposed authority.

Said notice shall state, among other things, the name of the proposed authority and set forth the public agencies proposed to be included therein.

Ballot. The ballot for said election shall contain such instructions as are required by law to be printed thereon, and in addition thereto there shall appear the following:

Shall the "(giving the name thereof)	Yes
County Water Authority" be created	
and established?	No

**Conduct of election.** Said election and all matters pertaining thereto, not otherwise provided for herein, shall be held and conducted, and the results thereof ascertained, determined and declared in accordance with the general election laws of the State, as nearly as may be, and no person shall be entitled to vote at said election unless he or she be a qualified elector of one of the public agencies proposed to be incorporated in the proposed authority. Said election may be held on the same day as any other State, county or city election, and may be consolidated therewith.

**Canvass; order of establishment.** The board of supervisors shall meet on Monday next succeeding the day of said election and canvass the votes cast thereat. They shall canvass the returns of each public agency separately and shall order and declare said authority created and established consisting of the public agencies in which a majority of those who voted on the proposition voted in favor of the creation of said authority; provided, however, that the total number of electors in such approving public agencies be not less than two-thirds the number of the electors within the authority as first proposed, according to the register of voters used at said election.

**Completion of establishment.** The board of supervisors shall cause a certified copy of said order declaring the result of said election to be filed in the office of the Secretary of State, and with the legislative body of each of the public agencies in which said election was held. From and after the filing of said order in the office of the Secretary of State the establishment of said county water authority shall be deemed complete.

Cost of election. The board of supervisors calling the election shall make all provision for the holding thereof throughout the entire authority as proposed, and the cost thereof shall be a proper charge against the county. In case a special election is held exclusively on the proposition of organizing such an authority, the expenditure therefor shall be reimbursed to the county by means of a special tax on all of the taxable property within the public agencies which was proposed to be included in the authority, which tax shall be added to the next county tax bills by the proper officers of the county.

**Insubstantial irregularities.** No informality in any proceeding or in the conduct of said election not substantially affecting adversely the legal rights of any citizen, shall be held to invalidate the incorporation of any county water authority, and any proceedings attacking the validity of said incorporation, shall be commenced within three months from the date of filing the aforesaid order with the Secretary of State, otherwise such incorporation and the legal existence of said county water authority shall be held to be valid and in every respect legal and incontestable.

## § 45-5. Powers

Sec. 5. An authority may do all of the following:

(1) Have perpetual succession.

(2) Sue and be sued in all actions and proceedings and in all courts and tribunals of competent jurisdiction.

(3) Adopt a corporate seal and alter it at pleasure.

(4) Acquire by grant, purchase, bequest, devise or lease, and hold, enjoy, lease, or sell or otherwise dispose of, any real and personal property of any kind within or without the authority and within and without the state necessary or convenient to the full exercise of its powers; acquire, construct or operate, control, and use any works, facilities, and means necessary or convenient to the exercise of its powers, both within and without the authority, and within and without the state. and perform all things necessary or convenient to the full exercise of the powers granted in this act.

(5) Exercise the power of eminent domain to take any property necessary to the exercise of the powers granted in this act.

(6) Construct and maintain works and establish and maintain facilities across or along any public street or highway and in, upon, or over any vacant public lands which are now, or may become, the property of the State of California; provided that the authority shall promptly restore the street or highway to its former state of usefulness as nearly as may be, and shall not use the same in such a manner as to completely or unnecessarily impair its usefulness. The grant of the right to use the vacant state lands shall be effective upon the filing by the authority, with the Division of State Lands, of an application showing the boundaries, extent, and locations of the lands, rights-of-way, or easements desired for those purposes. If the land, rights-of-way, or easement for which application is made is for the construction of any aqueduct, ditch, pipeline, conduit, tunnel, or other works for the conveyance of water, or for roads, or for poles, or towers and wires for the conveyance of electrical energy or for telecommunication, no compensation shall be charged the authority, unless, in the opinion of the Chief of the Division of State Lands the construction of the works will render the remainder of the legal subdivision through which the works are to be constructed valueless or unsalable, in which event the authority shall pay for the lands to be taken and for that portion of any legal subdivision which, in the opinion of the Chief of the Division of State Lands, are rendered valueless or unsalable. If the lands for which application is made are for purposes other than the construction of roads or for works for the conveyance of water, or electricity, or telecommunication, the authority shall pay to the state for the lands at the reasonable rate determined by the Division of State Lands. Upon filing the application, accompanied by map or plat showing the location or proposed location of the works or facilities, the fee title to so much of those state lands as shall be found by the Chief of the Division of State Lands to be necessary or convenient to enable the authority to construct or maintain its works or to establish or maintain its facilities, shall be conveyed to the authority by patent executed by the Governor of the State of California, attested by the Secretary of State with the Great Seal of the state affixed, and countersigned by the Registrar of State Lands; if only an easement or rightof-way over the lands is sought by the authority, that easement or right- of-way shall be evidenced by permit or grant executed by the Chief of the Division of State Lands. The Chief of the Division of State Lands may reserve in the patents, grants, or permits, easements and rights-of-way across any lands therein described for the construction of streets, roads, and highways. Before the patent, grant, or permit shall be executed any compensation due to the state under this section shall be paid. If the duties or titles of any of the officers mentioned are changed by lawful authority, the functions required to be performed shall be performed by the appropriate officer or officers of the State of California. No fee shall be exacted from the authority for any patent, permit, or grant so issued or for any service rendered pursuant to this act. In the use of streets or highways, the authority shall be subject to the reasonable rules and regulations of the governmental agency in charge thereof, concerning excavations and the refilling of excavations, and the relaying of pavements and the protection of the public during periods of construction; provided that the authority shall not be required to pay any license or permit fees or file any bonds. The authority may be required to pay reasonable inspection fees.

(7) Borrow money and incur indebtedness and issue bonds or other evidence of that indebtedness; provided, however, that no authority shall incur indebtedness which, in the aggregate, exceeds 15 percent of the taxable property of the authority as shown by the last equalized assessment roll of the county in which the authority is located.

(8) Impose and collect taxes for the purpose of carrying on the operations and paying the obligations of the authority: provided, however, that the taxes imposed pursuant to this section exclusive of any tax imposed to meet the bonded indebtedness of the authority and the interest thereon and exclusive of any tax imposed to meet any obligation to the United States of America or to any board, department, or agency thereof, shall not exceed five cents (\$0.05) on each one hundred dollars (\$100) of assessed valuation.

(9) Enter into contracts, employ and retain personal services, and employ laborers; create, establish, and maintain such offices and positions as shall be necessary and convenient for the transaction of the business of the authority, and elect, appoint, and employ officers, attorneys, agents, and employees the board of directors finds to be necessary and convenient for the transaction of the business of the authority.

(10) Join with one or more other public corporations for the purpose of carrying out any of its powers, and for that purpose to contract with the other public corporation or corporations for the purpose of financing the acquisitions, constructions, and operations. The contracts may provide for contributions to be made by each party and for the division and apportionment of the expenses of the acquisitions and operations, and the division and apportionment of the consequent benefits, services, and products. The contracts may contain other and further covenants and agreements as necessary and convenient to accomplish those purposes. The term "public corporation" as used in this subdivision includes the United States or any public agency thereof or this or any other state or any political district, subdivision, or public agency thereof.

(11) Acquire water and water rights within or without the state; develop, store, and transport that water; provide, sell, and deliver water for beneficial uses and purposes; and provide, sell, and deliver water of the authority not needed or required for beneficial purposes by any public agency, the corporate area of which is included in the authority, to areas outside the boundaries of the authority; provided, that the supplying of that water shall, in every case, be subject to the paramount right of the authority to discontinue those activities, in whole or in part, by resolution adopted by the board of directors. The board of directors, as far as practicable, shall provide each of its member agencies with adequate supplies of water to meet their expanding and increasing needs. If available supplies become inadequate to fully meet the needs of its member agencies, the board shall adopt reasonable rules, regulations, and restrictions so that the available supplies are allocated among its member agencies for the greatest public interest and benefit.

(12) Acquire, store, treat, reclaim, repurify, reuse, distribute, and sell sewage water, wastewater, and seawater for beneficial uses and purposes. "Repurify" means, for the purpose of this paragraph, to treat reclaimed water sufficiently so that the water may be discharged into a reservoir that supplies water to the treatment facility for a domestic water system.

(13) Fix, revise, and collect rates or other charges for the delivery of water, use of any facilities or property, or provision of services. In fixing rates the board may establish reasonable classifications among different classes and conditions of service, but rates shall be the same for similar classes and conditions of service.

(14) Cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all amendatory or supplementary acts, or any other act of Congress enacted authorizing or permitting that cooperation, for the purposes of construction of works, necessary or proper for carrying out the purposes of the authority, or for the acquisition, purchase, extension, operation or maintenance of constructed works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States; and borrow or procure money from the United States, or any agency thereof for the purpose of financing any of the operations of the authority.

(15) To change the name of the authority from that designated pursuant to Section 4.

#### § 45-5.1. Hydroelectric power

Sec. 5.1. (a) Any authority incorporated under this act may utilize any part of its water, and any parts of its works, facilities, improvements, and property used for the development, storage, or transportation of water, to provide, generate, and deliver hydroelectric power, and may acquire, construct, operate, and maintain any and all works, facilities, improvements, and property necessary or convenient for that utilization.

(b) Any authority incorporated under this act may do any of the following:

(1) Pursuant to contract, provide, sell, and deliver hydroelectric power to the United States of America or to any board, department, or agency thereof, to the state for the purposes of the State Water Development System, and to any public agency, private corporation, or any other person or entity, or any combination thereof, engaged in the sale of electric power at retail or wholesale.

(2) Use all or any part of hydroelectric power directly, or indirectly through exchange, in exercising any other power of an authority.

(c)(1) An authority located within San Diego County may acquire, construct, own, operate, control, or use, within or without, or partially within or partially without, its territory, works or parts of works for supplying its member public agencies, or some of them, with gas or electricity, or both gas and electricity, and may do all things necessary or convenient to the full exercise of these powers.

(2) An authority located within San Diego County may, pursuant to a contract, purchase gas, electricity, or related services from the United States of America or any board, department, or agency thereof, the State of California, any public agency, person, or private company and provide, sell, exchange, or deliver them to any public agency, private company, or person, or any combination thereof, engaged in the sale of gas or electricity at retail.

(d) For the purposes of this section. "public agency" means a city, county, city and county, district, local agency, public authority, or public corporation.

# § 45-5.2. Standby water charges

Sec. 5.2. (a) Any authority may, pursuant to the notice, protest, and hearing procedures in Section 53753 of the Government Code, by ordinance, fix on or before the third Monday of August, in each fiscal year, a water standby availability charge on land within the boundaries of the authority, to which water is made available by the authority, whether the water is actually used or not.

(b) The standby availability charge shall not exceed ten dollars (\$10) per acre per year for each acre of land within the authority or ten dollars (\$10) per year for a parcel less than one acre, unless the standby charge is imposed pursuant to the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code).

(c) If the procedures set forth in this section as it read at the time an availability charge was established were followed, the authority may, by ordinance, continue the charge pursuant to this section in successive years at the same rate. If new, increased, or extended assessments are proposed, the authority shall comply with the notice, protest, and hearing procedures in Section 53753 of the Government Code.

(d) On or before the third Monday in August, the board of directors shall furnish in writing to the board of supervisors and the county auditor of each affected county a description of that parcel of land within the authority upon which an availability charge is to be levied and collected for the current fiscal year, together with the amount of availability charge fixed by the authority on each parcel of land which is to be added to the assessment roll.

(e) The authority shall direct that, at the time and in the manner required by law for the levying of taxes for county purposes, the board of supervisors shall levy, in addition to any other taxes levied, the availability charge in the amounts for the respective parcels fixed by the authority.

(f) All county officers charged with the duties of collecting taxes shall collect the authority's availability charges with the regular tax payments to the county. The availability charges shall be collected in the same form and manner as county taxes are collected, including procedures in the event of delinquency. Upon collection of the availability charges by the tax collector, the collections shall be paid to the authority. The county may deduct the reasonable administrative costs incurred in levying and collecting the water standby availability charge.

# § 45-5.3. Standby water charges; election; payment

Sec. 5.3. (a) On or before the 15th day of December of each year, the governing body of each member public agency may elect to pay out of its funds available for that purpose, other than funds derived from ad valorem taxes, all or any portion of the amount of standby charges which would otherwise be levied upon parcels of land within that public agency for the following fiscal year.

(b) If that election is made, the member agency shall promptly notify the controller of the authority of that fact by causing personal delivery to be made of a certified copy of the action taken by the governing body, together with a financial statement showing its financial condition, and the source of funds and revenues to be used to make the in lieu cash payments.

(c) If the authority fixes standby charges pursuant to Section 5.2, it shall also determine the total amount to be fixed against all parcels of land in each member public agency. The authority shall specify in the ordinance fixing the standby charges the cash payment elected by each member agency to be made pursuant to subdivision (a) and cause the balance, if any, to be levied and collected against the parcels of land in that member public agency.

(d) Each member agency which makes the election shall pay the full amount due in cash installments at the times and in the proportionate amounts as established by the authority, pursuant to subdivision (d) of Section 9, for in lieu cash payments of ad valorem property taxes.

(e) Any cash payments made in avoidance of standby charges are hereby declared to be for a public purpose and shall not be deemed gratuitous or in the nature of gifts, but shall be deemed to be payments for water or services in connection with the distribution of water.

## § 45-5.5. Surplus money; investment

Sec. 5.5. An authority may invest any surplus money in the authority treasury, including money in any sinking fund established to provide for the payment of the principal or interest of any bonded or other indebtedness or for any other purpose, not required for the immediate necessities of the authority, pursuant to Article 1 (commencing with Section 53600) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. The treasurer shall perform the functions and duties authorized by this paragraph pursuant to rules and regulations adopted by the board of directors of the authority.

# § 45-5.9. Connection and capacity charges: collection: reimbursement

Sec. 5.9. An authority may fix and impose connection charges and capacity charges upon each public agency, the area of which is included within the authority, or upon the ultimate users of water delivered by the authority to the public agency. If imposed upon the ultimate users of water, an authority may require the public agency to collect the charges on behalf of the authority. If an authority requires collection, the authority shall reimburse the public agency for all reasonable costs incurred in collecting those charges.

Any capacity charge proposed to be imposed upon an ultimate user of water is subject to Chapter 13.7 (commencing with Section 54999) of Part 1 of Division 2 of Title 5 of the Government Code.

# <u>§ 45-5.10. Judicial action or proceeding involving ordinance fixing water standby availability, or connection or capacity charge; limitation</u>

Sec. 5.10. Any judicial action or proceeding to attack, review, set aside, void, or annul an ordinance fixing and establishing either a water standby availability charge pursuant to Section 5.2, or a connection or capacity charge pursuant to Section 5.9, shall be commenced within 120 days after adoption of the ordinance or prior to May 1, 1991, for ordinances adopted prior to January 1, 1991.

# § 45-5 1/2 Renumbered Water Code Appendix § 45-5.5 and amended by Stats 1997, c. 349 (S.B.106), § 1

# § 45-6. Directors; total financial contribution and vote of member public agencies of the San Diego County Water Authority

Sec. 6. (a) All powers, privileges, and duties vested in or imposed upon any authority incorporated under this act shall be exercised and performed by and through a board of directors. The exercise of any and all executive, administrative, and ministerial powers may be delegated by the board of directors to any of the offices created by this act or by the board of directors acting under this act.

(b) The board of directors shall consist of at least one representative from each public agency, the area of which is within the authority. The representatives shall be designated and appointed by the chief executive officers of those public agencies, respectively, with the consent and approval of the legislative bodies of the public agencies, respectively. Any member of the governing body of a member agency may be appointed by that member agency to the board of the authority to serve as the agency's representative. A majority of the members of the governing body of an agency may not be appointed by the agency to serve as representatives on the board of the authority, and, for a member agency that is not a water district, only one of the representatives of that agency may be a member of the governing body of the agency. Any director holding dual offices shall not vote upon any contract between a county water authority and the member public agency he or she represents on the authority's board. As used in this subdivision, "water district" has the same meaning as in subdivision (a) of Section 10.

(c) Members of the board of directors shall hold office for a term of six years, and until their successors are appointed and qualified. However, the terms of the members of the first board shall be determined by lot so that the

terms of not less than one-half of the members shall be three years and the terms of the remainder shall be six years. Every member shall be subject to recall by the voters of the public agency from which that member is appointed, in accordance with the recall provisions of the freeholders' charter or other law applicable to the public agency. Notwithstanding that representatives are appointed for a fixed term of years, members of the board of directors serve at the will of the governing body of the public agency from which the member is appointed and may be removed by a majority vote of the governing body without a showing of good cause.

(d) In addition to one representative, any public agency may, at its option, designate and appoint one additional representative for each full 5 percent of the assessed value of property taxable for authority purposes which is within the public agency. However, the term of office of any representative shall not be changed or terminated by reason of any future change in the assessed value of property within any member agency.

(e) Each member of the board of directors shall be entitled to vote on all actions coming before the board and shall be entitled to cast one vote for each five million dollars (\$5,000,000), or major fractional part thereof, of the total financial contribution paid to the authority that is attributable to the public agency of which the member is a representative provided that no public agency shall have votes that exceed the number of the total votes of all the other public agencies. A public agency with more than one representative shall have the option, by ordinance, to either require its representatives to cast all of that agency's votes as a unit, as a majority of the representatives present shall determine, or to entitle each such representative to cast an equal share of the total vote of such agency. A copy of the ordinance shall be delivered to the secretary of the board of directors. The affirmative votes of members representing more than 50 percent of the number of votes of all the members shall be necessary, and except as herein provided, sufficient to carry any action coming before the board of directors. If the public agency member having the largest total financial contribution to the authority has more than 38 percent of the number of votes of all the members shall be necessary, except as herein provided, to carry any action coming before the board of directors. Any meeting may be adjourned, continued, or recessed from day to day or from time to time, by vote of the directors or directors present, regardless of the number of directors present.

(f) For the purposes of this section, "total financial contribution" includes all amounts paid in taxes, assessments, fees, and charges to or on behalf of the authority with respect to property located within the boundaries of member public agencies, including, but not limited to, standby charges, capacity charges, readiness to serve charges, connection and maintenance fees, annexation fees and charges for water delivered to member public agencies by the authority excluding the cost of treatment for the water. The total financial contribution shall be determined by the board of directors at the end of each fiscal year. Allocation of voting power shall be reestablished by the board of directors on January 1 of each year based upon the calculation determined for the previous fiscal year.

(g) Subject to confirmation by his or her public agency, a member of the board of directors may designate another member of the board of directors to vote in his or her absence. The designation and the confirmation shall be by a written instrument filed with the authority. If a director will be absent and wishes the designee to cast the vote, a written notice shall be filed with the secretary of the board of directors. If the notice is not received by the authority, the vote of the absent director will not be counted. The designation, confirmation, and notices shall be maintained on file with the authority. The designation may be changed from time to time with the confirmation of the representative's agency. The designation shall not direct how the absent representative's vote shall be cast on any matter. Directors from a public agency represented by more than one director shall be deemed confirmed as designated representatives to vote for absent directors from that public agency. This section does not apply to a public agency that has exercised the option under subdivision (e) to cast all of that agency's votes as a unit.

(h) Notwithstanding subdivision (f), the total financial contribution and the vote of each member public agency of the San Diego County Water Authority as of July 1, 1997, shall be as follows:

AGENCY	Total Financial Contribution July 1, 1997	VOTES	
Carlsbad Municipal Water District	\$ 129,787,887	25.96	
City of Del Mar	\$ 13,712,188	2.74	

City of Escondido	\$	128,929,059	25.78
Fallbrook Public Utilities District	\$	116,801,107	23.36
Helix Water District	\$	356,506,629	71.30
National City	\$	45,046,563	9.01
City of Oceanside	\$	192,690,117	38.53
Olivenhain Municipal Water District	\$	73,733,684	14.75
Otay Water District	\$	146,294,367	29.26
Padre Dam Municipal Water District	\$	142,768,644	28.55
Pendleton Military Res.	\$	10,921,265	2.18
City of Poway	\$	82,602,257	16.52
Rainbow Municipal Water District	\$	194,841,500	38.96
Ramona Municipal Water District	\$	65,220,318	13.04
Rincon Del Diablo Municipal Water District	t\$	69,024,271	13.80
City of San Diego	<b>\$</b> ]	.864,642,414	372.97
San Dieguito Water District	\$	51,831,643	10.37
Santa Fe Irrigation District	\$	64,860,359	12.97
South Bay Irrigation District	\$	139,063,067	27.81
Vallecitos Water District	\$	64,994,093	13.00
Valley Center Municipal Water District	\$	243,877,685	48.77
Vista Irrigation District	\$	118,493,448	23.70
Yuima Municipal Water District	\$	15,146,776	3.03
TOTALS:	\$4	1,331,789,341	866.36

(i) The total financial contribution for the San Diego County Water Authority shall be determined by the board of directors as of the end of each fiscal year by adding the total financial contribution of each agency for the fiscal year to the totals provided for in subdivision (h) establishing the total financial contribution as of July 1, 1997. Allocation of voting power shall be reestablished by the board of directors to be effective on January 1 of each year based upon the calculation determined for the previous fiscal year. In addition to the definition in subdivision (f), "total financial contribution" shall also include all amounts paid in taxes, assessments, fees, and charges paid to or on behalf of the Metropolitan Water District of Southern California with respect to property located within the boundaries of member public agencies including, but not limited to, standby charges, capacity charges, readiness to serve charges. connection and maintenance fees, annexation fees, and charges for water sold to member public agencies by the authority excluding the cost of treatment for the water.

(j) Members of the first board of directors so constituted shall convene at the call of the clerk of the board of supervisors in the meeting room of the board of supervisors at the county seat of the county, and immediately upon convening, the board of directors shall elect from its membership a chairperson, a vice chairperson, and a secretary. who shall serve for a period of two years, or until their respective successors are elected and qualified.

(k) A quorum necessary for the transaction of business at any meeting of the board of directors exists whenever there are present at the meeting a majority of the membership of the board of directors that includes at least one-half of the number of representatives of each public agency member having more than six representatives serving on the board of directors. Designees appointed pursuant to subdivision (g) shall not be considered "present" for the purposes of establishing a quorum. However, any regular or special meeting of the board of directors at which a quorum is not present may be continued from time to time until a quorum is present to transact the business of the board of directors.

# § 45-7. Bond issues

Sec. 7. (a) Determination of necessity; election call. Whenever the board of directors of any authority incorporated under this act shall, by ordinance adopted by a vote of a majority of the aggregate number of votes of all the members of the board of directors, determine that the interests of said authority and the public interest or necessity demand the acquisition, construction or completion of any public improvement or works, necessary or convenient to carry out the objects or purposes of said authority the cost of which will be too great to be paid out of the ordinary annual income and revenue of the authority, said board of directors may order the submission of the proposition of incurring bonded indebtedness, for the purposes set forth in the said ordinance, to the qualified voters of such district, at an election held for that purpose. Any election held for the purpose of submitting any proposition or propositions of incurring such bonded indebtedness may be held separately, or may be consolidated or held concurrently with any other election authorized by law at which the qualified electors of the authority are entitled to vote. The declaration of public interest or necessity herein required and the provision for the holding of such election may be included within one and the same ordinance, which ordinance, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the public works or improvements, the amount of the principal of the indebtedness to be incurred therefor and the maximum rate of interest to be paid on such indebtedness, which rate shall not exceed six (6) percent per annum, payable semiannually. Such ordinance shall also fix the date upon which such election shall be held and the manner of holding the same and the method of voting for or against incurring the proposed indebtedness. Such ordinance shall also fix the compensation to be paid the officers of the election and shall designate the precincts and polling places and shall appoint the officers of such election, which officers shall consist of one inspector, one judge and two clerks in each precinct. The description of precincts may be made by reference to any order or orders of the board of supervisors of the county in which the authority is situated, or by reference to any previous order or ordinance of the legislative body of any public agency, or by detailed description of such precincts. Precincts established by the board of supervisors of the county, to a number not exceeding six (6) may be consolidated for special elections held hereunder. In the event any bond election shall be called to be held concurrently with any other election or shall be consolidated therewith, the ordinance calling the election hereunder need not designate precincts or polling places or the names of officers of election, but shall contain reference to the act or order calling such other election and fixing the precincts and polling places and appointing election officers therefor.

# Publication

(b) The ordinance provided for in subdivision (a) of this section shall be published once, at least ten (10) days before the date of the election therein called, in a newspaper of general circulation printed and published within the authority, and no other or further notice of such election or publication of the names of election officers or of the precincts or polling places need be given or made.

### Conduct of election; canvass; declaration of result

(c) The respective election boards shall conduct the election in their respective precincts in the manner prescribed by law for the holding of general elections, and shall make their returns to the secretary of the authority. At any regular or special meeting of the board of directors held not earlier than five (5) days following the date of such election, the returns thereof shall be canvassed and the results thereof declared. In the event that any election held hereunder shall be consolidated with any primary or general election and the proposition to incur indebtedness shall be printed upon a ballot containing other propositions, the returns of the election held hereunder shall be made with the returns of the primary or general election to the board of supervisors or other bodies whose duty it shall be to canvass the returns thereof, and the results of the election held hereunder shall be canvassed at the time and in the manner provided by law for the canvass of the returns of such primary or general election. It shall be the duty of such canvassing body to promptly certify and transmit to the board of directors of the authority a statement of the result of the vote upon the proposition submitted hereunder. Upon receipt of such certificates, it shall be the duty of the board of directors to tabulate and declare the results of the election held hereunder.

#### Vote authorizing issuance and sale

(d) In the event that it shall appear from said returns that a two-thirds majority of the electors voting on any proposition submitted hereunder at such election voted in favor of such proposition, the authority shall thereupon be authorized to issue and sell bonds of the authority in the amount and for the purpose or purposes and object or objects provided for in such proposition in such ordinance, and at a rate of interest, not exceeding the rate recited in said ordinance.

## Form and contents of bond

(e) The board of directors shall prescribe the form of the bonds issued by the authority and of the interest coupons to be attached thereto. Such bonds shall mature serially at times and in amounts to be fixed by the board of directors; provided, that the payment of said bonds shall begin not later than 10 years from the date thereof and be completed in not more than 50 years from said date. The bonds shall be issued in such denominations as the board of directors may determine, except that no bonds shall be of less denomination than one hundred dollars (\$100), nor of a greater denomination than fifty thousand dollars (\$50,000), and shall be payable on the day and at the place or places fixed in such bonds and with interest at the rate specified therein, which rate shall not be in excess of six percent (6%) per annum, and shall be payable semiannually.

The board of directors may provide for the call and redemption of any or all of said bonds on any interest payment date prior to their fixed maturity at not exceeding the par value thereof and accrued interest plus a premium of not exceeding 5 percent upon the principal amount of said bonds in which event a statement to that effect shall be set forth in the ordinance calling the election and the call price fixed by the board of directors shall be set forth on the face of the bond. Notice of such redemption shall be published once a week for three successive weeks in a newspaper of general circulation printed and published within the authority or if there be no such newspaper printed and published within the authority then the publication shall be made in a newspaper of general circulation printed and published within the first publication of which shall be at least 30 days prior to the date fixed for such redemption. After the date fixed for such redemption, interest on said bonds thereafter shall cease.

Such bonds shall be signed by the chairman of said board of directors, or by such other officers as said board of directors shall, by resolution adopted by a majority vote of its members, authorize and designate for that purpose, and such bonds shall also be signed by the controller, or assistant controller, and countersigned by the secretary of said board of directors. The coupons of said bonds shall be numbered consecutively, and signed by said controller, or assistant controller by his lithographed or engraved signature. All such signatures and countersignatures excepting that of the controller, or assistant controller, on said bonds, may be printed lithographed or engraved.

# Signatures; continuing validity

(f) In case any of such officers, whose signatures or countersignatures appear on the bonds or coupons, shall cease to be such officer before the delivery of such bonds to the purchaser, such signatures or countersignatures shall nevertheless be valid and sufficient for all purposes, the same as if they had remained in office until the delivery of such bonds.

#### **Price; bids**

(g) Such bonds shall not be sold at a price less than the par value thereof, together with accrued interest to the date of delivery, nor until notice calling for bids therefor shall have been published in a newspaper of general circulation published and circulated in the county wherein the principal place of business of said authority shall be located. Said notice, calling for bids, shall state the time for the receipt of such bids, which shall not be less than twenty (20) days after the first publication thereof. Such notice may offer the bonds at a fixed interest rate or with the interest rate undetermined, in which event the bids shall contain a statement of the lowest rate of interest at which the bidder will take the bonds and pay par value or more therefor, together with accrued interest. Bids for such bonds shall be opened publicly and the results thereof publicly announced. Such bonds shall be sold to the highest bidder. "Highest bidder." as used in this subsection, shall mean the one which gives the authority the lowest net cost. Temporary, or interim, bonds or certificates, of any denomination whatsoever, to be signed by the controller or assistant controller, may be issued until the definitive bonds are executed and available for delivery.

#### Sale; proceeds

(h) Such bonds may be issued and sold by said board of directors as they shall determine, and the proceeds thereof, excepting premium and accrued interest, shall be placed in the treasury of said authority to the credit of the proper improvement fund, and shall be applied exclusively to the purposes and objects mentioned in said ordinance; provided, that the interest on said bonds accruing during the construction period and for one year thereafter shall be deemed to be a construction cost within the meaning of the purposes and objects mentioned in said ordinance, and such interest may be paid from said proceeds of the sales of such bonds. Premium and accrued interest shall be placed in the fund to be applied to the payment of interest on, and the retirement of, the bonds so sold. For the purposes of this section, the construction period shall be deemed to end when the works, the construction of which shall have been authorized from the proceeds of any such bond issue, shall have been placed in operation to such extent as to result in the sale and delivery in the authority, of water transported and provided by means of such works.

### Action to determine validity of bonds

(i) An action to determine the validity of bonds and the sufficiency of the provision for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due and to constitute a sinking fund for the payment of the principal thereof on or before maturity may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

#### Water rate; taxation

(j) The board of directors, so far as practicable, shall fix such rate or rates for water as will result in revenue which will pay the operating expenses of the authority, provide for repairs and maintenance, and provide for the payment of the interest and principal of the bonded debt. If, however, from any cause, the revenues of the authority shall be inadequate to pay the interest or principal of any bonded debt as the same becomes due, the board of directors shall, at the time of fixing the tax levy and in the manner for such tax levy provided, levy and collect annually until said bonds are paid or until there shall be a sum in the treasury of the authority set apart for that purpose sufficient to meet all sums coming due for principal and interest on such bonds, a tax sufficient to pay the annual interest on such bonds, or such part thereof as shall not be met from revenues of the authority, and also sufficient to pay such part of the principal of such bonds as shall become due before the time when money will be available from the next general tax levy, or such portion thereof as shall not be met from revenues of the authority; provided, however, that if the maturity of the indebtedness created by the issue of bonds be made to begin more than one year after the date of the issuance of such bonds, such tax shall be levied and collected at the time and in the manner aforesaid annually sufficient when added to revenues of the authority available for that purpose to pay the interest on such indebtedness as it falls due and also to constitute, together with the revenues of the authority available for such purpose, a sinking fund for the payment of the principal of such bonds on or before maturity. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for authority purposes and shall be collected at the time and in the same manner as other authority taxes are collected and shall be used for no purpose other than the payment of such bonds and accruing interest.

#### Registration

(k) Coupon bonds issued hereunder, at the request of the holder, may be registered as to principal and interest in the holder's name on the books of the treasurer of the district, and the coupons surrendered and the principal and interest made payable only to the registered holder of the bond. For that purpose the treasurer of the authority shall detach and cancel the coupons, and shall endorse a statement on the bonds that the coupon sheet issued therewith has been surrendered by the holder, and the coupons canceled by such treasurer, and that the principal and the semiannual interest are thereafter to be paid to the registered holder, or order, by draft, check or warrant drawn payable at a place of payment specified in the bond, after which no transfer shall be valid unless made on such treasurer's books by the registered holder, or by his attorney duly authorized, and similarly noted on the bond. After such registration, the principal and interest of such bond shall be payable only to the registered owner. Bonds registered under this paragraph may, with the consent of the authority and the holders of the bonds, be reconverted into coupon bonds at the expense of the holder thereof, and again reconverted into registered bonds from time to time, as the board of directors of the authority and the holders of the bonds may determine. In converting coupon bonds into registered bonds, coupon bonds may be exchanged for registered bonds of one hundred dollars (\$100) each, or multiples thereof, but not exceeding fifty thousand dollars (\$50,000) each, in which event new registered bonds shall be issued at the expense of the holder. Coupon bonds may be exchanged for other coupon bonds of one hundred dollars (\$100) each, or multiples thereof. but not exceeding fifty thousand dollars (\$50,000) each, in which event new

coupon bonds shall be issued at the expense of the holder.

For each conversion or reconversion of a coupon or registered bond, the treasurer of the authority shall be entitled to charge and collect such fee as the board of directors of the authority may prescribe from time to time.

#### Legal investment

(1) All bonds heretofore or hereafter issued by any county water authority shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings and trust companies, and for the state school funds, and for all sinking funds under the control of the State Treasurer, and whenever any moneys or funds may by law now or hereafter enacted be invested in, or loaned upon the security of, bonds of cities, cities and counties, counties, or school districts in the State of California, such moneys or funds may be invested in, or loaned upon the security of, the bonds of such county water authority; and whenever bonds of cities, cities and counties, counties or school districts, by any law now or hereafter enacted, may be used as security for the faithful performance or execution of any court or private trust or of any other act, bonds of such county water authority may be so used.

## § 45-7.5. Revenue bonds; authority; law governing

Sec. 7.5. Revenue bonds, including refunding revenue bonds, may be issued by an authority under the Revenue Bond Law of 1941, Chapter 6 (commencing with Section 54300), Part 1, Division 2, Title 5 of the Government Code or any other law which by its terms is applicable.

# § 45-8. Contract to incur indebtedness; election; indebtedness by contract in lieu of bond issuance; second indebtedness by contract if project construction not commenced

Sec. 8. (a) An authority may incur indebtedness by contract other than by voting bonds or expenditure of bond proceeds up to a total amount equal to one-tenth of 1 percent of the assessed value, as defined in Section 135 of the Revenue and Taxation Code, or as otherwise hereafter defined by an act of the Legislature, of property taxable for authority purposes by a vote of three-fourths or more of the aggregate number of votes of all members of the board of directors. Any proposal to incur an indebtedness in excess of that amount by contract other than by voting bonds or expenditure of bond proceeds, and any proposal to purchase, lease, or otherwise acquire rights, privileges, or services by contract, the compensation for which shall be payable over a period exceeding 40 years, shall be submitted to the qualified electors of the authority for their approval and shall be voted upon at an election where the proceedings are held, insofar as applicable, in the manner provided in this act for the authorization and issuance of the bonds of the authority, except that the vote of a majority of the electors voting upon the proposition shall be sufficient to authorize the incurring of the indebtedness. Notice of the election shall contain, in addition to the information required in the case of bond elections, a statement of the maximum amount of money to be paid under the contract, exclusive of penalties and interest, for what purposes the money is to be expended, and the property, improvements, works, rights, privileges, or services to be acquired thereby. The ballots at the election shall contain a brief statement of the general purposes of the contract and the amount of the obligation to be assumed, with the words "Contract--Yes" and "Contract--No." The board of directors may submit the contract or proposed contract to the superior court of the county where the authority is located to determine the validity of the contract and the legal authority of the board to enter into the contract, with the same proceedings to be held as provided in this act in the case of the judicial determination of the validity of bonds issued pursuant to this act and with like effect.

(b) A proposal to purchase, lease, or otherwise acquire rights, privileges, or services by contract for which the compensation shall be payable over a period that exceeds 20 years but is not more than 40 years, is subject to referendum. To initiate a referendum, a petition protesting the proposed action shall be signed by voters within the jurisdiction of the authority equal in number to at least 5 percent of the entire number of votes cast within that jurisdiction for all candidates for governor at the last gubernatorial election.

(c) If a proposition to consider the issuance of revenue bonds under the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 6 of the Government Code) has been submitted to the qualified voters of an authority at an election held for that purpose and received the affirmative vote of a majority of the electors voting upon the proposition and, therefore, constitutes authority to issue revenue bonds, under the Revenue Bond Law of 1941, the authority may, in lieu of issuing those revenue bonds, incur an indebtedness by contract, in addition to the indebtedness authorized by subdivision (a), in an amount, excluding penalties and interest, up to the amount authorized by and for the purpose authorized by the revenue bond proposition. The indebtedness shall be payable over a period of not to exceed 30 years, as provided in the resolution

of the board of directors.

(d) If a contract of indebtedness incurred pursuant to subdivision (c) is repaid in full because construction of the project approved by the electorate was not commenced due to administrative, court, or other delays, resulting in failure to obtain necessary governmental permits, an authority may incur a second contract of indebtedness pursuant to subdivision (c) to fund construction of the project. The second indebtedness shall not exceed the amount authorized by the proposition approved by the electorate as provided in subdivision (c).

### § 45-8.1. Repair or replacement of damaged or demolished structures; authorization; bonds

Sec. 8.1. (a) Whenever the board of directors of any authority incorporated under this act by ordinance adopted by a vote of three-fourths or more of the aggregate number of votes of all members of the board of directors finds and determines that any part of the works of the authority has been damaged or demolished by reason of fire, flood, earthquake, sabotage, act of God or the public enemy, that the cost of repairing or replacing such works so damaged or demolished will be too great to be paid out of the ordinary annual income and revenue of the authority, and that the public interest requires the incurring of indebtedness for the purpose of providing moneys for the repair or replacement of such works, the board of directors may authorize the incurring of such indebtedness by the issuance and sale of bonds or other evidence of indebtedness and shall determine the manner in which such indebtedness shall be incurred and evidenced.

(b) The total indebtedness incurred pursuant to this section shall not exceed one-half of 1 percent of the assessed valuation of the property taxable for authority purposes, and the term of any such indebtedness shall not exceed 12 years.

(c) The bonds or other evidence of indebtedness authorized to be issued pursuant to this section shall bear interest at a rate or rates specified therein, which rate or rates shall not be in excess of 8 percent per annum, and shall be in such form, bear such signatures, and be subject to such provisions as may be determined by the board of directors. The board of directors may provide for the call and redemption of bonds or other evidence of indebtedness before maturity at such times and at such prices as it may determine. A bond or other evidence of indebtedness shall not be subject to call or redemption prior to maturity unless it contains a recital to that effect.

(d) The bonds or other evidence of indebtedness shall be sold at not less than par and accrued interest in the manner provided for the issuance of other bonds of the authority in subdivision (g) of Section 7, provided that if no bids are received, or if the board determines the bids received are not satisfactory in the opinion of the board, the board may reject all bids and either readvertise or sell the bonds or other evidence of indebtedness at private sale.

(e) The proceeds of any borrowing pursuant to this section, other than accrued interest, shall be applied solely to the purpose specified in the ordinance authorizing the incurring of such indebtedness or to the retirement of the principal of the obligation issued pursuant to such ordinance. Any accrued interest received shall be applied to payment of interest on such indebtedness.

(f) The provisions of subdivisions (i), (j), and (l) of Section 7, which are applicable to other bonds of the authority, shall apply to bonds or evidence of indebtedness incurred pursuant to this section.

# § 45-8.2. Borrowing money; short-term revenue certificates

Sec. 8.2. (a) Any authority may, pursuant to this section, borrow money and incur indebtedness for any of the purposes for which it is authorized by law to spend money. The indebtedness shall be evidenced by short-term revenue certificates issued in the manner and subject to the limitations set forth in this section. Any authority may also borrow money and incur indebtedness to pay the principal or interest on certificates issued pursuant to this section.

(b) Certificates issued by any authority pursuant to this section may be negotiable or nonnegotiable, and all certificates shall be, and shall recite upon their face that they are, payable both as to principal and interest out of any revenues of the authority that are made security for the certificates pursuant to an indenture or resolution duly adopted by the board of directors. The word "revenues," as used in this section, refers to any revenues derived from the sale of water and power, annexation charges (whether collected through tax levies or otherwise), grants, available tax revenues, or any other legally available funds. In no event shall any resolution or indenture preclude payment from the proceeds of sale of other certificates issued pursuant to this section or from amounts drawn on a bank, or other financial institution, line or letter of credit pursuant to subdivision (e), or any other lawfully available

source of funds.

(c) To exercise the power to borrow money pursuant to this section, the board shall adopt a resolution, or approve an indenture, authorizing the sale and issuance of certificates for that purpose, which resolution or indenture shall specify all of the following:

(1) The purpose or purposes for which the proposed certificates are to be issued.

(2) The maximum principal amount of the certificates that may be outstanding at any one time.

(3) The maximum interest cost, to be determined in the manner specified in the resolution, to be incurred through the issuance of the certificates.

(4) The maximum maturities of the certificates, which shall not exceed 270 days from the date of issue.

(5) The obligations to certificate holders while the certificates are outstanding.

(d) The board may also provide, in its discretion, for any of the following:

(1) The times of sale and issuance of the certificates, the manner of sale and issuance (either through public or private sale), the amounts of the certificates, the maturities of the certificates, the rate of interest, the rate or discount from par, and any other terms and conditions deemed appropriate by the board or by the general manager of the authority or any other officer designated by the board.

(2) The appointment of one or more banks or trust companies, either inside or outside the state, as depository for safekeeping and as agent for the delivery, and the payment, of the certificates.

(3) The employment of one or more persons or firms to assist the authority in the sale of the certificates, whether as sales agents, as dealer managers, or in some other comparable capacity.

(4) The refunding of the certificates without further action by the board, unless and until the board specifically revokes that authority to refund.

(5) Other terms and conditions the board determines to be appropriate.

(e) The board may arrange for a bank, or other financial institution, a line or letter of credit (1) for the purpose of providing an additional source of repayment for indebtedness incurred under this section and any interest thereon or, (2) for the purpose of borrowing for any purpose for which short-term revenue certificates could be issued under this section. Amounts drawn on a line or letter of credit may be evidenced by negotiable or nonnegotiable promissory notes or other evidences of indebtedness. The board is authorized to use any of the provisions of this section in connection with the entering into of the line or letter of credit, borrowing thereunder, or repaying of the borrowings.

### § 45-9. Taxation

Sec. 9. (a) Certificate of assessed valuation. Immediately after equalization and not later than the 15th day of August of each year, it shall be the duty of the auditor of the county wherein such authority shall lie, to prepare and deliver to the controller of the authority a certificate showing the assessed valuation of all property within the authority, and also such assessed valuation segregated according to public agencies, the areas of which lie within the authority.

(b) Tax levy. On or before the 20th day of August the board of directors of the authority shall by resolution determine the amount of money necessary to be raised by taxation during the fiscal year beginning the first day of July next preceding and shall fix the rate of taxation of the authority, designating the number of cents upon each one hundred dollars (\$100) assessed valuation of taxable property and shall levy a tax accordingly:

(1) Sufficient, when taken with other revenues available for the purpose, to meet interest and sinking fund requirements on all outstanding bonded indebtedness of said authority; and sufficient, when taken with other revenues available for the purpose, to meet the payment of the principal and interest on any refunding bonds, or any bonds the issuance of which may have been authorized by the electors and which bonds have not been sold but which, in the judgment of the board of directors, will be sold prior to the time when money will be available from

the next subsequent tax levy, and in case such bonds are not so issued and sold or such tax for any other reason is not required for said purpose, the tax so levied shall be applied to the payment of interest and/or principal on any refunding bonds, or on any bonds authorized by the electors, then outstanding or subsequently issued and/or sold; and

(2) For all other authority purposes.

(c) Public agencies; amount of payment in lieu of taxes. The board of directors shall also cause to be computed and shall declare in said resolution the amount of money to be derived from the area of the authority lying within each separate public agency by virtue of the tax levy. In such resolution the board shall also fix and determine the times and proportional amounts of installments in which any public agency may elect to make payment in lieu of taxes as hereinafter provided. The board shall immediately cause certified copies of such resolution to be transmitted to the presiding officer of the governing body of each such public agency.

(d) Public agencies; election to make payment in lieu of taxes. On or before the 15th day of December of each year the governing body of each such public agency may elect to pay out of its funds available for that purpose. other than funds derived from ad valorem property taxes, all or any portion of the amount of tax which would otherwise be levied upon property within such public agency. Such election shall be made by order upon motion, which order shall recite that such payment shall be made in cash concurrently with the certification of such order to the controller of the authority, or that such payment shall be made in installments and the times wherein such installments shall be payable and the amounts thereof, which amounts shall be in accordance with the requirements of the board of directors of the authority as approved by resolution. In the event that any public agency shall elect to pay in cash, or by deferred installments, money or any part thereof which would otherwise be levied upon property within the public agency, it shall immediately certify to the controller of the authority a copy of such order and a statement showing its financial condition, the funds from which such payments shall be made and the sources of revenue to be used therefor; provided, however, that in the event any public agency shall elect to pay in cash all or any portion of the amount of tax which would otherwise be levied upon property within such public agency to meet interest and sinking fund requirements on the outstanding bonded indebtedness of said authority, such amount so elected to be paid shall be deposited with the treasurer of said authority on or before the 27th day of August next following such election; and provided, also, that unless such payment is so made in the case of interest and sinking fund requirements, and unless such election, as to all other taxes, shall provide for payments in accordance with the resolution of the board of directors as hereinbefore provided for, then such election shall be ineffective for any purpose.

(e) Statement of tax rate. Before the first day of September the controller of the authority shall cause to be prepared and transmitted to the auditor of the county in which the authority shall lie, a statement showing the tax rate to be applied to assessed property in each public agency, which rate shall be the rate fixed by resolution of the board of directors modified to the extent necessary to produce from each public agency only the amount of money apportioned thereto in said resolution, less any amount paid or undertaken to be paid by such public agency, or credited thereto as herein provided.

(f) Collection of taxes. Upon receipt by the auditor of the county in which such authority shall lie, of a certified copy of the controller's statement showing the tax rate to be applied to assessed property in each public agency. and showing the public agencies, the assessed property in which is exempt therefrom, if any, it shall be the duty of the county officers to collect taxes for the benefit of the authority at the rate specified as herein provided. The taxes so levied shall be computed and collected at the same time and in the same manner required by law for the assessment, computation and collection of taxes for county purposes, and the property subject to such tax shall be subject to the same penalties for delinquency, and the same provisions of law relating to the sale of property for nonpayment of county taxes and redemption thereof shall apply to the tax herein authorized. When so collected, such taxes shall be paid over to the treasurer of the authority, subject to the deduction herein authorized.

In consideration of services rendered hereunder, any county shall annually be entitled to deduct and retain for its own use and benefit an amount not exceeding 1 percent on the first twenty-five thousand dollars (\$25,000) collected hereunder, and one-fourth of 1 percent of any amount in excess of twenty-five thousand dollars (\$25,000) collected hereunder. The board of supervisors of each such county may provide such extra help as in their judgment may be necessary for the proper performance of duties hereunder.

(g) Redemption, disposition of proceeds; tax lien. Whenever any real property situated in any authority organized hereunder and upon which a tax shall have been levied, as herein provided, shall be sold for taxes and shall be redeemed, the money paid for such redemption, except advertising costs, shall be apportioned and paid in part to

such authority in the proportion which the tax due to such authority shall bear to the total tax for which such property shall have been sold. All taxes levied together with penalties, interests and costs under the provisions of this act shall be a lien upon the property upon which levied, and the enforcement of the collection of such tax shall be had in the same manner and by the same means as is or shall be provided by law for the enforcement of liens for county taxes, and all of the provisions of law relating to the enforcement of such taxes are hereby made a part of this act so far as applicable.

(h) Public agencies; payments; reimbursement for expenses. Public agencies, the areas of which are included within any county water authority incorporated hereunder, are hereby authorized to pay to any such authority, out of funds derived from the sale of water or other funds not appropriated to some other use, such amounts as may be determined upon by the governing bodies thereof, respectively. Such payments may be made in avoidance of taxes as herein provided, or otherwise, and are hereby declared to be for a public purpose and shall not be deemed gratuitous or in the nature of gifts, but shall be deemed payments for water or services in connection with the distribution of water. Any public agency making any such payment to any authority incorporated hereunder, whether in avoidance of taxes or otherwise, shall receive credit therefor and the amount of the payment so made by any public agency shall be deducted from the amount of taxes which would otherwise have been levied against property within such public agency, the amount of such excess without interest shall be carried over and applied in reduction of taxes levied, or which would otherwise have been levied against property within such public agency, the amount of such excess without interest shall be carried over and applied in reduction of taxes levied, or which would otherwise have been levied against property within such public agency, the amount of such excess when levied during the ensuing year or years.

Any public agency, including a county, which shall have incurred expenses in negotiating contracts or in the investigation of or preliminary work upon any works or projects or in making payments on account of any such contracts, works or projects, taken over by the authority, may receive, and the authority so taking over any such contracts, works or projects may make to such public agency, reimbursement for all such sums so expended, or to be expended, for expenses incurred in such negotiations for, investigation of, preliminary work upon, or payments made on account of the contracts, works or projects so taken over by the authority, to the extent that the board of directors of the authority shall find that such expenditures have benefited such authority, it being the intention of this provision to permit the authority to purchase, and the public agency to sell, assign and transfer such contracts, works or projects taken over by such authority. The sum so to be paid by such authority to such public agency shall be such amount as may be mutually agreed upon.

As an alternative to the purchase and sale of any contracts, works or projects taken over by the authority, as hereinabove provided, any public agency which shall have incurred expenses in negotiating contracts or in the investigation of or preliminary work upon any such works or projects or in making payments on account of any such contracts, works or projects taken over by the authority. may certify the amount thereof, without interest, to the board of directors of said authority at any time within four (4) years from the date of the incorporation of such authority, or the incurring of such expenses, if such authority be already incorporated, and if allowed by the board of directors, such amount shall be credited to the public agency which incurred the same, and such expenditures shall be considered as a payment of money made as herein provided for which deduction shall be made from the amount of taxes which would otherwise be levied against property lying within such public agency.

Any public agency which shall incur expenses in preliminary work in preparing for the incorporation of or in the incorporation of any authority hereunder likewise may certify the amount thereof, without interest, to the board of directors of said authority at any time without four (4) years from the date of the incorporation of such authority, and if allowed by the board of directors, such amount shall be credited to the public agency incurring the same, and shall be considered as a payment of money made as herein provided, for which deduction shall be made from the amount of taxes which would otherwise be levied against property lying within such public agency.

No such payments of money made in lieu of taxes or otherwise, or such credit allowed by such board of directors, as hereinabove provided, shall apply to reduce the amount of taxes which would otherwise be levied against the property within such public agencies, respectively, to meet interest and sinking fund requirements on outstanding bonded indebtedness of such authority.

Such certification and allowance shall be made on or before the first Monday in July, and the amount of money to be raised by taxation shall be computed with reference to the credit to be allowed as herein provided, but such credit may, in the discretion of the board of directors, be considered in connection with the amount of money to be raised by the next tax levy, or may be spread over subsequent years, not to exceed five.

(i) Public agencies; delinquency; penalty. If any public agency shall fail to comply with the terms of the order relating to payments to be made to the authority in lieu of taxation, or if any public agency annexed to the authority shall fail to comply with the terms and conditions fixed by the board of directors and upon which such annexation occurred, the amount of the delinquency, plus a penalty of 8 percent shall be added to the taxes to be collected during the ensuing fiscal year, from the property within such delinquent public agency, and thereafter for a period of two (2) years no order or ordinance shall be sufficient to exempt the property in said public agency from taxation hereunder unless it be accompanied by payment in cash of the amount which would otherwise be collected from owners of property within the public agency, together with all moneys due but unpaid under any previous order, or annexation provision.

(j) Construction. All provisions herein, or in any ordinance adopted pursuant hereto, relating to the respective times when the various acts pertaining to the levy of taxes are to be performed, are directory only, and failure to perform any such act or acts within the time so specified shall not impair the legal authority herein conferred to perform all subsequent acts relating to the levy of such taxes. In the event that any of the provisions of law respecting the time and manner of assessing property for purposes of taxation, of equalizing such assessments, of certifying such assessed valuations to the taxing authorities, of making the tax levies, of certifying such taxes or of performing any other act regarding the assessment, levy or collection of taxes be amended, changed, repealed or newly enacted, and as a result thereof, it should appear to the board of directors of the authority that the time schedule provided herein respecting the levy of authority taxes be no longer consistent with such modified tax procedure, then said board of directors by ordinance may prescribe a new schedule setting forth the times when the various acts herein required to be done in levying authority taxes shall be performed. Nothing contained in this paragraph shall relieve the board of directors of the bonded debts as they fall due.

(k) Tax rate; amount of payment by public agency; claims for refunds. For the purpose of assessing and collecting, under the provisions of Section 9(a) of Article XIII of the Constitution of the State of California, the taxes levied by any authority incorporated hereunder, the rate for taxes levied for the preceding tax year, as such phrase is employed in said section of the Constitution, shall be the rate fixed for such preceding tax year by the board of directors of such authority pursuant to Section 9, subdivision (b) of this act. In the event that any public agency, pursuant to the provisions of Section 9, subdivision (d) of this act, shall elect to pay the whole or any portion of the amount of taxes to be derived from the area of the authority within such public agency, as such amount shall have been fixed by resolution of the board of directors, a refund shall be made by the authority to each taxpayer thereof who shall have theretofore paid any tax collected under the provisions of said section of the Constitution, in the proportion that such public agency shall have so elected to pay the amount so to be derived. The board of directors shall adopt regulations providing for the presentation and audit and payment of claims for such refunds. No claim for such refund shall be granted unless such claim shall have been filed within one year from the date when the right to such refund shall have accrued.

## § 45-9.1.Reimbursement of lost tax revenues

Sec. 9.1. Wherever, under any provision of law, state, county, or other public agency reimbursement is made for lost tax revenue to taxing authorities by reason of any property tax exemption, or treatment or assessment of certain property in a manner different from that regularly done by a county for property generally, the loss of tax revenue to the authority by reason of public agencies within the authority paying out of their funds, other than funds derived from ad valorem property taxes, all or a stated percentage of the taxes levied by the authority shall be reimbursed by the state, county, or other public agency to the authority in the same manner as provided by law for other taxing authorities and to the same extent as if all of the taxes of the authority had been carried on the county assessment roll. In the case of reimbursement for lost revenue due to reduction of property taxes on business inventories, the authority's right to reimbursement is effective only insofar as the county receives reimbursement from the state.

### § 45-10. Annexation

Sec. 10. (a) For the purposes of this section, the following definitions apply to the terms used: the term "city" means and includes any municipal corporation or municipality of the State of California, whether organized under a freeholder's charter or under the provisions of general law of the type and class of cities and incorporated towns; and the term "water district" means and includes any municipal water district, municipal utility district, public utility district, county water district, irrigation district, or any other public corporation or agency of the State of California of similar character.

(b) Territory may be annexed to any county water authority organized under this act by one of the following methods:

(1) By annexation to, or consolidation with, the area of any city, the area of which, as a separate unit, has become a part of any county water authority organized under this act, the annexation or consolidation to occur upon compliance with the provisions of law governing the annexation to, or consolidation with, the area of the city. Upon completion of the annexation to, or consolidation with, the city in compliance with the provisions of law applicable thereto, the territory shall become, and be, a part of the county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the authority at the time authorized or outstanding.

(2) By annexation to, or consolidation with, any city which, as a separate unit, has become a part of any water district whose area, as a separate unit, has become a part of any county water authority organized under this act, in instances where, under the applicable provisions of law governing the change of boundaries of the water district, the annexation or consolidation automatically will result in the enlargement of the area of the water district, the annexation or consolidation to occur upon compliance with the provisions of law governing the annexation to, or consolidation with, the area of the city. Upon completion of the annexation to, or consolidation with, the area of the city. Upon complete thereto, the territory shall become, and be, a part of the water district and of the county water authority, including payment of bonds and other obligations of the water district and of the county water authority at the time authorized or outstanding. If any territory has been so annexed to, or consolidated with, any city prior to the effective date of this paragraph, under conditions which would have resulted in the enlargement of the area of the county water authority had this paragraph then been in effect, upon compliance with the following provisions of the water district for all purposes, the last-mentioned provisions being as follows:

(A) The governing body of the city, at any time after the effective date of this paragraph, may adopt an ordinance which, after reciting that the territory has been annexed to, or consolidated with, the city by proceedings previously taken under statutory authority, and after referring to the applicable statutes and to the date and place of filing of the certificate or certificates evidencing the annexation or consolidation, shall describe the territory and shall determine and declare that the territory shall be, and thereby is, annexed to the county water authority, and the ordinance shall further determine and declare that the territory shall become and be, and thereby is, a part of the county water authority, and shall be, and thereby is, a part of the water district for all purposes.

(B) The governing body, or clerk thereof, of the city shall file a certified copy of the ordinance with the county clerk of the county in which the county water authority is situated. Upon the filing of the certified copy of the ordinance in the office of the county clerk of the county in which the county water authority is situated, the territory shall become, and be, a part of the county water authority and shall be a part of the water district for all purposes, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority and of the water district, including the payment of bonds and other obligations of the county water authority at the time authorized or outstanding.

(C) Upon the filing of the certified copy of the ordinance, the county clerk of the county in which the county water authority is situated shall, within 10 days, issue a certificate, describing the territory, reciting the filing of the certified copy of the ordinance and the annexation of the territory to the county water authority, and declaring that the territory is a part of the county water authority and of the water district. The county clerk of the county in which the county water authority is situated shall transmit the original of the certificate to the secretary of the county water authority and a duplicate of the original certificate to the clerk of the governing body of the water district.

(3) Upon terms and conditions fixed by the board of directors of the county water authority and in the manner provided in subdivision (c), by direct annexation, as a separate unit, of the corporate area of any water district or city.

(4) Upon terms and conditions fixed by the board of directors of the county water authority and in the manner provided in subdivision (d), by annexation to, or consolidation with, any water district, the area of which, in whole or in part, is included within the county water authority as a separate unit; provided that, unless the territory is so annexed to the county water authority with the consent of the board of directors, the annexation of territory to, or the consolidation of the territory with, the water district does not authorize or entitle the water district or the territory to demand or receive any water from the county water authority for use in the territory; and provided further, that,

except where automatic annexation results under the conditions specified in paragraph (2), nothing in this act prevents the annexation of territory to, or the consolidation of territory with, any water district for its local purposes only and without annexing their territory to the county water authority, and the local annexation or consolidation may occur without requesting or obtaining the consent thereto of the board of directors of the county water authority.

(c) The governing body of any water district or city may apply to the board of directors of the county water authority for consent to annex the corporate area of the water district or city to the county water authority. The board of directors may grant or deny the application and, in granting the application, may fix the terms and conditions upon which the corporate area of the water district or city may be annexed to, and become a part of, the county water authority. These terms and conditions may provide, among other things, for the levy by the county water authority of special taxes upon taxable property within the water district or city. in addition to the taxes authorized to be levied by the county water authority by other provisions of this act. In case these terms and conditions provide for the levy of these special taxes, the board of directors, in fixing these terms and conditions, shall specify the aggregate amount to be so raised and the number of years prescribed for raising the aggregate sum, and that substantially equal annual levies will be made for the purpose of raising the sum over the period so prescribed. The action of the board of directors, evidenced by resolution, shall be promptly transmitted to the governing body of the applying water district or city and, if the action grants consent to the annexation, the governing body may thereupon submit, to the qualified electors of the water district or city at any general or special election held therein, the proposition of the annexation subject to the terms and conditions. Notice of the election shall be mailed to each voter qualified to vote at the election and shall be given by posting or publication. When notice is given by posting, the notices shall be posted at least 10 days and in three public places in the water district or city. When notice is given by publication, the notice shall be published in the water district or city pursuant to Section 6061 of the Government Code, at least 10 days before the date fixed for the election. The notice shall contain the substance of the terms and conditions fixed by the board of directors. The election shall be conducted and the returns thereof canvassed in the manner provided by law for elections in the water district or city. If the proposition receives the affirmative vote of a majority of electors of the water district or city voting thereon at the election, the governing body of the water district or city shall certify the result of the election on the proposition to the board of directors of the county water authority, together with a legal description of the boundaries of the corporate area of the water district or city, accompanied by a map or plat indicating those boundaries. A certificate of proceedings shall be made by the secretary of the county water authority and filed with the county clerk of the county in which the county water authority is situated. Upon the filing thereof in the office of the county clerk of the county in which the county water authority is situated, the corporate area of the water district or city shall become, and be, an integral part of the county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the county water authority at the time authorized or outstanding, and the board of directors of the county water authority may do all things necessary to enforce and make effective the terms and conditions of annexation fixed as authorized. Upon the filing of the certificate of proceedings, the county clerk of the county in which the county water authority is situated shall, within 10 days, issue a certificate, reciting the filing of the papers and the annexation of the corporate area of the water district or city to the county water authority. The county clerk of the county in which the county water authority is situated shall transmit the original of the certificate to the secretary of the county water authority.

(1) If a water district applies to a county water authority for consent to annex its corporate area, as a separate unit, the water district shall include as a part of its corporate area the corporate areas of any cities (whether one or more) which are already included within the county water authority as separate units, or the water district shall include as a part of its corporate areas, or portion thereof, already included within the county water authority, of any water districts (whether one or more) whose corporate areas, in whole or in part, are already included within the county water authority. That fact shall be taken into consideration by the board of directors of the county water authority in fixing the terms and conditions upon which the applying water districts which are already a part of the county water authority, shall not be required to assume any greater financial burden or obligation to the county water authority than they would have had if they had remained a part of the county water authority as separate units.

Concurrently with any election called by an applying water district to submit to the qualified electors of the water district the question of whether the terms and conditions fixed by the board of directors of the county water authority for annexation shall be approved, the governing bodies of the unit member cities or water districts may call and hold elections within their respective corporate limits or portions thereof already included within the county water authority, to determine whether or not the cities or water districts shall withdraw from the county water authority as separate units, and the proposed withdrawal may be made and submitted conditioned upon and effective when the applying water district has finally been annexed to the county water authority.

The effect of the concurrent elections, if a majority of the electors of the applying water district voting thereat vote in favor of annexation, and a majority of the electors of the unit member cities or water districts voting thereat vote in favor of withdrawing, shall be that the annexing water district thereafter shall be authorized to exercise the privileges and to discharge the duties prescribed in this act for public agencies whose areas, as separate units, are included within the county water authority, in place of and instead of the cities or water districts so withdrawing. Notwithstanding Section 11 of this act, the areas within the withdrawing cities or water districts shall remain a part of the county water authority and shall not be excluded therefrom, notwithstanding the fact that the cities or water districts, as corporate entities, have withdrawn from the authority.

If the water district does annex to the county water authority, the directors representing the withdrawing cities or water districts on the board of directors of the county water authority shall continue to act until their successors have been chosen and designated by the appropriate officers of the annexing water district and have qualified as members of the board of directors of the county water authority, after which time the directors representing the withdrawing cities or water districts shall no longer sit or vote on the board.

(2) If a water district applies to a county water authority for consent to annex its corporate area as a separate unit, the water district shall include as a part of its corporate area lands which are in public ownership exempt from taxation by a county water authority, and not within or adjacent to the area within the water district served with water by the district, and which are not to be supplied by the water district with water obtained from, and by reason of, its annexation to the county water authority. That fact may be taken into consideration by the board of directors of the county water authority in fixing the terms and conditions upon which the water district may be annexed to the county water authority and in determining the boundaries of the area to be annexed, and the county water authority may, in the discretion of its board of directors, annex all of the corporate area of the water district as a separate unit excepting that portion consisting of the publicly owned and tax-exempt lands.

(d) The governing body of any water district, the area of which, in whole or in part, is included within a county water authority as a separate unit, may apply to the board of directors of the county water authority for consent to annex to the county water authority territory which the water district seeks to annex to, or consolidate with, the water district, or territory which, without making the territory a part of the county water authority, already has been annexed to, or consolidated with, the water district. The board of directors may grant or deny the application and, in granting the application, may fix the terms and conditions upon which the territory may be annexed to, and become a part of, the county water authority. The terms and conditions may provide, among other things, for the levy by the county water authority of special taxes upon taxable property within the territory in addition to the taxes authorized to be levied by the county water authority by other provisions of this act. In case the terms and conditions provide for the levy of those special taxes, the board of directors, in fixing those terms and conditions, shall specify the aggregate amount to be so raised and the number of years prescribed for raising that aggregate sum and that substantially equal annual levies will be made for the purpose of raising that sum over the period so prescribed. The action of the board of directors evidenced by resolution shall be promptly transmitted to the governing body of the applying water district and to the executive officer of the local agency formation commission of the county in which the county water authority is situated, who may defer the issuance of a certificate of filing until receipt of that resolution, and if the action grants consent to the annexation, the territory may be annexed to the county water authority as provided in paragraph (1) or (2).

(1) If the territory has not been previously annexed to, or consolidated with, the water district, upon completion of the annexation to, or consolidation with, the water district in compliance with the provisions of law applicable thereto, including this section, the territory shall become and be a part of the county water authority and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the county water authority at the time authorized or outstanding, and the board of directors of the county water authority may do all things necessary to enforce and make effective the terms and conditions of annexation fixed; provided that, if the applicable provisions of law governing the annexation to, or consolidation with, the water district require any notice of any election called for the purpose of determining whether the proposed annexation or consolidation shall occur, or shall require any notice of hearing or other notice to be given to the residents or electors of, or owners of property in, the territory, the notice shall contain the substance of the terms and conditions of annexation to the county water authority fixed by the board of directors of the county water authority: and provided further, that the local agency formation commission shall require that the annexation to the water district be subject to the terms and conditions fixed by the board of directors of the county water authority in addition to any other terms and conditions that may be required by the commission; and provided further, that the executive officer of the local agency formation commission having the duty of preparing, executing,

and filing a certificate of completion resulting in the annexation to, or consolidation with, the water district, pursuant to the provisions of law applicable thereto, shall include in the certificate of completion the terms and conditions fixed by the board of directors of the county water authority in accordance with the provisions of this act, and shall file a duplicate of the certificate with the board of directors of the county water authority.

(2) If the territory sought to be annexed to a county water authority has been previously annexed to, or consolidated with, the water district, the governing body of the water district, upon being advised of the action of the board of directors of the county water authority. and if the action grants consent to the annexation, may submit to the qualified electors of the territory, if the territory has 12 or more registered voters, at any general or special election held therein, the proposition of the annexation to the county water authority subject to the terms and conditions fixed by the board of directors of the county water authority. Notice of the election shall be given by publication. When the notice is given by posting, the notice shall be posted at least 10 days and in three public places in the territory. When the notice is given by publication, the notice shall be published in the water district pursuant to Section 6061 of the Government Code at least 10 days before the date fixed for the election. The notice shall contain the substance of the terms and conditions fixed by the board of directors. The election shall be conducted and the returns thereof canvassed by the governing body of the water district in the manner provided by law for elections in the water district. If the proposition receives the affirmative vote of a majority of electors of the territory voting thereon at the election, the governing body of the water district shall certify the result of the election on the proposition to the board of directors of the county water authority. If the territory has less than 12 registered voters, no election shall be required, and, following written notice to each owner of property shown on the last equalized assessment roll and the holding of a hearing not less than 10 days after that notice, the annexation may be approved upon the written consent of the owners of more than 50 percent of the assessed valuation of the territory. A certificate of proceedings shall be made by the secretary of the county water authority and filed with the county clerk of the county in which the county water authority is situated. Upon the filing thereof in the office of the county clerk of the county in which the county water authority is situated, the territory shall become, and be, a part of the county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the county water authority at the time authorized or outstanding, and the board of directors of the county water authority may do all things necessary to enforce and make effective the terms and conditions of annexation of the territory to the county water authority fixed by its board of directors. Upon the filing of the certificate of proceedings, the county clerk of the county in which the county water authority is situated shall, within 10 days, issue a certificate reciting the filing of the papers and the annexation of the territory to the county water authority. The county clerk of the county in which the county water authority is situated shall transmit the original of the certificate to the secretary of the county water authority.

(e) Should the corporate area, or all portions thereof already included within a county water authority, of any water district or city, the corporate area of which, in whole or in part, already is included within the county water authority as a separate unit, annex to a water district or city the corporate area of which, in whole or in part, already is a part of the county water authority as a separate unit, upon the completion of the annexation pursuant to the law pertaining thereto, the water district or city, the corporate area (or portions thereof) of which is so annexed, shall automatically cease to be a separate unit member of the county water authority, but the corporate area (or portions thereof) shall remain a part of the county water authority as a part of the unit member water district or city to which it was annexed. The executive officer of the local agency formation commission having the duty of preparing, executing, and filing the certificate of completion shall file, in addition to any other filings that may be required by law, a duplicate of the certificate with the board of directors of the county water authority.

Should any water district or city, the corporate area of which, in whole or in part, already is included within a county water authority as a separate unit, consolidate with a water district or city the corporate area of which, in whole or in part, already is a part of the county water authority as a separate unit, under the provisions of any law by the terms of which, after consolidation, a new district or city will result and the former water districts or cities participating in the consolidation shall no longer exist, the resulting new water district or city shall be substituted for the water districts or cities whose corporate existence has been terminated by the consolidation as a unit member of the county water authority, and the corporate areas (or portions thereof) of the former water district or cities shall remain a part of the county water authority as a part of the consolidation. The executive officer of the local agency formation commission having the duty of preparing, executing, and filing a certificate of completion shall file, in addition to any other filings that may be required by law, a duplicate of the certificate with the board of directors of the county water authority.

(f) The validity of any proceedings for the annexation to any county water authority organized under this act, of the corporate area of a water district or city as a separate unit, or of territory annexed to, or consolidated with, a water

district or city which, as a unit, has been included within a county water authority, shall not be contested in any action unless the action has been brought within three months after the completion of the annexation or, in case the annexation is completed prior to the time that this subdivision takes effect, then within three months after this subdivision became effective.

(g) Whenever territory is annexed to or consolidated with any water district, the corporate area of which, as a unit, has become a part of any county water authority organized under this act, regardless of whether the territory is annexed to and becomes a part of the county water authority, or whenever territory is annexed to any city under the conditions specified in paragraph (1) or (2) of subdivision (b), or whenever territory previously annexed to any city user authority under the conditions specified in paragraph (2) of subdivision (b), the governing or legislative body, or clerk thereof, of the water district or city, shall file with the board of directors of the county water authority a statement of the change of boundaries of the water district or city, setting forth the legal description of the boundaries of the water district or city, as so changed, and of the part thereof within the county water authority, which statement shall be accompanied by a map or plat indicating those boundaries.

(h) The inclusion in a county water authority of the corporate area, in whole or in part, of any municipal water district, municipal utility district, public utility district, county water district, irrigation district, or other public corporation or agency of the state of similar character, referred to in Section 2, shall not destroy the identity or legal existence or impair the powers of any municipal water district, municipal utility district, public utility district, county water district, irrigation district, or other public corporation or agency of the state of similar character, notwithstanding the identity of purpose or substantial identity of purpose of the county water authority.

(i) In determining the number of members of the board of directors of a county water authority organized under this act from the component public agencies, the corporate areas of which, in whole or in part, are included as units within the county water authority, there shall be considered only the assessed valuation of the property taxable for county water authority purposes lying in the public agencies and in the county water authority. The directors shall be appointed by the chief executive officers, with the consent and approval of the governing bodies, of the component public agencies, respectively, without regard to whether the chief executive officers or members of the governing bodies have been chosen from, or represent, areas of their respective public agencies which lie outside of the county water authority. The phrase "any water district, the corporate area of which is included within the county water authority" and the phrase "each city, the area of which shall be a part of any county water authority incorporated under this act," and like phrases, used elsewhere in this act, shall be deemed to mean and refer to any water district or city, the corporate area of which, either in whole or in part, is included within the county water authority, but the duties and obligations of the county water authority shall extend only to that part of the corporate area of the water district or city that lies within the county water authority. As to the water district, city, or public agency, the corporate area of which lies partly within and partly without the county water authority, the word " therein" and the phrase "within the city" and like words and phrases, used elsewhere in this act, shall be deemed to mean and refer to that part of the corporate area of the water district, city, or public agency which lies within the county water authority. The charges for water supplied by the county water authority to any component public agency, pursuant to its request, shall be and become an obligation of the public agency, regardless of whether the entire corporate area of the public agency is included within the county water authority, and the county water authority, in administrative and contractual matters, shall deal with the chief executive officers and governing bodies and other proper officials of the component public agencies as chosen or constituted under applicable laws governing the respective public agencies.

# § 45-10.1. Annexation; special tax levy; payment of amount specified to authority; effect

Sec. 10.1. Where territory is annexed to a county water authority pursuant to any of the provisions of Section 10 of this act upon terms and conditions providing for the levy of special taxes upon taxable property within such annexed territory and specifying the aggregate amount to be raised by such taxes, the governing body of the public agency of which such territory is a part may pay to the county water authority the amount so specified, or any balance thereof for which such special tax has not been levied at the time of payment. Upon receipt of such payment the amount paid shall be credited to the obligation fixed by the terms and conditions of the annexation of such territory to such county water authority, in the same manner and with the same effect as though collected by the levy of special taxes for such purpose, and such payment shall terminate the right and obligation of such county water authority to levy the special taxes provided for in such terms and conditions of annexation.

# § 45-10.2. Annexation of territory within federal military reservation to county water authority

Sec. 10.2. (a) Notwithstanding any other provisions of this act, territory within a federal military reservation may be
annexed to any county water authority organized hereunder as a single member of an authority in the manner provided in this section. As used in this section, "federal military reservation" or "military reservation" means a single federal military reservation or separate but contiguous federal military reservations which are jointly annexed to a county water authority as a single member agency of an authority.

(b) Proceedings for the annexation of a military reservation shall be initiated by the adoption by the board of directors of an authority of a resolution proposing annexation of a military reservation to an authority as a member of an authority.

(c) The resolution proposing the annexation may provide that the annexation shall include one or more separate areas, which may be separately identified for assessing and tax collecting purposes, and that each such area may be subject to one or more of the following terms and conditions:

(1) The fixing and establishment of priorities for the use of, or right to use, water, or capacity rights in any public improvement or facilities, and the determination of, or limitation on, the quantity of, the purposes for which, and the places where, water may be delivered by the authority to the military reservation for military purposes and uses incidental thereto, as well as for nonmilitary purposes.

(2) The levying by the authority of special taxes upon any private leasehold, possessory interest or other taxable property within the territory annexed, and the imposition and collection of special fees or charges prior to the annexation.

(3) Should portions of any area annexed hereunder be subsequently made available for nonmilitary purposes not in existence at the time of the annexation of the area, the board of directors of the authority may impose new terms and conditions for any subsequent service of water, directly or indirectly, by the authority to that area, including the separation of such an area for assessing and tax collecting purposes and the levying by the authority of special taxes on those portions.

(4) The effective date of the annexation.

(5) Any other matters necessary or incidental to any of the foregoing.

(d) A certified copy of the resolution proposing annexation shall be sent to the official in authority over the military reservation. If the military reservation consents in writing to the annexation and to the terms and conditions established by the board of directors, the board may, by resolution, order the annexation to the authority of the territory situated within the military reservation, subject to said terms and conditions.

(e) A certificate of proceedings taken hereunder shall be made by the secretary of the authority and filed with the county clerk of the county in which the county water authority is situated. Upon the filing in his or her office of the certificate of proceedings, the county clerk of the county in which the county water authority is situated shall, within 10 days, issue a certificate reciting the filing of those papers in his or her office and the annexation of the territory to the authority. The county clerk of the county in which the county water authority is situated shall transmit the original of said certificate to the secretary of the authority.

(f) Upon the filing of the certificate of proceedings with the county clerk of the county in which the county water authority is situated, or upon the effective date of the annexation provided for in the terms and conditions, whichever is later, the territory within the military reservation shall become and be an integral part of the authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of said authority, including the payment of bonds and other obligations of the authority at the time authorized or outstanding, and the board of directors of the authority shall be empowered to do all things necessary to enforce and make effective the terms and conditions of annexation fixed as hereinabove authorized.

(g) On and after the effective date of the annexation, the military reservation shall be a separate unit member of the authority and shall be entitled to one representative on the board of directors of the authority. For the purposes of this act, a military reservation shall be deemed a public agency. The representative shall be designated and appointed by the official in authority over the military reservation, shall hold office for a term of six years or until his or her successor is appointed and qualified, and may be recalled by that official.

(h) The transfer of ownership of the fee title of a military reservation, or of any portion thereof, to nonmilitary ownership after annexation to the authority pursuant to this section shall result in the automatic exclusion from the

authority of the territory transferred to that ownership.

(i) If a county water authority is a member public agency of a metropolitan water district organized under the Metropolitan Water District Act (Chapter 200 of the Statutes of 1969), that metropolitan water district may impose any or all of the terms and conditions that may be imposed by a county water authority pursuant to subdivisions (a) through (h) of this section in any resolution fixing the terms and conditions for the concurrent annexation of territory in a military reservation.

# § 45-10.3. Public agency within unit of county water authority; procedure to become separate unit

Sec. 10.3. (a) A public agency whose corporate area is wholly within the corporate area of another public agency which is already included within a county water authority as a separate unit, may also become a separate unit of such county water authority in the manner provided in this section.

(1) The governing body of a public agency seeking status as a separate unit of a county water authority shall apply by resolution to the board of directors of such county water authority for consent to detach its corporate area from the existing separate unit of which it is a part and to become a separate unit of such county water authority.

(2) The board of directors of the county water authority may grant or deny such application and in granting the same may fix the terms and conditions upon which such applying public agency may become a separate unit of the county water authority; provided, however, that such consent shall not be given unless and until by resolution the governing body of the existing separate unit of the county water authority also gives its consent to the proposed detachment of such territory and to the applying public agency becoming a separate unit of such county water authority.

(3) Proceedings for the detachment of the corporate area of the public agency seeking status as a separate unit of the county water authority from the corporate area of the existing separate unit shall be conducted in the manner prescribed by law; provided, however, that the effective date of such detachment shall be after the completion of the proceedings provided by paragraph (4) of this subdivision.

(4) The detachment of the corporate area of the public agency seeking status as a separate unit from the corporate area of the existing separate unit shall not be effective until the secretary of the agency seeking status as a separate unit has filed with the secretary of the county water authority a certificate certifying the completion of all requirements of law for such detachment. A certificate of proceedings hereunder shall thereupon be prepared by the secretary of the county water authority and filed with the Secretary of State. Upon filing of such certificate of proceedings with the Secretary of State or upon the effective date of the detachment as set forth in any terms and conditions applicable thereto, whichever is later, the corporate area of the agency seeking separate unit status shall thereupon become a separate unit of the county water authority and shall have all of the rights and privileges thereof.

(b) Notwithstanding anything to the contrary in Section 11 of this act, if proceedings are conducted in accordance with this section, the territory detached from the existing separate unit of the county water authority shall remain at all times a part of the corporate area of such authority.

#### § 45-11, Exclusion of territory

Sec. 11. (a) Methods. Exclusion of territory from any county water authority may be effected by either of the following methods:

(1) Territory excluded from the portion of the corporate area of any public agency which lies within the exterior boundaries of a county water authority, the public agency being a unit of the authority, and which exclusion occurs in accordance with the provisions of law applicable to those exclusions, shall thereby be excluded from and shall no longer be a part of the authority; provided, that the taxable property within the excluded territory shall continue to be taxable by the county water authority for the purpose of paying the bonded or other indebtedness outstanding or contracted for at the time of the exclusion and until the bonded or other indebtedness has been satisfied; provided further, that if the taxable property within the excluded territory or any part thereof shall be, at the time of the exclusion, subject to special taxes levied, or to be levied, by the county water authority pursuant to terms and conditions previously fixed under paragraph subdivision (c) or (d) of Section 10 for the annexation of the excluded territory or part thereof to the county water authority, the taxable property within the excluded territory or part thereof to these special taxes shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of special taxes upon taxable property within the respective annexing areas pursuant to terms and conditions for the annexation or annexations as so fixed and until the

aggregate sums have been so raised by the special tax levies.

Exclusion of territory from a county water authority pursuant to this paragraph shall not occur if two or more public agencies that are included in a county water authority as separate units are subject to a reorganization of their boundaries under applicable provisions of law which would result in an exchange or transfer, but not an overlapping, of territory that is entirely within the county water authority. The boundaries of those agencies within the county water authority, upon that reorganization and the filing with the secretary of the county water authority of a copy of the certificate of completion prepared, executed, and filed by the executive officer of the local agency formation commission responsible therefor constitute the boundaries of the agencies for all purposes of the county water authority, without action by the board of directors of the county water authority. If the exchange includes territory subject to special conditions and tax levies pursuant to the terms of annexation at the time the territory became a part of the county water authority, the territory shall continue to be subject to those conditions and to be taxable by the county water authority or those levies.

From and after the effective date of the inclusion of the territory by the including public agency, the territory shall be considered to be a part of the corporate area of the including agency: provided, however, that, if the taxable property within the territory, or any portion thereof, is subject to special taxes levied or to be levied by the county water authority pursuant to terms and conditions previously fixed under subdivision (c) or (d) of Section 10 for the annexation of the territory or portion thereof to the county water authority, then the taxable property within the territory shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of the special taxes pursuant to the terms and conditions for the annexation or annexations as so fixed and until the aggregate sums have been so raised by the special tax levy.

(2) Any public agency whose corporate area as a unit has become or is a part of any county water authority may obtain the exclusion of the area therefrom in the following manner:

The governing body of any public agency may submit to the electors thereof at any general or special election the proposition of excluding from the county water authority the corporate area of the public agency. Notice of the election shall be given in the manner provided in subdivision (c) of Section 10. The election shall be conducted and the returns thereof canvassed in the manner provided by law for the conduct of elections in the public agency. If a majority of electors voting thereon vote in favor of withdrawal, the result thereof shall be certified by the governing body of the public agency to the board of directors of the county water authority. A certificate of the proceedings shall be made by the secretary of the county water authority and filed with the Secretary of State. Upon the filing of the certificate, the corporate area of the public agency shall be excluded from the county water authority and shall no longer be a part thereof; provided, that the taxable property within the excluded area shall continue to be taxable by the county water authority for the purpose of paying the bonded and other indebtedness of the county water authority outstanding or contracted for at the time of the exclusion and until the bonded or other indebtedness has been satisfied; provided further, that if the taxable property within the excluded area or any part thereof is, at the time of the exclusion, subject to special taxes levied or to be levied by the county water authority pursuant to the terms and conditions previously fixed under subdivision (c) or (d) of Section 10 for the annexation of the excluded area or part thereof to the county water authority, the taxable property within the excluded area or part thereof so subject to the special taxes shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of special taxes upon taxable property within the respective amexing areas pursuant to the terms and conditions for the annexation or annexations as so fixed and until the aggregate sums have been so raised by the special tax levies. Upon the filing of the certificate of proceedings, the Secretary of State shall, within 10 days, issue a certificate reciting the filing of the papers in his or her office and the exclusion of the corporate area of the public agency from the county water authority. The Secretary of State shall transmit the original of the certificate to the secretary of the county water authority and shall forward a certified copy thereof to the county clerk of the county in which the county water authority is situated.

(b) Statement of boundary changes. Whenever territory is excluded from any public agency in accordance with paragraph (1) of subdivision (a), the governing body, or clerk thereof, of the public agency shall file with the board of directors of the county water authority a statement of the change of boundaries of the public agency, setting forth the legal description of the boundaries of the public agency, as so changed, and of the part thereof within the county water authority, which statement shall be accompanied by a map or plat indicating the boundaries.

(c) **Previously excluded territory**. Whenever any territory has been excluded from any public agency prior to the effective date of this section, under conditions which would have resulted in the exclusion of the territory from a county water authority had paragraph (1) of subdivision (a) then been in effect, upon compliance with the following provisions of this paragraph, the territory shall be excluded from and shall no longer be a part of, the authority, the

last-mentioned provisions being as follows:

(1) The governing body of the public agency may adopt an ordinance which, after reciting that the territory has been excluded from the public agency by proceedings previously taken under statutory authority, and after referring to the applicable statutes and to the date or dates upon which the exclusion became effective, shall describe the territory and shall determine and declare that the territory shall be, and thereby is, excluded from the county water authority.

(2) The governing body, or clerk thereof, of the public agency shall file a certified copy of the ordinance with the Secretary of State. Upon the filing of the certified copy of the ordinance in the office of the Secretary of State, the territory shall be excluded from, and shall no longer be a part of, the county water authority; provided, that the taxable property within the excluded territory shall continue to be taxable by the county water authority for the purpose of paying the bonded or other indebtedness outstanding or contracted for at the time of the exclusion, and until the bonded or other indebtedness has been satisfied; provided further, that if the taxable property within the excluded territory or any part thereof is, at the time of the exclusion, subject to special taxes levied or to be levied by the county water authority pursuant to terms and conditions previously fixed under subdivision (c) or (d) of Section 10 for the annexation of the excluded territory or part thereof to the special taxes shall continue to be taxable by the county water authority, the taxable property within the excluded territory or part thereof so subject to the special taxes shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of special taxes upon taxable property within the respective annexing areas pursuant to the terms and conditions for the annexation or annexations as so fixed, and until the aggregate sums have been so raised by the special tax levies.

(3) Upon the filing of the certified copy of the ordinance, the Secretary of State shall, within 10 days issue a certificate describing the territory, reciting the filing of certified copy of the ordinance and the exclusion of the territory from the county water authority, and declaring that the territory is no longer a part of the county water authority. The Secretary of State shall transmit the original of the certificate to the secretary of the county water authority and shall forward a certified copy of the certificate to the county clerk of the county in which the county water authority is situated.

(d) **Territory exchanged or transferred among public agencies.** Whenever any territory has been exchanged or transferred pursuant to law prior to January 1, 1986, among two or more public agencies that are included in a county water authority as separate units, the territory shall not be deemed excluded from the county water authority, notwithstanding the failure of the county water authority to give its consent to the exchange or transfer of the territory, if there has been filed with the board of directors of the county water authority prior to January 1, 1986, a statement of the change of boundaries of the agencies, as so changed, and of the part within the county water authority, which statement shall be accompanied by a map or plat indicating those boundaries.

#### § 45-11.1. Territory within multiple public agencies in authority as separate units

Sec. 11.1. Any territory within a county water authority which lies within two or more public agencies, the corporate areas of which are included within such county water authority as separate units, shall, subject to the conditions hereinafter provided, for the purposes of this act and for all related purposes (other than local purposes of such public agencies) involving in any manner the respective territorial boundaries and jurisdiction of such public agencies, be considered to be a part of the respective public agency which will supply water to such overlapping territory, as determined in the manner provided herein; provided, that if the taxable property within such overlapping territory or any portion thereof shall be subject to special taxes levied or to be levied by such county water authority pursuant to terms and conditions theretofore fixed under the provisions of paragraph (c) or paragraph (d) of Section 10 of this act for the annexation of such overlapping territory or portion thereof to such county water authority, then such taxable property within such overlapping territory for the purpose of raising the aggregate sum or sums to be raised by the levy of such special taxes pursuant to terms and conditions or annexations as so fixed and until such aggregate sum or sums shall have been so raised by such special tax levies; and provided, further, that the public agency of which such overlapping territory shall be considered to be a part shall be determined in the following manner and subject to the following conditions:

(1) The governing body of each public agency in which any such overlapping territory lies, shall, on or before October 1st of any calendar year, file with the board of directors of the authority a certified copy of a resolution of such governing body which shall contain a legal description of any such overlapping territory or portion thereof which will be supplied with water by such public agency during the next ensuing fiscal year commencing July 1st next following, and such certified copy of such resolution so filed shall be accompanied by a map or plat showing the respective boundaries of each overlapping territory or portion thereof so to be supplied with water by such public

agency.

(2) On or before November 1st of such calendar year, the board of directors of the authority shall consider all documents so filed with the authority as required under subparagraph (1) above, and by resolution shall determine which public agency will supply water to each such overlapping territory or portion thereof during the next ensuing fiscal year commencing July 1st next following; in the event that the board of directors of the authority, from the evidence submitted, cannot determine which public agency will supply water to any overlapping territory or portion thereof shall be considered to be a part of, and shall designate, the public agency within which such overlapping territory or portion thereof first was included; and such resolution shall contain a legal description of each such overlapping territory or portion thereof respecting which any such determination is made.

(3) The board of directors of the authority, on or before November 20th of such calendar year, shall file with the county assessor of the county in which such overlapping territory shall lie and with the State Board of Equalization and in the event that such county water authority shall be included within a metropolitan water district as a separate unit then also with the board of directors of such metropolitan water district, a certified copy of such resolution of the board of directors of the authority so determining the matters required to be determined by it under subparagraph (2) above, accompanied by map or maps or plat or plats showing the respective boundaries of each overlapping territory or portion thereof described in such resolution.

(4) Any determination made by the board of directors of the authority and evidenced by the filing of the documents required by subparagraph (3) hereof shall be effective until changed by later determination by said board of directors and the evidencing thereof by the filing of the required documents.

(5) Any overlapping territory or portion thereof respecting which no determination shall have been made by the board of directors of the authority and evidenced by the filing of the documents required by subparagraph (3) hereof shall be considered to be a part of the public agency within which such overlapping territory or portion thereof first was included.

#### § 45-12. Repealed by Stats. 1970, c, 447, p. 896, § 23

#### § 45-13. Administrative authority

Sec. 13. (a) All matters and things necessary for the proper administration of the affairs of the authority that are not provided for in this act shall be provided for by the board of directors of the authority by ordinance or resolution. Any action required by this act to be done by resolution may be done, with equal validity, by ordinance.

(b)(1) The board of directors of the authority may adopt regulations regarding its facilities, property, and rights-ofway. The board of directors, by ordinance, may make a violation of any regulation adopted pursuant to this subdivision subject to an administrative fine.

(2) The board of directors shall set forth, by ordinance or resolution, the administrative procedures that govern the imposition, enforcement, collection, and administrative review by the authority of those administrative fines.

(3) The amount of the administrative fine shall not exceed the maximum fine for infractions set forth in subdivision (b) of Section 25132 and subdivision (b) of Section 36900 of the Government Code. For the purpose of carrying out this subdivision, Section 53069.4 of the Government Code applies, except that any action required by that section to be taken by ordinance may be taken by resolution of the board of directors.

(c) The board of directors of the authority, by ordinance, may establish procedures for the abatement of encroachments that violate any regulation adopted pursuant to subdivision (b) and to recover the costs of abatement by means of a lien with the status and priority of a judgment lien on the property that is subject to the easement or right-of-way from which the encroachment is abated. These procedures shall provide for a reasonable period, specified in the ordinance, during which a person responsible for a continuing violation may abate the encroachment before the commencement of any abatement under this section. For the purposes of carrying out this subdivision, Section 38773.1 of the Government Code applies, except that any action required by that section to be taken by the legislative body shall be taken by the board of directors of the authority. The remedy authorized in this subdivision is cumulative to any other remedy authorized by law.

(d) An encroachment maintained in violation of a regulation adopted pursuant to subdivision (b) is a public muisance that is subject to abatement by bringing a civil proceeding.

#### § 45-13.5 Authority report; standing committees

Sec. 13.5. An authority formed pursuant to this act shall prepare and submit, at its own expense, a report to the Legislature, not before January 1, 2008, and not later than January 1, 2009, regarding the implementation of the procedures governing the meetings and actions of the standing committees of the board of directors that were adopted by the board of directors in 2004 or 2005.

#### § 45-14. Deposit of funds

Sec. 14. The treasurer of any authority organized under the provisions of this act is hereby expressly authorized to deposit funds of such authority in banks in the manner provided by law for the deposit of moneys of a municipality or other public or municipal corporation.

#### § 45-15. Fiscal year: statement of revenues and expenditures: statement of water storage and use

Sec. 15. The fiscal year of any authority incorporated hereunder shall commence on the first day of July of each year and shall continue until the close of the thirtieth day of June of the year following. As promptly as shall be possible after the close of each fiscal year, it shall be the duty of the controller of the authority to prepare and transmit to the chief executive officer of each public agency, the area of which shall lie within the authority, a statement of revenues and expenditures in such detail as shall be prescribed by the board of directors; also a statement of the amount of water stored by the authority and the amounts used by the respective public agencies, the areas of which shall lie within the authority.

## § 45-15.5. Claims for money or damages; law governing

Sec. 15.5. All claims for money or damages against the authority are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

#### § 45-16. Partial invalidity

Sec. 16. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

# MEMORANDUM OF UNDERSTANDING BETWEEN THE RIVERSIDE LOCAL AGENCY FORMATION COMMISSION AND THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION INVOLVING A REORGANIZATION PROPOSAL TO DETACH THE FALLBROOK PUBLIC UTILITY DISTRICT AND RAINBOW MUNICIPAL WATER DISTRICT FROM THE SAN DIEGO COUNTY WATER AUTHORITY AND CONCURRENTLY ANNEX TO THE EASTERN MUNICIPAL WATER DISTRICT

This MEMORANDUM OF UNDERSTANDING ("MOU") is made this 24 day of October 2019 by and between the San Diego Local Agency Formation Commission ("SDLAFCO"), a corporate public entity, and the Riverside Local Agency Formation Commission ("RLAFCO"), a corporate public entity. Each may be referred to individually as "LAFCO" or collectively as "LAFCOS."

## RECITALS

WHEREAS, the Fallbrook Public Utility District ("FPUD") is a special district that provides — among other services — water to the community of Fallbrook;

WHEREAS, the Rainbow Municipal Water District ("RMWD") is a special district that provides — among other services — water to the unincorporated communities of Rainbow, Bonsall, and portions of Vista, Oceanside and Fallbrook;

WHEREAS, the San Diego County Water Authority ("SDCWA") is a public agency that produces, imports and sells wholesale water to its 24 retail member agencies and cities in San Diego County;

WHEREAS, FPUD and RMWD are member agencies of SDCWA;

WHEREAS, the Eastern Municipal Water District ("EMWD") is a special district that provides retail water service to some cities and wholesale water to other cities and special districts in Riverside County;

WHEREAS, FPUD and RMWD are contemplating the initiation of proceedings to obtain wholesale water from EMWD and detach from SDCWA and annex to EMWD;

WHEREAS, the contemplated detachment and annexation would require conforming sphere of influence amendments approved by the relevant LAFCO ("Proceedings");

WHEREAS, San Diego County and Riverside County are both an "affected county" for purposes of the Proceedings, which is defined in Government Code section 56012 as "any county that contains, or would contain, any territory for which a change of organization is proposed or ordered either singularly or as part of a reorganization or that contains all or any part of a district for which a change of organization or reorganization is proposed with respect to territory outside that county;"

WHEREAS, Riverside County is the "principal county" for purposes of EMWD's sphere of influence amendment and annexation proceedings because, under Government Code section 56066, Riverside is "the county having the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district or districts for which a change of organization or reorganization is proposed;"

WHEREAS, San Diego County is the "principal county" for purposes of SDWA's sphere of influence amendment and detachment proceedings because, under Government Code section 56066, San Diego is "the county having the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district or districts for which a change of organization or reorganization is proposed;"

WHEREAS, under Government Code sections 56123, RLAFCO has exclusive jurisdiction to process an application for the proposed change of organization to EMWD, and SDLAFCO has exclusive jurisdiction to process an application for the proposed change of organization to SDCWA;

WHEREAS, under Government Code section 56124, "If a proposed change of organization or a reorganization applies to two or more affected counties, for purposes of this division, exclusive jurisdiction may be vested in the commission of an affected county other than the commission of the principal county if all of the following occur:

- (a) The commission of the principal county approves of having exclusive jurisdiction vested in another affected county.
- (b) The commission of the principal county designates the affected county which shall assume exclusive jurisdiction.
- (c) The commission of the affected county so designated agrees to assume exclusive jurisdiction.";

WHEREAS, RLAFCO approves of having exclusive jurisdiction for purposes of EMWD's sphere of influence amendment and detachment proceedings vested in San Diego County;

WHEREAS, RLAFCO designates San Diego County to assume exclusive jurisdiction for purposes of EMWD's sphere of influence amendment and detachment proceedings;

WHEREAS, SDLAFCO agrees to assume exclusive jurisdiction for purposes of EMWD's sphere of influence amendment and detachment proceedings for any application received for a reorganization as described above;

WHEREAS, the Parties desire to enter into this MOU to memorialize their understanding.

**NOW, THEREFORE**, in consideration of the covenants, conditions and promises contained herein, the parties mutually agree as follows:

<u>1.</u> <u>Sphere of Influence.</u> Any sphere of influence determination in connection with FPUD's or RMWD's application to detach from SDCWA and annex to EMWD will be the exclusive jurisdiction of SDLAFCO.

<u>2.</u> <u>Reorganization Proceedings.</u> Any reorganization proceeding in connection with FPUD's or RMWD's application to detach from SDCWA and annex to EMWD will be the exclusive jurisdiction of SDLAFCO.

<u>3.</u> <u>Applicable Policies and Procedures.</u> The Proceedings will be governed according to SDLAFCO's policies and procedures. SDLAFCO is not required to follow RLAFCO's policies and procedures in processing a sphere of influence or reorganization application submitted by FPUD or RMWD.

<u>4.</u> <u>Consultation.</u> SDLAFCO agrees to consult with RLAFCO staff regarding the Proceedings and before making any recommendations in connection with FPUD's or RMWD's application to detach from SDCWA and annex to EMWD. RLAFCO agrees to provide technical assistance to process the relevant applications upon SDLAFCO's request. Any technical assistance provided by RLAFCO in connection with the Proceedings will be billed to FPUD and RMWD at RLAFCO's established hourly rate.

<u>5.</u> <u>Term.</u> This MOU will take effect upon its execution by both SDLAFCO and RLAFCO and shall remain in effect until the Proceedings are complete.

<u>6.</u> <u>LAFCOs' Responsibilities.</u> The LAFCOs will advise FPUD, RMWD, SDCWA, and EMWD that the required application and corresponding documentation and fees must be submitted to SDLAFCO pursuant to this MOU. Nothing in this MOU will be construed to limit in any way the provision of State law governing the consideration process for a sphere of influence determination or reorganization proceeding.

<u>7.</u> <u>Modification.</u> This MOU constitutes the entire agreement and understanding between the LAFCOs with respect to the subject matter hereof and supersedes any previous agreements, oral or written. This MOU may be modified only by subsequent mutual written agreement and will not be effective until signed by all parties.

<u>8.</u> <u>Termination.</u> This MOU may be terminated by either LAFCO upon 30 days' notice in writing to the other LAFCO. Under Government Code section 56651, the Proceedings shall be deemed initiated on the date a petition or resolution of application of FPUD or RMWD is accepted for filing and a certificate of filing is issued by the executive officer of SDLAFCO to FPUD or RMWD. Once the Proceedings are initiated, RLAFCO is prohibited from terminating this MOU until SDLAFCO's Proceedings are complete.

<u>9.</u> <u>California Law.</u> This MOU shall be construed in accordance with the laws of the State of California. Any action commenced related to this MOU shall be filed in the Superior Court of either San Diego or Riverside County. This MOU shall be construed as though jointly drafted by the Parties with the assistance of independent legal counsel.

<u>10.</u> <u>Indemnification.</u> LAFCOs agree to indemnify, defend at their own expense, including attorneys' fees, and hold each other harmless from and against all claims, costs, penalties, causes of action, demands, losses and liability of any nature, whatsoever, caused by or arising out of or related to any negligent act or willful misconduct of that party, its officers or employees or any other agent acting pursuant to its control and performing under this MOU.

12. <u>Notices.</u> All notices shall be personally delivered or mailed, via first-class mail to the below listed addresses:

- a. Keene Simonds
  Executive Officer
  San Diego Local Agency Formation Commission
  9335 Hazard Way, Suite 200
  San Diego, California 92123
  (858) 614-7755
  keene.simonds@sdcounty.ca.gov
- b. Gary Thompson Executive Officer
  Riverside Local Agency Formation Commission 6216 Brockton Avenue, Suite 111-B
  Riverside, California 92506
  (951) 369-0631
  gthompson@lafco.org
- c. Courtesy Copy to: Holly O. Whatley
  General Counsel for SDLAFCO
  Colantuono, Highsmith & Whatley, PC
  790 East Colorado Blvd., Suite 850
  Pasadena, California 91101
  hwhatley@chwlaw.us
- d. Courtesy Copy to: Tiffany N. North, Assistant County Counsel Counsel for RLAFCO
  Office of Riverside County Counsel
  3960 Orange Street, Ste. 500
  Riverside, California 92501
  tnorth@rivco.org

13. <u>Severance.</u> Should a provision of this MOU be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

14. <u>Counterparts.</u> This MOU may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

**IN WITNESS WHEREOF**, these parties have executed this MOU on the day and year shown above.

SAN DIEGO LOCAL AGENCY FORMATION COMMISSION

Keen Sinonet

RIVERSIDE LOCAL AGENCY FORMATION COMMISSION

Gary Thompson, Executive Officer

APPROVED AS TO FORM

Keene Simonds, Executive Officer

APPROVED AS TO FORM

Holly O. Whatley, General Counsel

Many (

Tiffany N North, Assistant County Counsel



#### April 2, 2020

#### MEMBER AGENCIES <u>VIA E-MAIL AND U.S. MAIL</u>

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 Rainboy 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 Volley Center Municipal Water District Vista trrigation District Yuima Municipal Water District

Carlsbad

OTHER REPRESENTATIVE

County of San Diego

Keene Simonds Executive Officer San Diego County Local Agency Formation Commission 9335 Hazard Way, Suite 200 San Diego, CA 92123 E-Mail: <u>Keene.Simonds@sdcounty.ca.gov</u>

# Re: <u>Request/Application for Determination that San Diego County Water Authority Is</u> Not a District for Purposes of Part 4 of the CKH Act for LAFCO File RO20-05

#### Dear Mr. Simonds:

The San Diego County Water Authority (the "Water Authority") received a notice dated March 25, 2020, from the San Diego County Local Agency Formation Commission ("SD LAFCO") regarding the filing of the proposal ("Proposal") by Fallbrook Public Utilities District ("Fallbrook") for a reorganization that would affect the Water Authority and its member agencies. The notice informed the Water Authority that it had until April 6, 2020 to file an application under "Government Code sections 56127 and 56128 for a determination that the Authority is a not a district for purposes of Part 4 or Part 5 of CKH for the above-referenced proposal."

This letter constitutes: (1) an application to SD LAFCO by the Water Authority for a determination that, as to the Proposal, the Water Authority is not a district per Government Code sections 56127, 56128, and 56036.6 as to <u>Part 4 only</u> of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH Act"); (2) a request by the Water Authority that if for any reason SD LAFCO were to consider approving the Proposal, that as a condition of approval SD LAFCO should require a majority vote of the Water Authority service area as to the detachment sought by Fallbrook; and (3) a request by the Water Authority that SD LAFCO stay the Proposal from moving forward during the current COVID-19 emergency, and an objection to further proceedings during this period of emergency. The latter being the most urgent issue, it is addressed first.

#### COVID-19 Emergency, Objection And Request For Stay

The United States, the State of California, the County of San Diego, and the City of San Diego are all under emergency orders in connection with the COVID-19 epidemic, and most of our region's residents are heeding "shelter in place" instructions from their governmental authorities. We are all in the midst of an unprecedented disruption of our societal norms, including severe work disruptions.

Mr. Keene Simonds April 2, 2020 Page 2 of 4

The Water Authority Board has, like many other public agencies, declared emergency status. As a result, the Water Authority has significantly limited its operations and has moved to a largely remote workforce. We understand that many other agencies have done the same.

We are very surprised and disappointed that Fallbrook chose to file its Proposal in the midst of this crisis. Indeed, it is remarkable that the Proposal papers make no mention of the existential emergency we all face, or suggest any delays in the process. Rather, the Proposal simply presents advocacy and argument without even mentioning the unprecedented circumstances we find ourselves in as a result of the COVID-19 virus precautions being taken across the country.

The Water Authority and its other member agencies are focused at this time, as they should be, on maintaining the continuity of needed water service for our region. The Water Authority does not believe that any processing of the Proposal should go forward at this time, and we object to any further proceedings on the matter at SD LAFCO as prejudicial to the rights of the Water Authority, our other member agencies, and the public we all serve to fairly and properly address the Proposal. Our staff and those at agencies which would want to participate are swamped with emergency-related matters, consultants are shut down or limited in scope, coordination with other agencies is necessarily curtailed, and access to key documents is impaired. *The Water Authority respectfully requests that SD LAFCO, as has been done by the courts and many other public agencies, stay any further processing of the Proposal until the COVID-19 emergency subsides.* When that occurs, SD LAFCO could then formally notify the parties that the stay is lifted and normal processing will resume. We hereby agree that SD LAFCO's processing of the Water Authority's application presented next in this letter may also be stayed along with the Proposal.

## Application for Exemption from Part 4 of the CKH Act

The Water Authority hereby files its request/application for determination by SD LAFCO that, as to the Proposal, the Water Authority is not a district or special district <u>for purposes of only Part 4</u> <u>of the CKH Act</u> pursuant to Sections 56127, 56128 and 56036.6. The Water Authority hereby requests that you present this request/application to the Commission, but subject to the stay request stated above. The Water Authority Board of Directors has authorized this application per its signed Resolution dated November 21, 2019 (the "Resolution"), a copy of which is attached, along with the Water Authority Board Memo for that item.

Please take note that the Water Authority does <u>not</u> seek exemption from Part 5 of the CKH Act, and is allowed to limit its application in this manner. See Section 56128 ("or"); Section 56036.6(a) ("or"); Section 56036.6(b) (reference to Part 4); and Section 56128 ("or"). Also, please note that our application applies only to this Proposal (there is a similar application being filed by the Water Authority as to Rainbow Municipal Water District), and is not a blanket request for a perpetual determination as to all possible future matters.

As stated in the Resolution, the Water Authority is a county water authority and is not engaged in: (a) the distribution and sale for any purpose, other than for the purpose of resale, of water or of gas, or electricity for light, heat, or power; (b) furnishing sanitary sewer service or garbage and refuse collection service to the ultimate users thereof;

(c) providing fire or police protection; or (d) the acquisition, maintenance, lighting or operation of streets and highways, street and highway improvements or park and recreation facilities,

Mr. Keene Simonds April 2, 2020 Page 3 of 4

except as an incident to the exercise of other lawful power of the Water Authority. In the attached Resolution, the Water Authority Board of Directors approved the statement of the above-listed facts to submit to SD LAFCO. Thus, the Water Authority meets the statutory requirements for exemption "for purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300)." (Cal. Gov't Code section 56127.)

As you know, there was a prior Water Authority exemption determined by SD LAFCO. On November 11, 1976, in accordance with the District Reorganization Act of 1965 ("DRA"), the Water Authority submitted to SD LAFCO an application for exemption from LAFCO's authority (the "1976 Application"). At the time under the extant law, the procedure for exemption from SD LAFCO authority was governed by Sections 56105, 56106 and 56039 of the California Government Code, all of which have since been repealed and replaced. It is important to note that under the prior law, an agency such as the Water Authority could seek an entire exemption from SD LAFCO's jurisdiction, not the very limited exemption as to Parts 4 or 5 of the CKH Act which is present in the law today. Thus, when the 1976 Application was filed, the Water Authority was allowed to remove itself entirely from SD LAFCO review, but that is no longer the case under current law. This makes the 1976 Application (and subsequent determination) of no effect in the current proceedings, because the law has substantively changed. That is one reason why the Water Authority submits this new application under the applicable law that exists today, the CKH Act. Additionally, under the current law, an application or request for determination that an agency is not a district must now be made on an application-by-application basis (see Gov. Code Sections 56127 and 56128). Therefore, the Water Authority's application only covers the Proposal application (and, via a separate application by the Water Authority, the sister proposal made by the Rainbow Municipal Water District).

# Vote of the Electorate

We note that as part of the attached Resolution, the Water Authority Board requested that if for some reason the SD LAFCO were contemplating any approval of the Proposal, it should require a majority vote of the electorate in the Water Authority's service area so that <u>all</u> affected ratepayers may have a say in any detachment, because a detachment may adversely affect all area ratepayers, and not just those in Fallbrook and Rainbow. While we realize this will be a material issue to be addressed in detailed briefing by all interested parties later, we wanted to call it to SD LAFCO's attention as it is part of the Water Authority Board's Resolution. This request is made without any prejudice to our member agencies making their positions known as well, or the Water Authority submitting further matters to SD LAFCO when the process continues.

Finally, we note - as shown on the below cc list - that Kristina Lawson is now our main contact person with our outside counsel at Hanson Bridgett, so please reflect this in your records. Her address information is as follows:

Kristina Lawson, Esq. Hanson Bridgett 425 Market Street, 26<sup>th</sup> Floor San Francisco, CA 94105 <u>KLawson@hansonbridgett.com</u> (925) 746-8474 Mr. Keene Simonds April 2, 2020 Page 4 of 4

The Water Authority looks forward to SD LAFCO's approval of our request/application after the COVID-19 health emergency concludes. Given the Water Authority's affected resources during this emergency period, the Water Authority reserves all rights to amend or supplement this application. Please let me know if the SD LAFCO requires any further information or wishes to discuss this matter with the Water Authority. Thank you.

Very truly yours,

Mark J. Hattam General Counsel

Attachments: SDCWA Resolution and Board Memo

Cc: (all via e-mail):

Holly Whatley, Commission Counsel Aleks Giragosian, Deputy Commission Counsel Robert Barry, Chief Policy Analyst Sandra L. Kerl, General Manager, San Diego County Water Authority Kristina Lawson, Outside Counsel, San Diego County Water Authority Gary Thompson, Executive Officer, Riverside LAFCO Jack Bebee, General Manager, Fallbrook PUD Paula C. P. de Sousa, Counsel, Fallbrook PUD Paul Jones, General Manager, Eastern MWD Nick Kanetis, Deputy General Manager, Eastern MWD Tom Kennedy, General Manager, Rainbow MWD Alfred Smith, Counsel, Rainbow MWD Water Authority Board of Directors

## RESOLUTION NO. 2019-19

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN DIEGO COUNTY WATER AUTHORITY AUTHORIZING THE GENERAL MANAGER AND GENERAL COUNSEL TO REQUEST A DETERMINATION BY THE SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION THAT THE WATER AUTHORITY IS NOT A "DISTRICT" OR "SPECIAL DISTRICT" FOR THE PURPOSES OF PART 4 OF THE CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT AND TO REQUEST A VOTE OF THE WATER AUTHORITY'S ELECTORATE AS TO ANY DETACHMENT.

WHEREAS, the Cortese-Knox-Hertzberg Local Government Reorganization Act (Cal. Gov. Code section 56000 et seq.) ("CKH Act") at Government Code Section 56036.6 provides that a county water authority may apply to a Local Agency Formation Commission ("LAFCO") for a determination that the county water authority is not a "district" or "special district" for the purposes of Part 4 (or Part 5) of the CKH Act pursuant to Government Code Sections 56036.6, 56127, and 56128;

WHEREAS, the San Diego County Water Authority ("Water Authority") is a county water authority as described in Government Code Section 56036.6;

WHEREAS, the Water Authority anticipates that one or more applications for a change in organization that will affect, among others, the Water Authority and its member agencies will be filed with San Diego County LAFCO on behalf of Rainbow Municipal Water District ("Rainbow") and/or Fallbrook Public Utility District ("Fallbrook");

WHEREAS, the Water Authority's principal act, the County Water Authority Act, provides procedures for a change in organization for county water authorities, as does the CKH Act;

WHEREAS, Government Code Section 53036.6 provides that if, upon application by a county water authority, a LAFCO determines that a county water authority is not a "district" or "special district," then any authority proceedings pursuant to Part 4 of the CKH Act for a change of organization to the Water Authority (which proceedings follow the LAFCO's commission proceedings) will be conducted pursuant to the County Water Authority Act;

WHEREAS, Part 4 of the CKH Act provides for a protest vote for any change of organization approved by the LAFCO, which results in a default approval of the LAFCO's decision unless 25% of the registered voters in the designated territory protest the change of organization by signed mail-in vote, but the County Water Authority Act provides instead for a majority vote of the voters in the detaching agency service area to confirm the detachment/exclusion of that member agency from the Water Authority by majority approval at a general or special election;

Resolution No. 2019-19 Page 2 of 3

WHEREAS, voters and ratepayers in service areas of member agencies of the Water Authority other than Rainbow and Fallbrook may be affected by a detachment of one or both of those agencies, and San Diego LAFCO may want to allow such larger electorate a chance to be heard on detachment;

WHEREAS, if a detachment application is not denied by San Diego LAFCO, then each applicable electorate should be afforded the opportunity to vote at a general or special election based on a full understanding of the potential impacts that would result from detachment and knowing all conditions that would be placed on the ratepayers of a detaching agency by LAFCO as a result of such a detachment;

WHEREAS, the CKH Act requires that if a proposal for a change in organization is initiated by other than the Water Authority, then the Water Authority may request the determination that it be deemed to be not a "district" or "special district" for purposes of Part 4 and/or 5 of the CKH Act as described in the first recital above within 10 days of notification by LAFCO of the initiation of the proposal; and

WHEREAS, the Water Authority is not engaged in: (a) the distribution and sale for any purpose, other than for the purpose of resale, of water or of gas, or electricity for light, heat, or power; (b) furnishing sanitary sewer service or garbage and refuse collection service to the ultimate users thereof; (c) providing fire or police protection; or (d) the acquisition, maintenance, lighting or operation of streets and highways, street and highway improvements or park and recreation facilities, except as an incident to the exercise of other lawful power of the Water Authority.

NOW, THEREFORE, the Board of Directors of the San Diego County Water Authority resolves the following:

1. In any LAFCO proceeding in which a change in organization is proposed that would detach or exclude Rainbow and/or Fallbrook from the Water Authority, the Water Authority shall request that if San Diego LAFCO does not deny the detachment application(s), that: (a) San Diego LAFCO exempt the proceeding from Part 4 of the LAFCO Act and, instead, proceed under the Water Authority's principal act, the County Water Authority Act, for the purpose of the Authority Proceedings phase; and (b) in addition to any other appropriate conditions or Authority Proceeding requirements, San Diego LAFCO also require detachment approval by a majority of the voters within the Water Authority's entire service area. The General Manager and the General Counsel, or their designees, are hereby authorized to request the foregoing as to the Rainbow and/or Fallbrook proceedings only, and to submit all applications and other necessary papers. Resolution No. 2019-19 Page 3 of 3

PASSED, APPROVED, and ADOPTED this 21st day of November 2019 by the following vote:

- AYES: Unless noted below all Directors voted aye.
- NOES: Bebee, Cate, Kennedy, and Steiner
- ABSTAIN: None
- ABSENT: Ayala, Barnum, Boyle, Fong-Sakai, Hall, Mosca, Murtland, Scalzitti (P), Simpson, and Watkins (P).

mpter.

Jim Madaffer, Chair

ATTEST:

Christy Guerin Secretary

I, Melinda Nelson, Clerk of the Board of the San Diego County Water Authority, certify that the vote shown above is correct and this Resolution No. 2019-<u>19</u> was duly adopted at the meeting of the Board of Directors on the date stated above.

Melinda Nelson, Clerk of the Board



November 13, 2019

# **Attention: Board of Directors**

# **Resolution Regarding LAFCO Part 4 Exemption Request. (Action)**

## Staff recommendation

Adopt Resolution 2019-\_\_\_\_ (Attachment 1) authorizing General Manager and/or General Counsel to Apply to LAFCO to:

- Exempt a Rainbow and/or Fallbrook detachment/annexation proceeding from Part 4 of the Cortese-Knox-Hertzberg Act, and instead have any "Authority Proceedings" conducted under the County Water Authority Act; and
- In addition to any other LAFCO requirements, request that LAFCO condition approval of any detachment on a majority vote of the entire Water Authority electorate.

## Alternative

Do not adopt the Resolution.

## **Fiscal Impact**

There is no identifiable fiscal impact from this action, which pertains to a procedural issue at San Diego Local Agency Formation Commission ("LAFCO").

Board of Directors November 13, 2019 Page 2 of 5

# **Executive Summary**

- Rainbow Municipal Water District ("Rainbow") and/or Fallbrook Public Utility District ("Fallbrook") may soon file applications with the San Diego Local Agency Formation Commission ("LAFCO") to detach from the Water Authority and annex into Eastern Municipal Water District ("Eastern") in Riverside County (together the detachment and annexation are the "Reorganization.")
- This Reorganization, under which member agencies of one regional public entity would annex into a different county's regional public entity, appears to have no precedent in San Diego County.
- The LAFCO proceedings will be conducted in phases, and if the LAFCO approves the Reorganization, it will still be subject to a local protest vote, called "Authority Proceedings."
- Under LAFCO law, the Authority Proceedings can require a <u>protest</u> vote; however, the Water Authority is entitled to seek the LAFCO's approval to instead conduct the Authority Proceedings as a <u>majority-vote election</u> in at least the Rainbow and Fallbrook service areas.
- LAFCO may also condition its approval of a Reorganization on certain terms and conditions, including requiring an Authority Proceeding vote to be conducted only among voters in the detaching areas, or also among the voters in the entire Water Authority service area. The latter approach would allow for voters region-wide to ratify a potential LAFCO approval of the Reorganization, giving those ratepayers a voice in the future economic and other impacts that would result from detachment from the Water Authority.

# Background

Beginning in at least Fall of 2018, member agencies Fallbrook and Rainbow initiated plans to seek to detach from the Water Authority and annex into Eastern Municipal Water District, located in Riverside County. Fallbrook and Rainbow began discussions with Eastern as early as fall of 2018, and then began discussions with San Diego and Riverside LAFCOs by January of 2019.

In May of 2019, the Acting General Manager of the Water Authority was informed by the General Manager of Rainbow that both Rainbow and Fallbrook were planning to seek to detach from the Water Authority. A general proposal has now been publicly discussed by Fallbrook and Rainbow, but the specifics of the infrastructure changes and financial approach have not been made clear.

Rainbow and Fallbrook have stated at their respective board meetings that applications for detachment are being drafted and may be filed as early as December 2019.

# Water Authority's Involvement to Date

<u>Applicable LAFCO</u>. Initially, Rainbow and Fallbrook would have had the LAFCO matters decided at two different LAFCOs – Riverside County and San Diego County. In an effort to have a consolidated set of proceedings, improve coordination and efficiency, and maintain local control of

Board of Directors November 13, 2019 Page 3 of 5

decisions in San Diego County, the Water Authority requested that the San Diego LAFCO take exclusive jurisdiction over the matters. In October 2019, the two LAFCOs agreed to an MOU under which exclusive jurisdiction is vested in San Diego LAFCO.

<u>Fact Finding</u>. The Water Authority made Public Records Act requests in order to understand the scope of the plans and the history of discussions. Additionally, meetings between staff were conducted in July, and were followed by a general proposal from Rainbow and Fallbrook in August, which again provided little detail or analysis of impacts. Further meetings were conducted in September and early October, but to date the Water Authority has not been presented by Rainbow or Fallbrook with any detailed proposals, or with any substantive analyses of what the projected impacts to water supply reliability, rates, or infrastructure would be to the Water Authority and to each of its member agencies. The Water Authority has asked Rainbow and Fallbrook for these details, including in a recent October 14, 2019, letter sent by special counsel, and previously provided to each of the Board members. A copy is attached as Attachment 2.

# **Anticipated Procedure**

LAFCO Nomenclature. A detachment from the Water Authority will require multiple acts and approvals by San Diego LAFCO. Procedurally, it will require changes to the "sphere of influence" for the Water Authority, Rainbow, Fallbrook, and Eastern, as well as the detachment of Rainbow and Fallbrook from the Water Authority, and the annexation of Rainbow and Fallbrook to Eastern. All of these will be handled in one consolidated proceeding, but are governed under separate parts of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Government Code sections 56000 *et seq.* (also known as the "CKH Act" or the "LAFCO Act.") Annexations and detachments are also collectively known as "boundary changes" or "reorganizations."

<u>Consultations</u>. Under local LAFCO policy, the applicants must consult with affected local agencies prior to submitting their applications, in order to identify and attempt to resolve any issues raised by the proposed reorganizations. Because it is possible that the proposed Reorganization would have significant financial and potential environmental impacts on the Water Authority all of its member agencies, as well as other agencies such as fire districts, all of those parties are affected local agencies with which the applicants should consult. The consultations, to be meaningful, must be based on a proposal that specifies the changes that would occur under a Reorganization. Special Counsel sent a letter to this effect to Rainbow and Fallbrook on October 14, 2019 (Attachment 2). We will continue to work with San Diego LAFCO to ensure that meaningful consultations are conducted prior to San Diego LAFCO's accepting the applications.

<u>Application and Commission Proceedings</u>. Rainbow and Fallbrook would, if they go forward, subsequently submit applications (or perhaps a consolidated single application) to San Diego LAFCO and pay associated fees.

Once LAFCO determines that the application is complete, it will notify all affected agencies, including the Water Authority, and solicit public engagement and comments. The Water Authority, its member agencies and all other affected parties will have an opportunity to participate in this process.

Board of Directors November 13, 2019 Page 4 of 5

LAFCO will then undertake an independent analysis of the proposal. This may take many months.

Upon the conclusion of that analysis, LAFCO staff will prepare a report and recommendation, provide notice, and hold a public hearing. The Water Authority and its member agencies and all other affected local parties will have an opportunity to review the analysis and report, and participate in the public hearing.

The Commission will then vote on the application. These initial procedures are referred to as the "Commission Proceedings." (See Cal. Gov. Code § 56650 *et seq.*) If the application is denied, the process ends. If the application is approved (with any associated conditions), then "Authority Proceedings" may follow.

It is important to note that LAFCO may place a number of conditions on any approval. Cal. Gov. Code Section 56886 gives LAFCO a considerable amount of leeway in fashioning terms and conditions of a detachment, including imposing requirements from the principal act, here the CWA Act.

<u>Authority Proceedings</u>. Following the approval of an application by LAFCO, the LAFCO Act provides for a second process, known as the "Authority Proceedings."

# LAFCO Act Authority Proceedings:

The default approach to Authority Proceedings is a "protest" proceeding under which the affected territory's voters may mail in a protest to oppose the LAFCO's approval/decision. If fewer than 25% of ratepayers in the affected territory protest, then the application is deemed approved. If 50%+1 of the registered voters protest the proposal, then it is deemed denied. If 25-50% of the registered voters protest the proposal, then the proposal goes to the voters in a general or special election where it is subject to a majority vote. LAFCO may provide for the voter pool to be just Rainbow and Fallbrook, or the entirety of the four affected entities (Fallbrook, Rainbow, Water Authority and Eastern), or some subset of those. Historically it has proven procedurally cumbersome for a large electorate to affirmatively lodge 25%+ protests, especially because protest proceedings are unfamiliar to most voters. If that standard is not met, then under "Authority Proceedings" there might not be a vote of the electorate at all.

# CWA Act Authority Proceedings:

In the alternative, the Water Authority may apply to LAFCO to opt out of the protest procedure in the LAFCO Act, and instead conduct the Authority Proceedings pursuant to its principal act, the County Water Authority Act ("**CWA Act**"). This would ensure the voters have an opportunity to vote on the proposal at a standard regular or special election.

In order to seek to proceed under the CWA Act instead of Part 4 of the LAFCO Act, the Water Authority would need to apply to LAFCO for exemption from Part 4 within 10 days after notification that the initial application is complete. That option is allowed when an agency is not engaged in: (a) the distribution and sale for any purpose, other than for the purpose of resale, of water or of gas, or electricity for light, heat, or power; (b) furnishing sanitary sewer service or Board of Directors November 13, 2019 Page 5 of 5

garbage and refuse collection service to the ultimate users thereof; (c) providing fire or police protection; or (d) the acquisition, maintenance, lighting or operation of streets and highways, street and highway improvements or park and recreation facilities, except as an incident to the exercise of other lawful power of the Water Authority. The Water Authority, as a water wholesaler, satisfies the statutory requirement.

## Terms and Conditions Imposed by LAFCO:

In addition to a vote in the Rainbow and Fallbrook service areas, San Diego LAFCO Commissioner Dianne Jacob suggested at the October 7, 2019, LAFCO meeting that voters within the Water Authority's entire 24-member agency service area perhaps should have an opportunity to evaluate and vote upon a detachment, as they may be affected by such a change in organization. It is within the discretion of the LAFCO to provide terms and conditions for reorganization. Consistent with Commissioner Jacob's suggestion, and assuming that LAFCO's analysis of the applications demonstrates that there will be financial impacts on ratepayers, in order to enfranchise all of the Water Authority's affected ratepayers on this issue it is therefore recommended that the Water Authority specifically request that such a vote of the larger affected electorate be considered as a condition of detachment (if detachment were to be approved; of course, detachment may also be denied by San Diego LAFCO). The below staff recommendation would ensure that all affected ratepayers are entitled to vote (including those in Rainbow and Fallbrook as specified in the CWA Act).

## **Request for Board Action**

The Board is therefore requested to adopt the Attachment 1 Resolution that would authorize the General Manager and General Counsel, or their designees, to do the following upon notification of a detachment application filed with San Diego LAFCO by Rainbow or Fallbrook:

- 1. Request that San Diego LAFCO exempt the proceeding from Part 4 of the LAFCO Act and instead proceed under the Water Authority's principal act, the County Water Authority Act, for the purpose of voter approval of any LAFCO-approved detachment in the Authority Proceedings phase; and
- 2. Request that if San Diego LAFCO does not deny the detachment application(s), that in addition to any other appropriate conditions or Authority Proceeding requirements the LAFCO may specify San Diego LAFCO also require detachment approval by the voters within the Water Authority's entire service area.

Prepared by: Claire Hervey Collins, Special Counsel Approved by: Sandra L. Kerl, Acting General Manager Mark J. Hattam, General Counsel

Attachments: Attachment 1 - Resolution 2019-\_\_\_\_ Attachment 2 - October 14, 2019 Letter

## RESOLUTION NO. 2019-\_\_\_\_

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN DIEGO COUNTY WATER AUTHORITY AUTHORIZING THE GENERAL MANAGER AND GENERAL COUNSEL TO REQUEST A DETERMINATION BY THE SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION THAT THE WATER AUTHORITY IS NOT A "DISTRICT" OR "SPECIAL DISTRICT" FOR THE PURPOSES OF PART 4 OF THE CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT AND TO REQUEST A VOTE OF THE WATER AUTHORITY'S ELECTORATE AS TO ANY DETACHMENT.

WHEREAS, the Cortese-Knox-Hertzberg Local Government Reorganization Act (Cal. Gov. Code section 56000 et seq.) ("CKH Act") at Government Code Section 56036.6 provides that a county water authority may apply to a Local Agency Formation Commission ("LAFCO") for a determination that the county water authority is not a "district" or "special district" for the purposes of Part 4 (or Part 5) of the CKH Act pursuant to Government Code Sections 56036.6, 56127, and 56128;

WHEREAS, the San Diego County Water Authority ("Water Authority") is a county water authority as described in Government Code Section 56036.6;

WHEREAS, the Water Authority anticipates that one or more applications for a change in organization that will affect, among others, the Water Authority and its member agencies will be filed with San Diego County LAFCO on behalf of Rainbow Municipal Water District ("Rainbow") and/or Fallbrook Public Utility District ("Fallbrook");

WHEREAS, the Water Authority's principal act, the County Water Authority Act, provides procedures for a change in organization for county water authorities, as does the CKH Act;

WHEREAS, Government Code Section 53036.6 provides that if, upon application by a county water authority, a LAFCO determines that a county water authority is not a "district" or "special district," then any authority proceedings pursuant to Part 4 of the CKH Act for a change of organization to the Water Authority (which proceedings follow the LAFCO's commission proceedings) will be conducted pursuant to the County Water Authority Act;

WHEREAS, Part 4 of the CKH Act provides for a protest vote for any change of organization approved by the LAFCO, which results in a default approval of the LAFCO's decision unless 25% of the registered voters in the designated territory protest the change of organization by signed mail-in vote, but the County Water Authority Act provides instead for a majority vote of the voters in the detaching agency service area to confirm the detachment/exclusion of that member agency from the Water Authority by majority approval at a general or special election;

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WHEREAS, voters and ratepayers in service areas of member agencies of the Water Authority other than Rainbow and Fallbrook may be affected by a detachment of one or both of those agencies, and San Diego LAFCO may want to allow such larger electorate a chance to be heard on detachment;

WHEREAS, if a detachment application is not denied by San Diego LAFCO, then each applicable electorate should be afforded the opportunity to vote at a general or special election based on a full understanding of the potential impacts that would result from detachment and knowing all conditions that would be placed on the ratepayers of a detaching agency by LAFCO as a result of such a detachment;

WHEREAS, the CKH Act requires that if a proposal for a change in organization is initiated by other than the Water Authority, then the Water Authority may request the determination that it be deemed to be not a "district" or "special district" for purposes of Part 4 and/or 5 of the CKH Act as described in the first recital above within 10 days of notification by LAFCO of the initiation of the proposal; and

WHEREAS, the Water Authority is not engaged in: (a) the distribution and sale for any purpose, other than for the purpose of resale, of water or of gas, or electricity for light, heat, or power; (b) furnishing sanitary sewer service or garbage and refuse collection service to the ultimate users thereof; (c) providing fire or police protection; or (d) the acquisition, maintenance, lighting or operation of streets and highways, street and highway improvements or park and recreation facilities, except as an incident to the exercise of other lawful power of the Water Authority.

NOW, THEREFORE, the Board of Directors of the San Diego County Water Authority resolves the following:

1. In any LAFCO proceeding in which a change in organization is proposed that would detach or exclude Rainbow and/or Fallbrook from the Water Authority, the Water Authority shall request that if San Diego LAFCO does not deny the detachment application(s), that: (a) San Diego LAFCO exempt the proceeding from Part 4 of the LAFCO Act and, instead, proceed under the Water Authority's principal act, the County Water Authority Act, for the purpose of the Authority Proceedings phase; and (b) in addition to any other appropriate conditions or Authority Proceeding requirements, San Diego LAFCO also require detachment approval by a majority of the voters within the Water Authority's entire service area. The General Manager and the General Counsel, or their designees, are hereby authorized to request the foregoing as to the Rainbow and/or Fallbrook proceedings only, and to submit all applications and other necessary papers.

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PASSED, APPROVED, and ADOPTED this 21st day of November 2019 by the following vote:

AYES: Unless noted below all Directors voted aye.

NOES:

ABSTAIN:

ABSENT:

Jim Madaffer, Chair

ATTEST:

Christy Guerin, Secretary

I, Melinda Nelson, Clerk of the Board of the San Diego County Water Authority, certify that the vote shown above is correct and this Resolution No. 2019- \_\_\_\_ was duly adopted at the meeting of the Board of Directors on the date stated above.

Melinda Nelson, Clerk of the Board

#### Attachment 2

Claire Hervey Collins 633 West 5<sup>th</sup> Street, Suite 4000 Los Angeles, California 90071 Claire.Collins@lewisbrisbois.com Direct: 213.680.5039



October 14, 2019

File No. 44112.2

Mr. Jack Bebee General Manager Fallbrook Public Utility District 900 East Mission Road Fallbrook, CA 92028 jackb@fpud.com

Re: LAFCO Process

Dear Mr. Bebee:

As special LAFCO counsel to the San Diego County Water Authority ("Water Authority"), Chair Madaffer has asked me to respond to your October 10 letter to him on behalf of the agency.

First, as has been stated many times, the Water Authority must respect the interests of all water ratepayers served by our 24 member agencies in San Diego County. We plan to do that and stand ready to support a fully transparent LAFCO process.

Second, I am addressing this letter to you as the author of the October 10 letter, and I am copying your General Counsel. The Water Authority urges you to consult with your General Counsel or other qualified LAFCO counsel as soon as possible in order to ensure that Fallbrook Public Utility District ("Fallbrook") is following the LAFCO process, and to ensure that Fallbrook understands the Water Authority's responsibility in that process. I am copying Mr. Kennedy and his agency's General Counsel for the same reason. I believe that it is imperative that Fallbrook and Rainbow Municipal Water District ("Rainbow") take certain necessary consultation actions in light of your stated imminent plans to file a LAFCO detachment proposal.

The pace of the LAFCO process has been designed by statute and local policy to be a thorough, collaborative, and deliberative process. The responsibility for preparing a comprehensive proposal and engaging in meaningful consultations with affected agencies is a significant and serious one. Your apparent frustration at the response to date by the Water Authority is a reflection of the lack of detail and analysis in the materials provided by Fallbrook and Rainbow to the Water Authority, and a reflection of the lack of meaningful dialogue about the impacts of potential detachment. It is not the result of any actions taken or not taken by Chair Madaffer or the Water Authority, which is eager to better understand Fallbrook and Rainbow's detailed plan so that it can undertake a rigorous analysis of the related impacts. To be clear, however, the Water Authority has no duty to formulate a proposal for your agencies, or to formulate an "offer" on behalf

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 4830-7048-7977

of its other member agencies. It does have a duty of good faith to review and consult with you on a genuine proposal, but due to the lack of specifics from your agencies as to exactly what you plan, it is unable to do so at this time.

Against this backdrop, and in the interest of fairness and to promote mutual understanding, I will take this opportunity to comment on some of the points raised in your October 10 letter.

San Diego LAFCO Legislative Policy No. L-107:

San Diego LAFCO's legislative policy L-107 establishes a consultation requirement among affected agencies *prior to the filing of a detachment proposal*, stating in part:

It is the policy of the San Diego Local Agency Formation Commission that:

1. Prior to submission of a proposal requesting LAFCO consideration of a change of organization or reorganization, the proposal applicant and representatives from affected public agencies, interested parties, and/or organizations, shall meet at the earliest possible stage for the purpose of identifying and attempting to resolve any issues associated with the proposed jurisdictional change(s). The Executive Officer may waive the consultation procedure outlined in this provision when it can be determined with certainty that there will be no possibility that the proposal in question will result in identified and unresolved jurisdictional issues.

2. The consultation process described in provision no. 1 should identify any jurisdictional issues or concerns related to: a. Differing development standards; b. Existing and/or planned land uses and zoning, including densities, community character, and appropriate jurisdictional transition areas; c. Existing and/or planned provision of governmental services, including any potential impacts to service levels or financial ability to sustain service levels; and, d. Any other local community or governmental concerns.

\* \* \*

6. Affected local agencies shall be encouraged to explore additional methods to improve future inter- and intra-departmental and jurisdictional communications for the purpose of discussing and commenting on proposed or pending jurisdictional changes at the earliest possible stage.

#### Consultation Process:

With due respect, the Water Authority does not agree that all necessary steps have been taken to satisfy L-107 requirements.

First, although your agencies have been discussing a possible detachment among yourselves for a full year now, very few concrete details have been revealed to the Water Authority

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or to the public.<sup>1</sup> The very broad "framework" you have provided does not include the kind of substantive detail necessary to evaluate such a significant service change, particularly in light of the more than 50 years of water service to Fallbrook and Rainbow by the Water Authority. You are required to provide an analysis outlining the potential effects of detachment on the Water Authority and all of its member agencies, including Fallbrook and Rainbow customers.<sup>2</sup> We renew our request for a detailed proposal consistent with LAFCO requirements.<sup>3</sup>

#### Detailed Proposal Needed:

In order to have a productive consultation process, all affected parties (as defined in L-107) need to be provided with the specific details of your detachment proposal including financial and environmental impacts, impacts on water supply reliability, and all other impacts to the region as a whole that would result from a detachment.<sup>4</sup>

Because Fallbrook and Rainbow are the agencies proposing detachment, it is your responsibility, not the Water Authority's responsibility, to conduct the relevant analyses and make a detailed proposal addressing all relevant factors. For example:

- You are aware that a number of Water Authority member agencies have expressed concerns about Fallbrook and Rainbow's share of Water Authority financial obligations, incurred to develop the reliable, firm water supplies now being delivered to Fallbrook and Rainbow and all Water Authority member agencies. You should be prepared to discuss this topic when you meet with the other member agencies. Your proposal should indicate how you plan to address this concern, as well as how your proposal would impact customer rates (including those of Fallbrook and Rainbow), if at all.
- We have not been given any details as to environmental impacts, but note comments in the PRA documents that significant new piping infrastructure may be needed in Rainbow and

<sup>3</sup> This is why your requests for a Water Authority open session agenda item about detachment, before submittal of a detailed written proposal, were premature. This is not a "political" decision, but must be one based on what is in the best interests of the voters and ratepayers in San Diego County.

<sup>4</sup> This is not intended to be an exhaustive list of issues or substitute for legal advice by your own attorneys on LAFCO requirements.

<sup>&</sup>lt;sup>1</sup> The Water Authority only became aware of this timeline from documents produced by Fallbrook and Rainbow in response to its Public Records Act (PRA) request. While your agencies began at an early stage to consult with the Eastern Municipal Water District, you did not share your intentions with the Water Authority until just this past May.

<sup>&</sup>lt;sup>2</sup> We attach Water Authority Acting General Manager Sandy Kerl's e-mail to you dated October 10, which was not attached to your letter. In that e-mail, Ms. Kerl noted that Fallbrook and Rainbow had not provided the specifics of any proposal to the Water Authority. The document you submitted on August 21, 2019, was really an advocacy piece arguing why detachment might make sense for your agencies. This is not the kind of substantive proposal or analysis of impacts required by LAFCO.

perhaps Fallbrook. Additionally, a detachment from the Water Authority (which uses very little water from the environmentally sensitive Bay Delta region, and will use even less over time) would, under your plan, be replaced by increased reliance on Delta water from MWD. This shift should be analyzed, particularly in light of Water Code section 85021. Review of these and other potential environmental impacts should be completed before any applications are filed with LAFCO, with all affected parties described under LAFCO Policy L-107 being provided a reasonable time and opportunity to comment.

These are only a few examples of the kinds of impacts that should be included in a detailed proposal to be presented to and discussed with affected parties during the consultation process.

Next Steps:

The Water Authority is fully committed to working through the LAFCO process—but the process must start with your agencies' good faith efforts to present a proposal grounded in facts and substantive analysis, including a reasonable range of alternative outcomes. You must provide sufficient information to allow all parties, and ultimately all voters and ratepayers, to make informed decisions about the proposed detachment.

Once you have prepared the terms of your proposal, Fallbrook and Rainbow can begin the process of meeting with all affected agencies and parties to identify and attempt to resolve issues, as required under LAFCO policy.<sup>5</sup> This will provide an opportunity to identify areas of agreement, disagreement, and further areas of inquiry necessary to present a meaningful application to LAFCO.

I would be happy to discuss next steps with your counsel in order to avoid further frustration and wasted effort on the part of all parties.

Very truly yours,

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Claire Hervey Collins of LEWIS BRISBOIS BISGAARD & SMITH LLP

CHC:JLB

Attachment

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<sup>&</sup>lt;sup>5</sup> Chair Madaffer's August 21 letter to Fallbrook and Rainbow did not say anything to the contrary; in fact, he reiterated then that he asked you to *"please provide a specific proposal."* Chair Madaffer was not addressing your LAFCO obligations in his letter—he was only asking that you cease "public relations" meetings with Water Authority directors telling them that the Water Authority was refusing to meet with you.

cc: Water Authority Board of Directors Fallbrook Board of Directors Rainbow Board of Directors Mark Hattam, Water Authority General Counsel Sandy Kerl, Water Authority Acting General Manager Water Authority member agency General Managers Paula de Sousa Mills, General Counsel for Fallbrook, Best Best & Krieger Tom Kennedy, Rainbow General Manager Lloyd W. Pellman, Counsel for Rainbow, Nossaman

# LEWIS BRISBOIS BISGAARD & SMITH LLP www.lewisbrisbois.com

From: Kerl, Sandy
Sent: Thursday, October 10, 2019 12:52 PM
To: Bebee, Jack <<u>jackb@fpud.com</u>>; Kennedy, Tom <<u>tkennedy@rainbowmwd.com</u>>
Cc: Madaffer, Jim <<u>JMadaffer@sdcwa.org</u>>; Croucher, Gary <<u>garydcroucher@gmail.com</u>>; Guerin,
Christy <<u>Redwhtblu56@yahoo.com</u>>
Subject: Follow-Up on Meeting of October 9, 2019

Dear Jack and Tom;

1 - 1

This e-mail follows our meeting yesterday, as promised. The Water Authority appreciates the opportunity for continuing dialogue with you and all of our member agencies on this subject.

While I regret the frustration you expressed at our meeting yesterday, I want to be clear that from our perspective, the process going forward has now been established by the LAFCO board action taken on Monday, October 7. We believe LAFCO policy requires that your agencies, as the potential LAFCO applicants, meet with *all affected parties* prior to your filing with LAFCO, in an attempt to reach agreement on the issues presented.

The LAFCO policy (L-107) is expressly referenced in the letter that was submitted to LAFCO by the Otay Water District (copy attached). The policy clearly states a requirement that applicants meet with all affected agencies to walk through their proposal to try and reach a resolution. While we appreciate you meeting with the Water Authority, that alone does not satisfy LAFCO's policy.

I also derived from our meeting yesterday that you believe it is the Water Authority's responsibility to make some sort of "offer" to you. We would not be in a position to do that, even if we had the specific details of your proposal (we do not), because the potential impacts are not only on the Water Authority but also on its member agencies, their ratepayers and potentially other third parties.

Finally, you said that you wanted to know our agency's legal interpretation of the applicable law as to why your agencies should pay anything upon detachment. This is an issue that will be addressed in the course of LAFCO proceedings.

As I indicated to you, the Water Authority must continue to represent the interests of all of our member agencies. We plan to do that and stand ready to support the LAFCO process.

Best regards,

Sandy

Sandra L. Kerl Acting General Manager

(858) 522-6783 skerl@sdcwa.org





April 2, 2020

#### MEMBER AGENCIES <u>VIA E-MAIL AND U.S. MAIL</u>

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 Pendletan Marine Corps Base Rainbow Municipal Water District Ramona Municipal Water District Rincon del Diabla Municipal Water District San Dieguito Water District Sonto Fe Irrigation District South Bay Irrigation District Vallecitos Water District Valley Center Municipal Water District Vista Irrigation District Yuima Municipal Water District

Cadshad

OTHER REPRESENTATIVE

County of San Diego

Keene Simonds Executive Officer San Diego County Local Agency Formation Commission 9335 Hazard Way, Suite 200 San Diego, CA 92123 E-Mail: <u>Keene.Simonds@sdcounty.ca.gov</u>

# Re: <u>Request/Application for Determination that San Diego County Water Authority Is</u> Not a District for Purposes of Part 4 of the CKH Act for LAFCO File RO20-04

Dear Mr. Simonds:

The San Diego County Water Authority (the "Water Authority") received a notice dated March 25, 2020, from the San Diego County Local Agency Formation Commission ("SD LAFCO") regarding the filing of the proposal ("Proposal") by Rainbow Municipal Water District ("Rainbow") for a reorganization that would affect the Water Authority and its member agencies. The notice informed the Water Authority that it had until April 6, 2020 to file an application under "Government Code sections 56127 and 56128 for a determination that the Authority is a not a district for purposes of Part 4 or Part 5 of CKH for the above-referenced proposal."

This letter constitutes: (1) an application to SD LAFCO by the Water Authority for a determination that, as to the Proposal, the Water Authority is not a district per Government Code sections 56127, 56128, and 56036.6 as to <u>Part 4 only</u> of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH Act"); (2) a request by the Water Authority that if for any reason SD LAFCO were to consider approving the Proposal, that as a condition of approval SD LAFCO should require a majority vote of the Water Authority service area as to the detachment sought by Rainbow; and (3) a request by the Water Authority that SD LAFCO stay the Proposal from moving forward during the current COVID-19 emergency, and an objection to further proceedings during this period of emergency. The latter being the most urgent issue, it is addressed first.

## COVID-19 Emergency, Objection And Request For Stay

The United States, the State of California, the County of San Diego, and the City of San Diego are all under emergency orders in connection with the COVID-19 epidemic, and most of our region's residents are heeding "shelter in place" instructions from their governmental authorities. We are all in the midst of an unprecedented disruption of our societal norms, including severe work disruptions.

Mr. Keene Simonds April 2, 2020 Page 2 of 4

The Water Authority Board has, like many other public agencies, declared emergency status. As a result, the Water Authority has significantly limited its operations and has moved to a largely remote workforce. We understand that many other agencies have done the same.

We are very surprised and disappointed that Rainbow chose to file its Proposal in the midst of this crisis. Indeed, it is remarkable that the Proposal papers make no mention of the existential emergency we all face, or suggest any delays in the process. Rather, the Proposal simply presents advocacy and argument without even mentioning the unprecedented circumstances we find ourselves in as a result of the COVID-19 virus precautions being taken across the country.

The Water Authority and its other member agencies are focused at this time, as they should be, on maintaining the continuity of needed water service for our region. The Water Authority does not believe that any processing of the Proposal should go forward at this time, and we object to any further proceedings on the matter at SD LAFCO as prejudicial to the rights of the Water Authority, our other member agencies, and the public we all serve to fairly and properly address the Proposal. Our staff and those at agencies which would want to participate are swamped with emergency-related matters, consultants are shut down or limited in scope, coordination with other agencies is necessarily curtailed, and access to key documents is impaired. <u>The Water Authority respectfully requests that SD LAFCO, as has been done by the courts and many other public agencies, stay any further processing of the Proposal until the COVID-19 emergency subsides</u>. When that occurs, SD LAFCO could then formally notify the parties that the stay is lifted and normal processing will resume. We hereby agree that SD LAFCO's processing of the Water Authority's application presented next in this letter may also be stayed along with the Proposal.

# Application for Exemption from Part 4 of the CKH Act

The Water Authority hereby files its request/application for determination by SD LAFCO that, as to the Proposal, the Water Authority is not a district or special district <u>for purposes of only Part 4</u> <u>of the CKH Act</u> pursuant to Sections 56127, 56128 and 56036.6. The Water Authority hereby requests that you present this request/application to the Commission, but subject to the stay request stated above. The Water Authority Board of Directors has authorized this application per its signed Resolution dated November 21, 2019 (the "Resolution"), a copy of which is attached, along with the Water Authority Board Memo for that item.

Please take note that the Water Authority does <u>not</u> seek exemption from Part 5 of the CKH Act, and is allowed to limit its application in this manner. See Section 56128 ("or"); Section 56036.6(a) ("or"); Section 56036.6(b) (reference to Part 4); and Section 56128 ("or"). Also, please note that our application applies only to this Proposal (there is a similar application being filed by the Water Authority as to Fallbrook Public Utilities District), and is not a blanket request for a perpetual determination as to all possible future matters.

As stated in the Resolution, the Water Authority is a county water authority and is not engaged in: (a) the distribution and sale for any purpose, other than for the purpose of resale, of water or of gas, or electricity for light, heat, or power; (b) furnishing sanitary sewer service or garbage and refuse collection service to the ultimate users thereof; (c) providing fire or police protection; or (d) the acquisition, maintenance, lighting or operation of streets and highways, street and highway improvements or park and recreation facilities, except as an incident to the exercise of Mr. Keene Simonds April 2, 2020 Page 3 of 4

other lawful power of the Water Authority. In the attached Resolution, the Water Authority Board of Directors approved the statement of the above-listed facts to submit to SD LAFCO. Thus, the Water Authority meets the statutory requirements for exemption "for purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300)." (Cal. Gov't Code section 56127.)

As you know, there was a prior Water Authority exemption determined by SD LAFCO. On November 11, 1976, in accordance with the District Reorganization Act of 1965 ("DRA"), the Water Authority submitted to SD LAFCO an application for exemption from LAFCO's authority (the "1976 Application"). At the time under the extant law, the procedure for exemption from SD LAFCO authority was governed by Sections 56105, 56106 and 56039 of the California Government Code, all of which have since been repealed and replaced. It is important to note that under the prior law, an agency such as the Water Authority could seek an entire exemption from SD LAFCO's jurisdiction, not the very limited exemption as to Parts 4 or 5 of the CKH Act which is present in the law today. Thus, when the 1976 Application was filed, the Water Authority was allowed to remove itself entirely from SD LAFCO review, but that is no longer the case under current law. This makes the 1976 Application (and subsequent determination) of no effect in the current proceedings, because the law has substantively changed. That is one reason why the Water Authority submits this new application under the applicable law that exists today, the CKH Act. Additionally, under the current law, an application or request for determination that an agency is not a district must now be made on an application-by-application basis (see Gov. Code Sections 56127 and 56128). Therefore, the Water Authority's application only covers the Proposal application (and, via a separate application by the Water Authority, the sister proposal made by the Fallbrook Public Utilities District).

# Vote of the Electorate

We note that as part of the attached Resolution, the Water Authority Board requested that if for some reason the SD LAFCO were contemplating any approval of the Proposal, it should require a majority vote of the electorate in the Water Authority's service area so that <u>all</u> affected ratepayers may have a say in any detachment, because a detachment may adversely affect all area ratepayers, and not just those in Fallbrook and Rainbow. While we realize this will be a material issue to be addressed in detailed briefing by all interested parties later, we wanted to call it to SD LAFCO's attention as it is part of the Water Authority Board's Resolution. This request is made without any prejudice to our member agencies making their positions known as well, or the Water Authority submitting further matters to SD LAFCO when the process continues.

Finally, we note - as shown on the below cc list - that Kristina Lawson is now our main contact person with our outside counsel at Hanson Bridgett, so please reflect this in your records. Her address information is as follows:

Kristina Lawson, Esq. Hanson Bridgett 425 Market Street, 26<sup>th</sup> Floor San Francisco, CA 94105 <u>KLawson@hansonbridgett.com</u> (925) 746-8474
Mr. Keene Simonds April 2, 2020 Page 4 of 4

The Water Authority looks forward to SD LAFCO's approval of our request/application after the COVID-19 health emergency concludes. Given the Water Authority's affected resources during this emergency period, the Water Authority reserves all rights to amend or supplement this application. Please let me know if the SD LAFCO requires any further information or wishes to discuss this matter with the Water Authority. Thank you.

Very truly yours,

Márk J. Hattam General Counsel

Attachments: SDCWA Resolution and Board Memo

Cc: (all via e-mail):

Holly Whatley, Commission Counsel Aleks Giragosian, Deputy Commission Counsel Robert Barry, Chief Policy Analyst Sandra L. Kerl, General Manager, San Diego County Water Authority Kristina Lawson, Outside Counsel, San Diego County Water Authority Gary Thompson, Executive Officer, Riverside LAFCO Jack Bebee, General Manager, Fallbrook PUD Paula C. P. de Sousa, Counsel, Fallbrook PUD Paul Jones, General Manager, Eastern MWD Nick Kanetis, Deputy General Manager, Eastern MWD Tom Kennedy, General Manager, Rainbow MWD Alfred Smith, Counsel, Rainbow MWD Water Authority Board of Directors

## RESOLUTION NO. 2019-19

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN DIEGO COUNTY WATER AUTHORITY AUTHORIZING THE GENERAL MANAGER AND GENERAL COUNSEL TO REQUEST A DETERMINATION BY THE SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION THAT THE WATER AUTHORITY IS NOT A "DISTRICT" OR "SPECIAL DISTRICT" FOR THE PURPOSES OF PART 4 OF THE CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT AND TO REQUEST A VOTE OF THE WATER AUTHORITY'S ELECTORATE AS TO ANY DETACHMENT.

WHEREAS, the Cortese-Knox-Hertzberg Local Government Reorganization Act (Cal. Gov. Code section 56000 et seq.) ("CKH Act") at Government Code Section 56036.6 provides that a county water authority may apply to a Local Agency Formation Commission ("LAFCO") for a determination that the county water authority is not a "district" or "special district" for the purposes of Part 4 (or Part 5) of the CKH Act pursuant to Government Code Sections 56036.6, 56127, and 56128;

WHEREAS, the San Diego County Water Authority ("Water Authority") is a county water authority as described in Government Code Section 56036.6;

WHEREAS, the Water Authority anticipates that one or more applications for a change in organization that will affect, among others, the Water Authority and its member agencies will be filed with San Diego County LAFCO on behalf of Rainbow Municipal Water District ("Rainbow") and/or Fallbrook Public Utility District ("Fallbrook");

WHEREAS, the Water Authority's principal act, the County Water Authority Act, provides procedures for a change in organization for county water authorities, as does the CKH Act;

WHEREAS, Government Code Section 53036.6 provides that if, upon application by a county water authority, a LAFCO determines that a county water authority is not a "district" or "special district," then any authority proceedings pursuant to Part 4 of the CKH Act for a change of organization to the Water Authority (which proceedings follow the LAFCO's commission proceedings) will be conducted pursuant to the County Water Authority Act;

WHEREAS, Part 4 of the CKH Act provides for a protest vote for any change of organization approved by the LAFCO, which results in a default approval of the LAFCO's decision unless 25% of the registered voters in the designated territory protest the change of organization by signed mail-in vote, but the County Water Authority Act provides instead for a majority vote of the voters in the detaching agency service area to confirm the detachment/exclusion of that member agency from the Water Authority by majority approval at a general or special election;

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WHEREAS, voters and ratepayers in service areas of member agencies of the Water Authority other than Rainbow and Fallbrook may be affected by a detachment of one or both of those agencies, and San Diego LAFCO may want to allow such larger electorate a chance to be heard on detachment;

WHEREAS, if a detachment application is not denied by San Diego LAFCO, then each applicable electorate should be afforded the opportunity to vote at a general or special election based on a full understanding of the potential impacts that would result from detachment and knowing all conditions that would be placed on the ratepayers of a detaching agency by LAFCO as a result of such a detachment;

WHEREAS, the CKH Act requires that if a proposal for a change in organization is initiated by other than the Water Authority, then the Water Authority may request the determination that it be deemed to be not a "district" or "special district" for purposes of Part 4 and/or 5 of the CKH Act as described in the first recital above within 10 days of notification by LAFCO of the initiation of the proposal; and

WHEREAS, the Water Authority is not engaged in: (a) the distribution and sale for any purpose, other than for the purpose of resale, of water or of gas, or electricity for light, heat, or power; (b) furnishing sanitary sewer service or garbage and refuse collection service to the ultimate users thereof; (c) providing fire or police protection; or (d) the acquisition, maintenance, lighting or operation of streets and highways, street and highway improvements or park and recreation facilities, except as an incident to the exercise of other lawful power of the Water Authority.

NOW, THEREFORE, the Board of Directors of the San Diego County Water Authority resolves the following:

1. In any LAFCO proceeding in which a change in organization is proposed that would detach or exclude Rainbow and/or Fallbrook from the Water Authority, the Water Authority shall request that if San Diego LAFCO does not deny the detachment application(s), that: (a) San Diego LAFCO exempt the proceeding from Part 4 of the LAFCO Act and, instead, proceed under the Water Authority's principal act, the County Water Authority Act, for the purpose of the Authority Proceedings phase; and (b) in addition to any other appropriate conditions or Authority Proceeding requirements, San Diego LAFCO also require detachment approval by a majority of the voters within the Water Authority's entire service area. The General Manager and the General Counsel, or their designees, are hereby authorized to request the foregoing as to the Rainbow and/or Fallbrook proceedings only, and to submit all applications and other necessary papers.

Resolution No. 2019-19 Page 3 of 3

PASSED, APPROVED, and ADOPTED this 21st day of November 2019 by the following vote:

- AYES: Unless noted below all Directors voted aye.
- NOES: Bebee, Cate, Kennedy, and Steiner
- **ABSTAIN:** None
- ABSENT: Ayala, Barnum, Boyle, Fong-Sakai, Hall, Mosca, Murtland, Scalzitti (P), Simpson, and Watkins (P).

Jim Madaffer, Chair

ATTEST:

Christy Guerin Secretary

I, Melinda Nelson, Clerk of the Board of the San Diego County Water Authority, certify that the vote shown above is correct and this Resolution No. 2019-19 was duly adopted at the meeting of the Board of Directors on the date stated above.

Melinda Nelson, Clerk of the Board



November 13, 2019

## **Attention: Board of Directors**

## **Resolution Regarding LAFCO Part 4 Exemption Request. (Action)**

## Staff recommendation

Adopt Resolution 2019-\_\_\_ (Attachment 1) authorizing General Manager and/or General Counsel to Apply to LAFCO to:

- Exempt a Rainbow and/or Fallbrook detachment/annexation proceeding from Part 4 of the Cortese-Knox-Hertzberg Act, and instead have any "Authority Proceedings" conducted under the County Water Authority Act; and
- In addition to any other LAFCO requirements, request that LAFCO condition approval of any detachment on a majority vote of the entire Water Authority electorate.

#### Alternative

Do not adopt the Resolution.

#### **Fiscal Impact**

There is no identifiable fiscal impact from this action, which pertains to a procedural issue at San Diego Local Agency Formation Commission ("LAFCO").

#### **Executive Summary**

- Rainbow Municipal Water District ("Rainbow") and/or Fallbrook Public Utility District ("Fallbrook") may soon file applications with the San Diego Local Agency Formation Commission ("LAFCO") to detach from the Water Authority and annex into Eastern Municipal Water District ("Eastern") in Riverside County (together the detachment and annexation are the "Reorganization.")
- This Reorganization, under which member agencies of one regional public entity would annex into a different county's regional public entity, appears to have no precedent in San Diego County.
- The LAFCO proceedings will be conducted in phases, and if the LAFCO approves the Reorganization, it will still be subject to a local protest vote, called "Authority Proceedings."
- Under LAFCO law, the Authority Proceedings can require a <u>protest</u> vote; however, the Water Authority is entitled to seek the LAFCO's approval to instead conduct the Authority Proceedings as a <u>majority-vote election</u> in at least the Rainbow and Fallbrook service areas.
- LAFCO may also condition its approval of a Reorganization on certain terms and conditions, including requiring an Authority Proceeding vote to be conducted only among voters in the detaching areas, or also among the voters in the entire Water Authority service area. The latter approach would allow for voters region-wide to ratify a potential LAFCO approval of the Reorganization, giving those ratepayers a voice in the future economic and other impacts that would result from detachment from the Water Authority.

## Background

Beginning in at least Fall of 2018, member agencies Fallbrook and Rainbow initiated plans to seek to detach from the Water Authority and annex into Eastern Municipal Water District, located in Riverside County. Fallbrook and Rainbow began discussions with Eastern as early as fall of 2018, and then began discussions with San Diego and Riverside LAFCOs by January of 2019.

In May of 2019, the Acting General Manager of the Water Authority was informed by the General Manager of Rainbow that both Rainbow and Fallbrook were planning to seek to detach from the Water Authority. A general proposal has now been publicly discussed by Fallbrook and Rainbow, but the specifics of the infrastructure changes and financial approach have not been made clear.

Rainbow and Fallbrook have stated at their respective board meetings that applications for detachment are being drafted and may be filed as early as December 2019.

## Water Authority's Involvement to Date

<u>Applicable LAFCO</u>. Initially, Rainbow and Fallbrook would have had the LAFCO matters decided at two different LAFCOs – Riverside County and San Diego County. In an effort to have a consolidated set of proceedings, improve coordination and efficiency, and maintain local control of Board of Directors November 13, 2019 Page 3 of 5

decisions in San Diego County, the Water Authority requested that the San Diego LAFCO take exclusive jurisdiction over the matters. In October 2019, the two LAFCOs agreed to an MOU under which exclusive jurisdiction is vested in San Diego LAFCO.

<u>Fact Finding</u>. The Water Authority made Public Records Act requests in order to understand the scope of the plans and the history of discussions. Additionally, meetings between staff were conducted in July, and were followed by a general proposal from Rainbow and Fallbrook in August, which again provided little detail or analysis of impacts. Further meetings were conducted in September and early October, but to date the Water Authority has not been presented by Rainbow or Fallbrook with any detailed proposals, or with any substantive analyses of what the projected impacts to water supply reliability, rates, or infrastructure would be to the Water Authority and to each of its member agencies. The Water Authority has asked Rainbow and Fallbrook for these details, including in a recent October 14, 2019, letter sent by special counsel, and previously provided to each of the Board members. A copy is attached as Attachment 2.

## **Anticipated Procedure**

LAFCO Nomenclature. A detachment from the Water Authority will require multiple acts and approvals by San Diego LAFCO. Procedurally, it will require changes to the "sphere of influence" for the Water Authority, Rainbow, Fallbrook, and Eastern, as well as the detachment of Rainbow and Fallbrook from the Water Authority, and the annexation of Rainbow and Fallbrook to Eastern. All of these will be handled in one consolidated proceeding, but are governed under separate parts of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Government Code sections 56000 *et seq.* (also known as the "CKH Act" or the "LAFCO Act.") Annexations and detachments are also collectively known as "boundary changes" or "reorganizations."

<u>Consultations</u>. Under local LAFCO policy, the applicants must consult with affected local agencies prior to submitting their applications, in order to identify and attempt to resolve any issues raised by the proposed reorganizations. Because it is possible that the proposed Reorganization would have significant financial and potential environmental impacts on the Water Authority all of its member agencies, as well as other agencies such as fire districts, all of those parties are affected local agencies with which the applicants should consult. The consultations, to be meaningful, must be based on a proposal that specifies the changes that would occur under a Reorganization. Special Counsel sent a letter to this effect to Rainbow and Fallbrook on October 14, 2019 (Attachment 2). We will continue to work with San Diego LAFCO to ensure that meaningful consultations are conducted prior to San Diego LAFCO's accepting the applications.

<u>Application and Commission Proceedings</u>. Rainbow and Fallbrook would, if they go forward, subsequently submit applications (or perhaps a consolidated single application) to San Diego LAFCO and pay associated fees.

Once LAFCO determines that the application is complete, it will notify all affected agencies, including the Water Authority, and solicit public engagement and comments. The Water Authority, its member agencies and all other affected parties will have an opportunity to participate in this process.

Board of Directors November 13, 2019 Page 4 of 5

LAFCO will then undertake an independent analysis of the proposal. This may take many months.

Upon the conclusion of that analysis, LAFCO staff will prepare a report and recommendation, provide notice, and hold a public hearing. The Water Authority and its member agencies and all other affected local parties will have an opportunity to review the analysis and report, and participate in the public hearing.

The Commission will then vote on the application. These initial procedures are referred to as the "Commission Proceedings." (See Cal. Gov. Code § 56650 *et seq.*) If the application is denied, the process ends. If the application is approved (with any associated conditions), then "Authority Proceedings" may follow.

It is important to note that LAFCO may place a number of conditions on any approval. Cal. Gov. Code Section 56886 gives LAFCO a considerable amount of leeway in fashioning terms and conditions of a detachment, including imposing requirements from the principal act, here the CWA Act.

<u>Authority Proceedings</u>. Following the approval of an application by LAFCO, the LAFCO Act provides for a second process, known as the "Authority Proceedings."

## LAFCO Act Authority Proceedings:

The default approach to Authority Proceedings is a "protest" proceeding under which the affected territory's voters may mail in a protest to oppose the LAFCO's approval/decision. If fewer than 25% of ratepayers in the affected territory protest, then the application is deemed approved. If 50%+1 of the registered voters protest the proposal, then it is deemed denied. If 25-50% of the registered voters protest the proposal, then the proposal goes to the voters in a general or special election where it is subject to a majority vote. LAFCO may provide for the voter pool to be just Rainbow and Fallbrook, or the entirety of the four affected entities (Fallbrook, Rainbow, Water Authority and Eastern), or some subset of those. Historically it has proven procedurally cumbersome for a large electorate to affirmatively lodge 25%+ protests, especially because protest proceedings are unfamiliar to most voters. If that standard is not met, then under "Authority Proceedings" there might not be a vote of the electorate at all.

## CWA Act Authority Proceedings:

In the alternative, the Water Authority may apply to LAFCO to opt out of the protest procedure in the LAFCO Act, and instead conduct the Authority Proceedings pursuant to its principal act, the County Water Authority Act ("**CWA Act**"). This would ensure the voters have an opportunity to vote on the proposal at a standard regular or special election.

In order to seek to proceed under the CWA Act instead of Part 4 of the LAFCO Act, the Water Authority would need to apply to LAFCO for exemption from Part 4 within 10 days after notification that the initial application is complete. That option is allowed when an agency is not engaged in: (a) the distribution and sale for any purpose, other than for the purpose of resale, of water or of gas, or electricity for light, heat, or power; (b) furnishing sanitary sewer service or Board of Directors November 13, 2019 Page 5 of 5

garbage and refuse collection service to the ultimate users thereof; (c) providing fire or police protection; or (d) the acquisition, maintenance, lighting or operation of streets and highways, street and highway improvements or park and recreation facilities, except as an incident to the exercise of other lawful power of the Water Authority. The Water Authority, as a water wholesaler, satisfies the statutory requirement.

#### Terms and Conditions Imposed by LAFCO:

In addition to a vote in the Rainbow and Fallbrook service areas, San Diego LAFCO Commissioner Dianne Jacob suggested at the October 7, 2019, LAFCO meeting that voters within the Water Authority's entire 24-member agency service area perhaps should have an opportunity to evaluate and vote upon a detachment, as they may be affected by such a change in organization. It is within the discretion of the LAFCO to provide terms and conditions for reorganization. Consistent with Commissioner Jacob's suggestion, and assuming that LAFCO's analysis of the applications demonstrates that there will be financial impacts on ratepayers, in order to enfranchise all of the Water Authority's affected ratepayers on this issue it is therefore recommended that the Water Authority specifically request that such a vote of the larger affected electorate be considered as a condition of detachment (if detachment were to be approved; of course, detachment may also be denied by San Diego LAFCO). The below staff recommendation would ensure that all affected ratepayers are entitled to vote (including those in Rainbow and Fallbrook as specified in the CWA Act).

#### **Request for Board Action**

The Board is therefore requested to adopt the Attachment 1 Resolution that would authorize the General Manager and General Counsel, or their designees, to do the following upon notification of a detachment application filed with San Diego LAFCO by Rainbow or Fallbrook:

- 1. Request that San Diego LAFCO exempt the proceeding from Part 4 of the LAFCO Act and instead proceed under the Water Authority's principal act, the County Water Authority Act, for the purpose of voter approval of any LAFCO-approved detachment in the Authority Proceedings phase; and
- 2. Request that if San Diego LAFCO does not deny the detachment application(s), that in addition to any other appropriate conditions or Authority Proceeding requirements the LAFCO may specify San Diego LAFCO also require detachment approval by the voters within the Water Authority's entire service area.

Prepared by: Claire Hervey Collins, Special Counsel Approved by: Sandra L. Kerl, Acting General Manager Mark J. Hattam, General Counsel

Attachments: Attachment 1 - Resolution 2019-

Attachment 2 - October 14, 2019 Letter

Attachment 1

#### RESOLUTION NO. 2019-

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN DIEGO COUNTY WATER AUTHORITY AUTHORIZING THE GENERAL MANAGER AND GENERAL COUNSEL TO REQUEST A DETERMINATION BY THE SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION THAT THE WATER AUTHORITY IS NOT A "DISTRICT" OR "SPECIAL DISTRICT" FOR THE PURPOSES OF PART 4 OF THE CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT AND TO REQUEST A VOTE OF THE WATER AUTHORITY'S ELECTORATE AS TO ANY DETACHMENT.

WHEREAS, the Cortese-Knox-Hertzberg Local Government Reorganization Act (Cal. Gov. Code section 56000 et seq.) ("CKH Act") at Government Code Section 56036.6 provides that a county water authority may apply to a Local Agency Formation Commission ("LAFCO") for a determination that the county water authority is not a "district" or "special district" for the purposes of Part 4 (or Part 5) of the CKH Act pursuant to Government Code Sections 56036.6, 56127, and 56128;

WHEREAS, the San Diego County Water Authority ("Water Authority") is a county water authority as described in Government Code Section 56036.6;

WHEREAS, the Water Authority anticipates that one or more applications for a change in organization that will affect, among others, the Water Authority and its member agencies will be filed with San Diego County LAFCO on behalf of Rainbow Municipal Water District ("Rainbow") and/or Fallbrook Public Utility District ("Fallbrook");

WHEREAS, the Water Authority's principal act, the County Water Authority Act, provides procedures for a change in organization for county water authorities, as does the CKH Act;

WHEREAS, Government Code Section 53036.6 provides that if, upon application by a county water authority, a LAFCO determines that a county water authority is not a "district" or "special district," then any authority proceedings pursuant to Part 4 of the CKH Act for a change of organization to the Water Authority (which proceedings follow the LAFCO's commission proceedings) will be conducted pursuant to the County Water Authority Act;

WHEREAS, Part 4 of the CKH Act provides for a protest vote for any change of organization approved by the LAFCO, which results in a default approval of the LAFCO's decision unless 25% of the registered voters in the designated territory protest the change of organization by signed mail-in vote, but the County Water Authority Act provides instead for a majority vote of the voters in the detaching agency service area to confirm the detachment/exclusion of that member agency from the Water Authority by majority approval at a general or special election;

Resolution No. 2019-\_\_\_\_ Page 2 of 3

WHEREAS, voters and ratepayers in service areas of member agencies of the Water Authority other than Rainbow and Fallbrook may be affected by a detachment of one or both of those agencies, and San Diego LAFCO may want to allow such larger electorate a chance to be heard on detachment;

WHEREAS, if a detachment application is not denied by San Diego LAFCO, then each applicable electorate should be afforded the opportunity to vote at a general or special election based on a full understanding of the potential impacts that would result from detachment and knowing all conditions that would be placed on the ratepayers of a detaching agency by LAFCO as a result of such a detachment;

WHEREAS, the CKH Act requires that if a proposal for a change in organization is initiated by other than the Water Authority, then the Water Authority may request the determination that it be deemed to be not a "district" or "special district" for purposes of Part 4 and/or 5 of the CKH Act as described in the first recital above within 10 days of notification by LAFCO of the initiation of the proposal; and

WHEREAS, the Water Authority is not engaged in: (a) the distribution and sale for any purpose, other than for the purpose of resale, of water or of gas, or electricity for light, heat, or power; (b) furnishing sanitary sewer service or garbage and refuse collection service to the ultimate users thereof; (c) providing fire or police protection; or (d) the acquisition, maintenance, lighting or operation of streets and highways, street and highway improvements or park and recreation facilities, except as an incident to the exercise of other lawful power of the Water Authority.

NOW, THEREFORE, the Board of Directors of the San Diego County Water Authority resolves the following:

1. In any LAFCO proceeding in which a change in organization is proposed that would detach or exclude Rainbow and/or Fallbrook from the Water Authority, the Water Authority shall request that if San Diego LAFCO does not deny the detachment application(s), that: (a) San Diego LAFCO exempt the proceeding from Part 4 of the LAFCO Act and, instead, proceed under the Water Authority's principal act, the County Water Authority Act, for the purpose of the Authority Proceedings phase; and (b) in addition to any other appropriate conditions or Authority Proceeding requirements, San Diego LAFCO also require detachment approval by a majority of the voters within the Water Authority's entire service area. The General Manager and the General Counsel, or their designees, are hereby authorized to request the foregoing as to the Rainbow and/or Fallbrook proceedings only, and to submit all applications and other necessary papers.

Resolution No. 2019-\_\_\_\_ Page 3 of 3

PASSED, APPROVED, and ADOPTED this 21st day of November 2019 by the following vote:

AYES: Unless noted below all Directors voted aye.

NOES:

ABSTAIN:

ABSENT:

Jim Madaffer, Chair

ATTEST:

Christy Guerin, Secretary

I, Melinda Nelson, Clerk of the Board of the San Diego County Water Authority, certify that the vote shown above is correct and this Resolution No. 2019- \_\_\_\_\_ was duly adopted at the meeting of the Board of Directors on the date stated above.

Melinda Nelson, Clerk of the Board

Attachment 2

Claire Hervey Collins 633 West 5<sup>th</sup> Street, Suite 4000 Los Angeles, California 90071 Claire.Collins@lewisbrisbois.com Direct: 213.680.5039



October 14, 2019

File No. 44112.2

Mr. Jack Bebee General Manager Fallbrook Public Utility District 900 East Mission Road Fallbrook, CA 92028 jackb@fpud.com

Re: LAFCO Process

Dear Mr. Bebee:

As special LAFCO counsel to the San Diego County Water Authority ("Water Authority"), Chair Madaffer has asked me to respond to your October 10 letter to him on behalf of the agency.

First, as has been stated many times, the Water Authority must respect the interests of all water ratepayers served by our 24 member agencies in San Diego County. We plan to do that and stand ready to support a fully transparent LAFCO process.

Second, I am addressing this letter to you as the author of the October 10 letter, and I am copying your General Counsel. The Water Authority urges you to consult with your General Counsel or other qualified LAFCO counsel as soon as possible in order to ensure that Fallbrook Public Utility District ("Fallbrook") is following the LAFCO process, and to ensure that Fallbrook understands the Water Authority's responsibility in that process. I am copying Mr. Kennedy and his agency's General Counsel for the same reason. I believe that it is imperative that Fallbrook and Rainbow Municipal Water District ("Rainbow") take certain necessary consultation actions in light of your stated imminent plans to file a LAFCO detachment proposal.

The pace of the LAFCO process has been designed by statute and local policy to be a thorough, collaborative, and deliberative process. The responsibility for preparing a comprehensive proposal and engaging in meaningful consultations with affected agencies is a significant and serious one. Your apparent frustration at the response to date by the Water Authority is a reflection of the lack of detail and analysis in the materials provided by Fallbrook and Rainbow to the Water Authority, and a reflection of the lack of meaningful dialogue about the impacts of potential detachment. It is not the result of any actions taken or not taken by Chair Madaffer or the Water Authority, which is eager to better understand Fallbrook and Rainbow's detailed plan so that it can undertake a rigorous analysis of the related impacts. To be clear, however, the Water Authority has no duty to formulate a proposal for your agencies, or to formulate an "offer" on behalf

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of its other member agencies. It does have a duty of good faith to review and consult with you on a genuine proposal, but due to the lack of specifics from your agencies as to exactly what you plan, it is unable to do so at this time.

Against this backdrop, and in the interest of fairness and to promote mutual understanding, I will take this opportunity to comment on some of the points raised in your October 10 letter.

San Diego LAFCO Legislative Policy No. L-107:

San Diego LAFCO's legislative policy L-107 establishes a consultation requirement among affected agencies *prior to the filing of a detachment proposal*, stating in part:

It is the policy of the San Diego Local Agency Formation Commission that:

1. Prior to submission of a proposal requesting LAFCO consideration of a change of organization or reorganization, the proposal applicant and representatives from affected public agencies, interested parties, and/or organizations, shall meet at the earliest possible stage for the purpose of identifying and attempting to resolve any issues associated with the proposed jurisdictional change(s). The Executive Officer may waive the consultation procedure outlined in this provision when it can be determined with certainty that there will be no possibility that the proposal in question will result in identified and unresolved jurisdictional issues.

2. The consultation process described in provision no. 1 should identify any jurisdictional issues or concerns related to: a. Differing development standards; b. Existing and/or planned land uses and zoning, including densities, community character, and appropriate jurisdictional transition areas; c. Existing and/or planned provision of governmental services, including any potential impacts to service levels or financial ability to sustain service levels; and, d. Any other local community or governmental concerns.

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6. Affected local agencies shall be encouraged to explore additional methods to improve future inter- and intra-departmental and jurisdictional communications for the purpose of discussing and commenting on proposed or pending jurisdictional changes at the earliest possible stage.

#### Consultation Process:

With due respect, the Water Authority does not agree that all necessary steps have been taken to satisfy L-107 requirements.

First, although your agencies have been discussing a possible detachment among yourselves for a full year now, very few concrete details have been revealed to the Water Authority

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or to the public.<sup>1</sup> The very broad "framework" you have provided does not include the kind of substantive detail necessary to evaluate such a significant service change, particularly in light of the more than 50 years of water service to Fallbrook and Rainbow by the Water Authority. You are required to provide an analysis outlining the potential effects of detachment on the Water Authority and all of its member agencies, including Fallbrook and Rainbow customers.<sup>2</sup> We renew our request for a detailed proposal consistent with LAFCO requirements.<sup>3</sup>

#### Detailed Proposal Needed:

In order to have a productive consultation process, all affected parties (as defined in L-107) need to be provided with the specific details of your detachment proposal including financial and environmental impacts, impacts on water supply reliability, and all other impacts to the region as a whole that would result from a detachment.<sup>4</sup>

Because Fallbrook and Rainbow are the agencies proposing detachment, it is your responsibility, not the Water Authority's responsibility, to conduct the relevant analyses and make a detailed proposal addressing all relevant factors. For example:

- You are aware that a number of Water Authority member agencies have expressed concerns about Fallbrook and Rainbow's share of Water Authority financial obligations, incurred to develop the reliable, firm water supplies now being delivered to Fallbrook and Rainbow and all Water Authority member agencies. You should be prepared to discuss this topic when you meet with the other member agencies. Your proposal should indicate how you plan to address this concern, as well as how your proposal would impact customer rates (including those of Fallbrook and Rainbow), if at all.
- We have not been given any details as to environmental impacts, but note comments in the PRA documents that significant new piping infrastructure may be needed in Rainbow and

<sup>3</sup> This is why your requests for a Water Authority open session agenda item about detachment, before submittal of a detailed written proposal, were premature. This is not a "political" decision, but must be one based on what is in the best interests of the voters and ratepayers in San Diego County.

<sup>4</sup> This is not intended to be an exhaustive list of issues or substitute for legal advice by your own attorneys on LAFCO requirements.

<sup>&</sup>lt;sup>1</sup> The Water Authority only became aware of this timeline from documents produced by Fallbrook and Rainbow in response to its Public Records Act (PRA) request. While your agencies began at an early stage to consult with the Eastern Municipal Water District, you did not share your intentions with the Water Authority until just this past May.

<sup>&</sup>lt;sup>2</sup> We attach Water Authority Acting General Manager Sandy Kerl's e-mail to you dated October 10, which was not attached to your letter. In that e-mail, Ms. Kerl noted that Fallbrook and Rainbow had not provided the specifics of any proposal to the Water Authority. The document you submitted on August 21, 2019, was really an advocacy piece arguing why detachment might make sense for your agencies. This is not the kind of substantive proposal or analysis of impacts required by LAFCO.

perhaps Fallbrook. Additionally, a detachment from the Water Authority (which uses very little water from the environmentally sensitive Bay Delta region, and will use even less over time) would, under your plan, be replaced by increased reliance on Delta water from MWD. This shift should be analyzed, particularly in light of Water Code section 85021. Review of these and other potential environmental impacts should be completed before any applications are filed with LAFCO, with all affected parties described under LAFCO Policy L-107 being provided a reasonable time and opportunity to comment.

These are only a few examples of the kinds of impacts that should be included in a detailed proposal to be presented to and discussed with affected parties during the consultation process.

#### Next Steps:

The Water Authority is fully committed to working through the LAFCO process—but the process must start with your agencies' good faith efforts to present a proposal grounded in facts and substantive analysis, including a reasonable range of alternative outcomes. You must provide sufficient information to allow all parties, and ultimately all voters and ratepayers, to make informed decisions about the proposed detachment.

Once you have prepared the terms of your proposal, Fallbrook and Rainbow can begin the process of meeting with all affected agencies and parties to identify and attempt to resolve issues, as required under LAFCO policy.<sup>5</sup> This will provide an opportunity to identify areas of agreement, disagreement, and further areas of inquiry necessary to present a meaningful application to LAFCO.

I would be happy to discuss next steps with your counsel in order to avoid further frustration and wasted effort on the part of all parties.

Very truly yours,

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Claire Hervey Collins of LEWIS BRISBOIS BISGAARD & SMITH LLP

CHC:JLB

Attachment

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<sup>&</sup>lt;sup>5</sup> Chair Madaffer's August 21 letter to Fallbrook and Rainbow did not say anything to the contrary; in fact, he reiterated then that he asked you to *"please provide a specific proposal."* Chair Madaffer was not addressing your LAFCO obligations in his letter—he was only asking that you cease "public relations" meetings with Water Authority directors telling them that the Water Authority was refusing to meet with you.

cc: Water Authority Board of Directors Fallbrook Board of Directors Rainbow Board of Directors Mark Hattam, Water Authority General Counsel Sandy Kerl, Water Authority Acting General Manager Water Authority member agency General Managers Paula de Sousa Mills, General Counsel for Fallbrook, Best Best & Krieger Tom Kennedy, Rainbow General Manager Lloyd W. Pellman, Counsel for Rainbow, Nossaman

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From: Kerl, Sandy
Sent: Thursday, October 10, 2019 12:52 PM
To: Bebee, Jack <<u>jackb@fpud.com</u>>; Kennedy, Tom <<u>tkennedy@rainbowmwd.com</u>>
Cc: Madaffer, Jim <<u>JMadaffer@sdcwa.org</u>>; Croucher, Gary <<u>garydcroucher@gmail.com</u>>; Guerin,
Christy <<u>Redwhtblu56@yahoo.com</u>>
Subject: Follow-Up on Meeting of October 9, 2019

Dear Jack and Tom:

This e-mail follows our meeting yesterday, as promised. The Water Authority appreciates the opportunity for continuing dialogue with you and all of our member agencies on this subject.

While I regret the frustration you expressed at our meeting yesterday, I want to be clear that from our perspective, the process going forward has now been established by the LAFCO board action taken on Monday, October 7. We believe LAFCO policy requires that your agencies, as the potential LAFCO applicants, meet with **all affected parties** prior to your filing with LAFCO, in an attempt to reach agreement on the issues presented.

The LAFCO policy (L-107) is expressly referenced in the letter that was submitted to LAFCO by the Otay Water District (copy attached). The policy clearly states a requirement that applicants meet with all affected agencies to walk through their proposal to try and reach a resolution. While we appreciate you meeting with the Water Authority, that alone does not satisfy LAFCO's policy.

I also derived from our meeting yesterday that you believe it is the Water Authority's responsibility to make some sort of "offer" to you. We would not be in a position to do that, even if we had the specific details of your proposal (we do not), because the potential impacts are not only on the Water Authority but also on its member agencies, their ratepayers and potentially other third parties.

Finally, you said that you wanted to know our agency's legal interpretation of the applicable law as to why your agencies should pay anything upon detachment. This is an issue that will be addressed in the course of LAFCO proceedings.

As I indicated to you, the Water Authority must continue to represent the interests of all of our member agencies. We plan to do that and stand ready to support the LAFCO process.

Best regards,

Sandy

Sandra L. Kerl Acting General Manager

(858) 522-6783 skerl@sdcwa.org



Our Region's Trusted Water Leader San Diego County Water Authority

# Municipal Service Review FALLBROOK REGION

**FINAL** 

REPORT SUMMARY | February 2022

# General Themes and Conclusions

The Fallbrook region serves as the social and economic epicenter of unincorporated "North County." It comprises four internally distinct subregions that collectively draw on municipal services provided by the County of San Diego and the four special districts that are evaluated as part of this report: Fallbrook PUD; North County FPD; Rainbow MWD; and CSA No. 81. The Town of Fallbrook and its "village" setting headlines the four subregions with its cultural, retail, medical offices, schools, and entertainment venues that residents in the others - Bonsall, De Luz, and Rainbow regularly patron. The region overall remains mostly rural in character outside the Town core and continues to function as a community separator between the more urban uses to the north (Temecula) and south (Escondido) along the Interstate 15 corridor. Population growth also remains moderate at least in comparison to countywide averages - but has cumulatively added up with an overall resident estimate

CENCY FORMATION COMMISSION

SAN DIEGO COUNT

of 56,482 at the end of the five-year report period. This estimate makes the region one of the largest unincorporated areas with a population base that exceeds 7 of the 18 cities in San Diego County.

While conditions in the Fallbrook region appear to be holding course, there are indications that foundational changes are underway. Most notably, the region's historical immersion in agriculture with avocados being the primary cash crop over the last 60 plus years appears to be waning and could spell fundamental changes in land uses and municipal service needs going forward. Measuring this transition is marked by the loss of nearly one-fifth – or (18.7%) – of the total number of avocado acreages in the region during the report period. Some of this acreage has already been converted into housing with nearly 600 new units added in the region during the reporting period; an amount equal to an overall 2% increase in the housing stock and above historical averages.



#### General Themes and Conclusions

More of this acreage appears to have been left fallow and suggests – among other items – the cost of growing avocados in the "Avocado Capital of the World" for many local farmers has become unsustainable. Consequently, and in the absence of a turnaround and/or replacement crop emerging, the region will increasingly become an intersection point where the demand for housing in greater San Diego County meets the supply of available land.

A review of the Fallbrook region relative to San Diego LAFCO's growth management tasks and interests produces

nine central themes or conclusions. These conclusions collectively address the availability, need, and adequacy of municipal services in the region and range in substance from addressing governance dynamics to financial standing. The conclusions also address potential sphere of influence changes among the four affected local agencies. The conclusions are independently drawn and sourced to information collected and analyzed by the Commission between 2016 and 2020 with limited exceptions and detailed in the agency profiles.

Close to one-fifth of all avocado groves in the Fallbrook region have been lost during the report period. Consequently, and in the absence of a turnaround and/or replacement crop emerging, the region will increasingly become an intersection point where the demand for housing in greater San Diego County meets the supply of available land.

# No. 1 Introductory Municipal Service Review

This report represents the Commission's first comprehensive municipal service review prepared on the Fallbrook region and the four affected local agencies – Fallbrook PUD, North County FPD, Rainbow MWD, and CSA No. 81. The report consequently serves as a dual introduction. This is marked by introducing the affected agencies and their constituents in real-time to an otherwise unfamiliar and relatively detailed outside planning process. The introduction similarly introduces the Commission to the affected agencies and their service functions at depths previously unvisited with the underlying goal of establishing baseline information to track and measure going forward.

## No. 2 Slow and Steady Consolidation of Local Government

The Fallbrook region has slowly and steadily experienced a significant amount of consolidation in local government in recent history with the number of special districts having been reduced by one-half from eight to the current four: Fallbrook PUD; North County FPD; Rainbow MWD; and CSA No. 81. Opportunities for additional consolidation appear notionally plausible – and in some cases presumably probable – given overlapping and/or adjacent boundaries with common services powers. Nonetheless, community interest in the topic appears limited at this time and materially contributed to the Commission choosing to reject the last proposed consolidation in the region involving Fallbrook PUD's proposed takeover of Rainbow MWD in September 2015.

#### Seneral Themes and Conclusions

# No. 3 Avocados' Influence in the Region

The Fallbrook region remains mostly rural in character outside the Town of Fallbrook's core and continues to function as a community separator between the more urban uses to the north (Temecula) and south (Escondido) along the Interstate 15 corridor. This historical role is largely attributed to the region's successful immersion in agriculture with avocados being the primary cash crop since the introduction of reliable water supplies in the 1950s. The recent and significant decline in avocado production, highlighted by the loss of nearly one-fifth of planted acreage during the reporting period, suggests the cost of growing avocados in the "Avocado Capital of the World" is becoming unsustainable and fundamental changes in land use and municipal service needs may be on the horizon.

# No. 4 Growth is Happening

Irrespective of the staying power of avocados and agriculture overall, it is reasonable to assume some level of substantive growth and development will occur in the Fallbrook region and potentially within the timeframe of this report. This assumption ties to the critical demand for housing in San Diego County paired with the region's available land supply with more than two-fifths of private acreage remaining undeveloped with existing jurisdictional access to wholesale water supplies via the County Water Authority and Metropolitan Water District of Southern California. Ongoing declines in avocado production will expedite and intensify this otherwise expected trend.

# No. 5 Distinguishing Gray, Green, and Blue (Collar) Demographics

Demographic information for the Fallbrook region shows residents tend to be measurably older with higher household incomes relative to overall averages in San Diego County at the end of the report period. Somewhat relatedly, one out of every four adults in the region are collecting retirement payments, which is nearly double the ratio for all of San Diego County. Additionally, and separately, the combination of high incomes and comparatively low college degree holders suggests a relatively high percentage of the region's workforce involves professional blue collar (i.e. agriculture, construction, public safety, etc.). Solar panels facilitate well pumping in Fallbrook, California.

# No. 6 Adequate and Excess Municipal Service Capacities

Fallbrook PUD, North County FPD, and Rainbow MWD collectively serve as the municipal service hubs for the Fallbrook region and through the end of the report period have established adequate capacities to meet current demands relative to their core growth-supporting functions: potable water; wastewater; and fire protection. No substantive deficiencies have been identified and all core functions have excess capacities to accommodate the anticipated growth within the report timeframe without exceptions.

# No. 7 Stress-Testing is Underway

Three of the four affected agencies in the Fallbrook region – Fallbrook PUD, North County FPD, and Rainbow MWD – have experienced clear and measurable financial stresses during the report period. This includes all three agencies undergoing moderate to substantive declines in their liquidity, capital, and margin levels with the latter measurement magnified by two – North County FPD and Rainbow MWD – finishing with negative average total and operating margins over the corresponding 60 months. While all three agencies remain solvent based on their overall net positions, the recent trends are noteworthy and merits additional Commission attention going forward.



>> General Themes and Conclusions

# No. 8 The Unknown Case for Incorporating Fallbrook

There has been reoccurring interest in the Fallbrook region and more specifically within the Town of Fallbrook to incorporate and transition local governance from the County of San Diego Board of Supervisors to a newly established city council. Incorporation interest peaked in the form of a formal proposal filing by Fallbrook PUD in 1987, which was approved by the Commission but failed to receive majority voter approval. Community interest has persisted via continued informal inquiries and it is reasonable to assume formal efforts to revisit incorporation will reemerge within the Town given its size and local resources. Accordingly, and consistent with earlier policy direction, it would be beneficial for LAFCO to prepare an informational report to advise on current statutory thresholds and associated incorporation opportunities in San Diego County to include – but not limited to – Fallbrook.

# No. 9 Reorganizations are on the Mind of Locals

There are three separate reorganization proposals currently on file with the Commission that propose substantive jurisdictional changes within the Fallbrook region and – among other items – necessitate conforming sphere of influence actions. Two of the proposals involve separate requests by Fallbrook PUD and Rainbow MWD to change wholesale water suppliers and detach from the County Water Authority and annex to Eastern MWD. The third proposal involves Fallbrook PUD's request to activate its park and recreation, roads, and street lighting functions. As intended under statue, the Commission will draw on the information in this report in considering the individual merits of each proposal at separately noticed hearings.

The Fallbrook region comprises four distinct subregions – Bonsall, De Luz, Fallbrook, and Rainbow – and finished the report period with a total population estimate of nearly 57,000. This estimate makes the region one of the largest unincorporated communities in San Diego County.

# Recommendations

The following recommendations call for specific action either from San Diego LAFCO and/or one or more of the affected agencies in the Fallbrook region based on information generated as part of this report and outlined below in order of their placement in Section 5.0 (Written Determinations). Recommendations for Commission action are dependent on a subsequent directive from the membership and through the annually adopted work plan.

- San Diego LAFCO should coordinate with the County of San Diego and SANDAG to develop buildout estimates specific to each affected agency in the Fallbrook region and incorporate the information into a future municipal service review. This should include assessing potential impacts tied to the recent passage of Senate Bill 9 (Weiner) and the allowance for additional lot splitting to accommodate more housing throughout California.
- 2. The estimated loss of nearly (one-fifth) of avocado acreage in the Fallbrook region during the five-year report period is concerning and contrasts with San Diego LAFCO's adopted policies to promote and enhance agricultural resources. The Commission should explore this topic in more detail as part of its current twoyear planning grant with the State of California to independently assess agricultural trends in San Diego County.
- San Diego LAFCO should coordinate with the County of San Diego to identify permitted groundwater wells and septic systems within Fallbrook PUD and Rainbow MWD and incorporate the information into a future municipal service review.
- 4. San Diego LAFCO should address Fallbrook PUD's recycled water service activities as part of a future policy update to Commission Rule No. 4 with respect to formally identifying the function, class, and authorized location as necessitated under Government Code 56425(i).
- 5. San Diego LAFCO should develop performance measurements in consultation with North County FPD with respect to hazardous materials response and weed abatement (fuel reduction) and incorporate the analysis into future municipal service reviews.
- 6. Additional information is needed to determine the number of mutual water companies operating in the Fallbrook region. San Diego LAFCO should defer this analysis, accordingly, to a future informational report and in doing so meet its related obligation in statute.

- <image>
  - 7. San Diego LAFCO should revisit fire protection and emergency medical services and costs in the North County FPD as part of an update to the Commission's countywide fire service study.
  - 8. North County FPD should consolidate its two existing taxing authority zones into one and eliminate the antiquated and cumbersome distinction associated with maintaining a separate subzone for the Rainbow community.
  - 9. Opportunities for additional consolidations in the Fallbrook region appear notionally plausible and in some cases presumably probable. No information analyzed in this report, however, suggest the timing of any consolidation proposals are imminent or otherwise merit initiation by San Diego LAFCO at this time.

Downtown Fallbrook area on a sunny day.

#### >> Recommendations

- 10. All affected agencies in the Fallbrook region should enhance accountability to their constituents by permanently live-streaming and posting videos of board meetings online. These efforts grant constituents immediate access to the Board while remedying logistical obstacles (work, childcare, etc.) and further sunlights decision-making.
- The Commission should prepare a future informational report to advise on current statutory thresholds and associated incorporation opportunities in the Fallbrook region.
- 12. Fallbrook PUD has filed a reorganization with San Diego LAFCO to activate certain latent powers and headlined by parks and recreation, roads, and street lighting. Approval of the proposal may further illuminate the merits of reorganizing Fallbrook PUD into a community services district to provide a local governance model that can continue to evolve with the community needs and serve as the preferred transitional vehicle to a potential incorporation.
- 13. Fallbrook PUD, Rainbow MWD, and CSA No. 81 do not report providing municipal services beyond their jurisdictional boundaries. There also does not appear to be any pending needs or demands to establish services outside the affected agencies' boundaries. San Diego LAFCO should proceed with updating and affirming – with no changes – these agencies' spheres of influence upon completion of the municipal service review.
- 14. There appears to be merit in expanding North County FPD's sphere of influence into Riverside County to more accurately reflect the FPD's current and probable service area going forward given location and existing automatic aid arrangements. San Diego LAFCO should further explore this potential amendment – directly or as special study area – upon completion of the municipal service review.
- 15. Notwithstanding other recommendations, a boundary adjustment between San Diego and Riverside Counties appears geographically merited to expand the former further into the De Luz area to reflect existing accessibility and first@responder activities. San Diego LAFCO should coordinate with Riverside LAFCO in assessing the political merits of a boundary change and related interest therein by affected landowners and residents and proceed as appropriate.



# Municipal Service Review Addendum EASTERN MUNICIPAL WATER DISTRICT

DRAFT

**REPORT SUMMARY** | December 2022

# General Themes and Conclusions

Eastern MWD has been in considerable growth mode since its formation in 1950 and by the start of the 21st century emerged as one of the largest potable water providers (retail and wholesale) in all of Southern California. This emergence ties to Eastern MWD's direct accessibility to the Colorado River Aqueduct, paired with the local housing boom in southwest Riverside County that began in the 1980s. Eastern MWD's ability to accommodate additional water demands generated by the conversion of relatively cheap former ranching lands into large tract subdivisions contributed to its jurisdictional boundary becoming one of the fastest growing areas in California and marked by five incorporations between 1984 and 2008. Growth continues into the new century with Eastern MWD's estimated population increasing by nearly two-thirds since 2000 from 531,056 to 868,426; an equivalent of adding 44 new residents each day over 21 years.

Ongoing capital investments by Eastern MWD marks its ability to accommodate the continued growth in its jurisdictional boundary and headlined by the diversification of potable supplies to now include local groundwater – distilled and desalination. (Eastern MWD also has established a leading recycled water program to redirect a sizable portion of former potable uses.) During the addendum period, Eastern MWD has dedicated \$245.7 million on capital projects with 97% directly funded from developer fees and grants.6 The scope of these capital investments and their non-operating sources underlies the one-fifth increase in Eastern MWD's net position during the addendum period to \$1.828 billion and translates to a per capita value change of 13.7% from \$1,852 to \$2,105.

A review of Eastern MWD relative to San Diego LAFCO's two-fold task to inform a potential sphere of influence action and as an ongoing monitoring tool produces eight central themes or conclusions. These conclusions tie to topics analyzed in this addendum and focus therein on Eastern MWD's potable water system and the present relationship between capacities, demands, and performance.

# No. 1 Unique LAFCO Introduction

This addendum serves as a unique introduction to Eastern MWD with its municipal activities being otherwise substantively unknown to the Commission. The uniqueness is further reflected in the tailored purpose of the addendum to inform a possible sphere of influence action to accommodate an expansion of Eastern MWD into San Diego County at the request of Fallbrook PUD and Rainbow MWD. This latter feature creates two distinct possibilities for this addendum to either serve as a one-and-done document or as an ongoing performance measurement.



# No. 2

# **Timely Assist from Riverside LAFCO**

The preparation of a full municipal service review on Eastern MWD has been avoided in favor of this addendum given the Commission's ability to draw on good and timely information provided in Riverside LAFCO's comprehensive report completed in May 2019. This tiering approach allows the Commission to focus on providing gap analysis on Eastern MWD's potable water function and financial standing through 2021. Notable conclusions made by Riverside LAFCO within its earlier document and incorporated herein with regards to the mandatory factors follow.

With respect to growth, Riverside LAFCO expects Eastern MWD's overall population (wholesale and retail), within its jurisdiction, to increase by an additional one-half between 856,500 in 2020 to 1,274,600 in 2040. This projection produces an average annual growth rate of 2.4%.

- With respect to disadvantaged unincorporated communities (DUCs), Riverside LAFCO identifies 15 qualifying areas within Eastern MWD. These 15 DUCs are in the Hemet and Perris areas and LAFCO attests they have access to water and sewer service. An additional DUC outside Eastern MWD, but adjacent to its sphere of influence, has also been identified. This subject DUC is located in the Pechanga area and LAFCO confirms it is without access to water and sewer and sewer service.
- With respect to present and planned capacities, Riverside LAFCO – drawing from Eastern MWD's Urban Water Management Plan (2015) – concludes Eastern has sufficient supplies and related contingencies to meet potable demands (wholesale and retail) through 2040.
- With respect to finances, Riverside LAFCO states Eastern MWD has been experiencing modest surplus total revenues over expenses, as well as occasional increased spending over the last several years. LAFCO attributes this primarily to planned capital expenditure debt service and cash flows. LAFCO adds appropriate rate increases, which have been implemented for water and sewer over the prior years, utilizing a cost-ofservice analysis to have services funded by fees and charges.

- With respect to shared facilities and/or services, Riverside LAFCO notes Eastern MWD maintains several cooperative arrangements with other agencies for the mutual benefit of all constituents. This includes – but not limited to – partnering with MET as well as Western MWD, Elsinore Valley WD, and Rancho California WD with supply and intertie connections to share water in emergency situations.
- With respect to government structure and accountability, Riverside LAFCO confirms Eastern MWD meets regularly on the first and third Wednesdays of each month at 9:00 a.m. at the District office located at 2270 Trumble Road, Perris, California 92570. LAFCO also confirms Eastern MWD provides public information on its website, including historical information of the District, current projects, water and sewer information, annual budgets, and audits.

Orange flowers from Hemet, CA



General Themes and Conclusions

# No. 3 Expansive + Expanding Footprint

Eastern MWD has become one of the largest potable water service providers in Southern California, and at the end of the addendum period, serves more than one-third of Riverside County's population. This expansion follows an average increase of 44 persons each day in Eastern MWD since 2000. The expansion is further reflected during the addendum period with the physical footprint of Eastern MWD's potable system increasing by 154 miles – or 6.5% – as well as the number of active connections rising by 10,795 – or 8.9% – over the 60-month period.

## No. 4 Positive Water Demand-to-Capacity Relationship

As the principal municipal water service provider for southwest Riverside County, Eastern MWD maintains adequate infrastructure capacities and related administrative controls to meet current and anticipated demands (retail and wholesale) in the timeframe of this addendum. This statement is reflected in the average annual and daily system demands equaling less than one-third of available supplies and associated infrastructure capacities under normal conditions during the 60-month period. This demand-tocapacity ratio increases to slightly more than one-half under average peak-day demands and is considered sufficient.

# No. 5 Impactful Impact Fees

Eastern MWD continues to benefit from development within its jurisdictional boundary based on the sizable collection of impact fees during the addendum period. The annual average collected has been \$31.4 million – which equals 12.6% of average annual operating revenues – and underlies a one-fifth increase in Eastern MWD's net position over the 60-month period. The collection of impact fees and associated capital investments is also reflected in Eastern MWD finishing the period with a markedly high (good) capital replacement rate of 14.4 years.

# No. 6 Finances Trending Upward

Standard measurements used to assess Eastern MWD's financial health with respect to liquidity, capital, margin, and asset management efficiencies shows the District trending positively overall during the addendum period. This overall summation is reflected in Eastern MWD's improving its operating and total margin ratios during the 60-month period with the latter category, which the Commission uses as a primary benchmark in assessing solvency, increasing more than four-fold.

sdlafco.org

# No. 7 Good Financial Standing with a Qualification

Eastern MWD finished the addendum period in overall good financial standing and marked by having an unrestricted fund balance, less pension and related employee obligations, equal to almost 20 months of operating expenses. This strong liquidity is similarly reflected with a days' cash ratio - or burn rate - at 632 at the end of the period. Eastern MWD's otherwise good financial standing is gualified given the differences in operating and total margins during the period and the related dependency of the District on property taxes and other non-operating revenues to subsidize its enterprise functions. This difference merits attention going forward given the reasonable assumption development and its associated revenues - i.e., property taxes, impact fees, etc. - will eventually slow and necessitate improved cost-recovery through rates and other direct charges.

# No. 8 Proceeding with a Sphere of Influence Action

No significant deficiencies and/or otherwise material concerns have been identified in this addendum with respect to Eastern MWD's ability to plan, deliver, and finance potable water services. Accordingly, it would be appropriate to proceed with adopting a sphere of influence for Eastern MWD to include the Fallbrook PUD and Rainbow MWD jurisdictional boundaries should the Commission separately determine the associated reorganization proposals are sufficiently justified.

Agricultural lands in Fallbrook, California



# Recommendations

The following recommendations call for specific action either from San Diego LAFCO, Eastern MWD, or other local agencies based on information generated as part of this addendum and outlined below in order of their placement in Section 5.0 (Written Determinations). Recommendations for Commission action involving additional studies are dependent on a subsequent directive from the membership and through the annually adopted work plan.

- Given the scope of this addendum, it is appropriate for the Commission to limit its recommendations to addressing the core question necessitating this analysis. Accordingly, and given no significant deficiencies or otherwise, material concerns have been identified in the addendum; it would be appropriate for the Commission to proceed with the following actions.
- a) Adopt a sphere of influence for Eastern MWD to include the Fallbrook PUD and Rainbow MWD boundaries should the Commission separately determine the associated reorganizations are sufficiently merited under both statute and local policy (emphasis added).
- b) Should a sphere of influence for Eastern MWD be established to include the Fallbrook PUD and Rainbow MWD boundaries, the Commission should concurrently limit the authorized powers within the subject lands to only potable water function and wholesale class.

# **REPORT TO SAN DIEGO LAFCO**

# FALLBROOK PUD AND RAINBOW MWD WHOLESALER REORGANIZATION

Submitted by

**Professor Michael Hanemann** 

December 31, 2021

I was engaged by the San Diego County Local Agency Formation Commission (LAFCO) to perform three tasks, as follows:

# Topic One (Water Rate Impacts)

The Consultant shall prepare a written memorandum analyzing the potential water rate impacts to the San Diego County Water Authority, the Fallbrook Public Utility District, and the Rainbow Municipal Water District under three distinct scenarios: (i) Commission approval of both proposals; (ii) Commission approval of only the proposal filed by Fallbrook Public Utilities District; and (iii) Commission approval of only the Rainbow Municipal Water District. If the information on file and/or as augmented by the Commission Agreement Administrator is deemed insufficient, the memorandum should succinctly identify the missing, incomplete, incorrect, or otherwise unsubstantiated information needed to appropriately address this topic.

# Topic Two (Water Supply Reliability)

The Consultant shall prepare a written memorandum analyzing whether any substantive differences exist with respect to the overall water supply reliability between the San Diego County Water Authority and Eastern Municipal Water District. The Consultant shall use their professional expertise in quantifying and/or qualifying "substantive" relative to addressing water supply reliability. If the information on file and/or as augmented by the Commission Agreement Administrator is deemed insufficient, the memorandum should succinctly identify the missing, incomplete, incorrect, or otherwise unsubstantiated information needed to address this topic.

## **Topic Three (Potential Departure Fees)**

The Consultant shall prepare a written memorandum quantifying what - if any - departure fees (also referred to as exit charges) should be made conditions of approval if the Commission approves either or both proposals. This includes - and among other considerations the Consultant believes to be pertinent - addressing potential rate impacts to the Water Authority addressed in Topic One. If the information on file and/or as augmented by the Commission Agreement Administrator is deemed insufficient, the memorandum should succinctly identify the missing, incomplete, incorrect, or otherwise unsubstantiated information needed to address this topic.

I have discharged those tasks in this report.

I was engaged to address these topics as an economist. I was not engaged to conduct legal analysis or offer legal advice on the issues I addressed, and I do not offer any legal opinions.

The report is organized largely in a question-answer format. I chose this format because experience has shown that it is often the most effective way to convey detailed analysis to an audience. I selected and formulated the questions myself. No one assigned the questions for me to answer. Some questions occurred to me after hearing statements being made at meetings of the Ad Hoc Advisory Committee.

I wish to thank the members of the Ad Hoc Advisory Committee and, most especially, to Jack Bebee and his staff at Fallbrook Public Utility District, Tom Kennedy and his staff at Rainbow Municipal Water District, Sandy Kerl and Kelley Gage and their staff at the San Diego County Water Authority, and Nick Kanetis and his staff at Eastern Municipal Water District. Jack, Tom, Sandy, Kelley and Nick were exceptionally helpful and generous with their time in answering all manner of questions. I am extremely grateful to them. I also greatly appreciate the assistance provided to me throughout this project by Adam Wilson.

This report contains my opinions based on the information presently available to me. Any opinion that I may have stated previously but that is not repeated here is no longer my view. I alone am responsible for the opinions expressed here. Any errors remaining are my responsibility.

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### NO. 1 | HOW THE SAN DIEGO COUNTY WATER AUTHORITY SERVICE AREA GETS ITS WATER

The San Diego County Water Authority (SDCWA) service area has limited local supplies of surface water and groundwater, which are controlled by the SDCWA member agencies. Most of the water used in the SDCWA service area is provided by SDCWA to member agencies. From its formation in 1947 until 2003, SDCWA's sole source of water was water purchased from the Metropolitan Water District of Southern California (MWD), of which SDCWA is now the largest member agency – I refer to this water as *M*-water.

MWD was created in 1928 to import water to the Greater Los Angeles area from the Colorado River. In 1960 it contracted to receive water from the new California State Water Project (SWP). The SWP was originally planned to deliver 4.2 million acre-feet (MAF) a year to member agencies, and MWD was the single largest contractor with a 48% share of the supply. However, the SWP was not expanded as planned and it has a delivery capacity of only about 2.4 MAF. MWD's 48% share of contract entitlements allow it to receive 1.2 MAF of average year supplies and about 0.6 MAF or less in a dry year.

Until 1963, MWD had a firm allocation of 1.2 MAF a year of Colorado River water. Following the US Supreme Court's ruling in Arizona v California in 1963, this was reduced to 550,000 AF. MWD was still able to divert more than this amount until the Colorado River Quantification Settlement Agreement (QSA) took effect in October 2003. Including water purchased from Imperial Irrigation District (IID) in 1988, MWD now has a firm allocation of about 600,000 AF from the Colorado River.

The antecedent of the current issue is the severe drought in 1990 and 1991. For the first time ever, MWD mandated member agencies to reduce their water use culminating in March 1991 when it cut deliveries for Municipal and Industrial (M&I) use by 30% and for agricultural use by 90%. At the time, SDCWA depended on MWD for 95% of water used in its service area. That experience led SDCWA to seek to become less dependent on MWD for its water supply. In 1998 it signed an agreement with IID to purchase water that IID diverted under a senior water right from the Colorado River. That purchase agreement took effect in October 2003 as part of the larger QSA, which also includes Colorado River water obtained by SDCWA after paying to line the All-American and Coachella Canals.

SDCWA uses MWD's Colorado River Aqueduct (CRA) to move its QSA water to its service area under an Exchange Agreement negotiated with MWD. Under that agreement, MWD receives SDCWA's QSA water and is obligated to deliver a like amount of water to SDCWA. SDCWA pays a volumetric rate for the conveyance of this water. I refer to QSA water delivered by MWD to SDCWA as exchanged water or *E-water*. The delivery of E-water commenced in 2003 and ramped up to the full amount of 277,700 AF in 2021. E-water has accounted for almost 64% of the water delivered by MWD to SDCWA in the last five years, and 80% in the last two years.

In addition, in 2016, SDCWA started to receive desalinated seawater from the Carlsbad Desalination Facility.

It has been suggested that, if Fallbrook Public Utility District (FPUD) and Rainbow Municipal Water District (RMWD) detach from SDCWA and instead become wholesale customers of Eastern Municipal Water District (EMWD), they will be receiving the same MWD water as before. That is incorrect. They will be receiving 100% M-water from EMWD rather than a mix of 80% E-water and 20% M-water from SDCWA. Regardless of whether molecules of E- and M-water are physically indistinguishable, they are legally different with regard to their underlying water right and reliability.

FPUD and RMWD are different from many other SDCWA member agencies in still having a high level of agricultural use. They are also the only member agencies located sufficiently far north in San Diego County that they receive some of their water from pipeline turnouts owned by MWD rather than SDCWA. This does not change ownership of the water – it is still owned by SDCWA – but it lowers the delivery charge levied by SDCWA.

### NO. 2 | HOW EXPENSIVE IS SDCWA WATER, AND WHY?

Two conceptual economic distinctions come into play in answering these questions, that between *variable* versus *fixed costs* (and revenues); and that between *average* versus *marginal costs* (and revenues).

Variable costs *vary directly with the quantity of water delivered* and variable revenues vary directly with the quantity of water sold. Fixed costs *do not vary directly with the quantity of water delivered* (fixed revenue is revenue that does not vary with the quantity of water sold).

The average cost of water is defined as the total amount paid divided by the volume of water received; it is the cost per unit of water delivered. The marginal cost is defined as the change in total cost paid per unit change in the amount of water delivered. It measures the *incremental* cost per *incremental* unit of water.

Discussion on how much SDCWA charges focuses on the average cost of SDCWA water.

SDCWA imposes both variable and fixed charges for the delivery of its water, with separate variable charges for treated versus untreated water. The fixed costs can be converted to an equivalent volumetric charge by dividing them by the quantity of water delivered. The volumetric equivalent of the fixed costs counts towards the calculation of average cost. SDCWA's overall average cost of treated water in CY 2021, known as its *all-in cost*, was \$1,769/AF, while its all-in cost for untreated water was \$1,474/AF. Table ES1 compares these rates with MWD's all-in water rates. In CY 2021, SDCWA's rate for treated water is \$367/AF higher (26% higher) than MWD's

rate. SDCWA also offers a special rate for agricultural use that is \$107/AF lower (7% lower) than MWD's standard rate; in exchange for this special rate, agricultural rate water users are subject to higher cutbacks in the event of supply shortage.

	SDCWA	MWD
All-in untreated water rate	\$1,474	\$1,075
All-in treated water rate	\$1,769	\$1,402
Agricultural treated water rate (PSAWR)	\$1,295	NA

### TABLE ES1 | All-In Water Rates Compared

It is not surprising that SDCWA charges more than MWD as a wholesale supplier of water since SDCWA buys water from MWD (both E-water and M-water) at a point near the northern boundary of San Diego County and then has the cost of maintaining and operating a separate water distribution system within the County. More significant, however, is that the differential between SDCWA's water rate and MWD's water rate widened starting around 2010. Figure ES1 depicts the growth in the rate differential, albeit somewhat inaccurately.<sup>1</sup>

### FIGURE ES1 | Comparison of SDCWA All-In rates and MWD Full-Service Rate for Treated Water<sup>2</sup>



Sources: San Diego County Water Authority; Metropolitan Water District of Southern California Karthika Namboothiri / The San Diego-Union Tribune

# It has been suggested that this occurred because QSA E-water is more expensive for SDCWA than M-water from MWD. My analysis suggests otherwise. If QSA water was sometimes more

<sup>&</sup>lt;sup>1</sup> This compares SDCWA's all-in rate, combining its fixed and variable charges, with MWD's variable charge alone, omitting MWD's fixed charges that amount to around \$300/AF in 2020-2022.The graph thus overstates the rate differential.

<sup>&</sup>lt;sup>2</sup>Joshua Smith "What Fallbrook and Rainbow's revolt says about San Diego's skyrocketing water rates" San Diego Union-Tribune December 18, 2021, retrieved on 12-28-2021 from https://www.sandiegouniontribune.com/news/environment/story/2021-12-18/fallbrook-rainbow-revolt-water-rates

expensive for SDCWA than M-water, that difference would not have been large, and it no longer exists. E-water costs SDCWA no more than M-water, or less, as shown in Table ES2, which describes SDCWA's supply sources in CY 2021 and their cost to SDCWA.

WATER SOURCE	Supply	Unit Cost	
	Share	(\$/AF)	
QSA (E-water)	75.4%	\$1,049	
Desal (Carlsbad)	13.0%	\$2,725	
MWD (M-water)	11.6%	\$1,075	
WEIGHTED AVERAGE		\$1,271	

### TABLE ES2 | SDCWA's Untreated Water Supply Cost

If SDCWA had not used any Carlsbad Desal water in CY 2021 and, instead, delivered a 75-25 mix of E- and M-water, its water cost would have been \$1,056/AF instead of \$1,271/AF, a savings of \$215/AF. However, Carlsbad Desal water is more reliable than E- or M-water because it is not derived from streamflow that is being affected by climate change.

SDCWA only started using Carlsbad Desal water in 2016, so that does not explain why the SDCWA-MWD rate differential started to widen around 2010. Moreover, the \$215/AF cost differential between Carlsbad and E/M-water accounts for only part of the \$399/AF differential between SDCWA's and MWD's rates for untreated water. So, something else is at work. I believe that two other factors contributed to the rate differential:

- 1. SDCWA invested in some major water supply infrastructure projects just before and after 2010, a period when MWD was not making any unusually large investments. That would have caused the rate differential to widen.
- 2. Between 2010 and now, SDCWA experienced a 40% reduction in member agencies' demand for its water while MWD experienced only a 20% reduction. That difference would have caused the rate differential to widen, given that both agencies have very high fixed costs.

Contrary to what has sometimes been suggested, I have seen no evidence that SDCWA has charged member agencies unfairly, or that FPUD and/or RMWD were paying an excessively large share of the fixed charges levied by SDCWA, leading them to subsidize other member agencies.

### NO. 3 | THE FINANCIAL IMPACT OF DETACHMENT

In the event of detachment by FPUD and/or RMWD, SDCWA would lose a variety of revenues including fixed and variable charges for water and also some charges borne by properties in the FPUD/RMWD service areas. It would also experience a reduction in its cost of operation. However, because almost 90% of SDCWA annual expenditures are fixed costs, the reduction in expenditures would fall far short of the reduction in revenues. Table ES3 below shows the impact on SDCWA's annual net operating revenue calculated for CY 2022.

ltem	FPUD	RMWD	FPUD + RMWD
REDUCTION IN REVENUE			
Without property tax loss	\$8,590,141	\$24,329,127	\$32,919,268
With property tax loss	\$8,750,141	\$24,519,127	\$33,269,268
REDUCTION IN EXPENDITURE			0.000
Short-run	\$4,686,300	\$16,002,000	\$20,688,300
Long-run	\$5,047,100	\$17,234,000	\$22,281,100
CHANGE IN NET REVENUE			
SHORT-RUN	· · · · · · · · · · · · · · · · · · ·	5	
Without property tax loss	\$3,903,841	\$8,327,127	\$12,230,968
With property tax loss	\$4,063,841	\$8,517,127	\$12,580,968
LONG-RUN			
Without property tax loss	\$3,543,041	\$7,095,127	\$10,638,168
With property tax loss	\$3,703,041	\$7,285,127	\$10,988,168

### TABLE ES3 | SDCWA Net Revenue Impact CY 2022

The exact reduction in revenue depends on whether SDCWA would continue to receive all, some, or none of the property tax revenue from the FPUD and RMWD service areas in the event of detachment, about which there seems to be some disagreement. Also, the reduction in expenditure will be different in the short run versus the long run. In the short run immediately after detachment, SDCWA will experience little reduction in the amount assessed against it by MWD for the Readiness to Serve (RTS) charge. Ten years later, MWD's RTS will be lowered based on the full reduction in M-water needed by SDCWA due to detachment.

The loss of annual net revenue is not a one-time event. It will occur for as long as SDCWA is paying the financial commitments that it has incurred to date. The exact amount of the annual impact will vary from year to year, depending on SDCWA's annual finances and rates.

The future financial impact will be lessened to the extent that SDCWA may find another buyer for the water that it would have delivered to FPUD and RMWD. But that will not fully offset the financial loss for two reasons: (1) The payment from the sale may not cover all the payments made annually to SDCWA by FPUD/RMWD as member agencies. (2) The water not delivered to FPUD/RMWD does not belong to FPUD and RMWD individually. Any financial benefit to SDCWA in the event that it sells the water that would have been delivered to FPUD/RMWD to some other party belongs collectively to SDCWA member agencies, and not to FPUD and RMWD individually.

Table ES4 presents my estimate of the cost-savings to FPUD and RMWD in CY 2022 if they switch from being served by SDCWA to being served by EMWD. Their financial gain would be somewhat smaller than SDCWA's financial loss.

	1.1		EMWD	1		
1111	1.		Unit Rate	FPUD	RMWD	FPUD + RMWD
	Source	Item	FPUD/RMWD	Expenditure		
-			(\$/AF)	(\$)	(\$)	(\$)
a		WATER DELIVERY (AF)		4,100	14,000	
b	Table 16, row m	SDCWA WHOLESALE WATER COST (\$)		\$8,229,108	\$23,034,412	\$31,263,520
	1	EMWD WHOLESALE SUPPLIER				
c		MWD Full service Tier 1 treated	\$1,143			
d	Estimated	MWD RTS charge	\$122			
e	Estimated	MWD Capacity charge	\$28		÷	
f		EMWD Wholesaler "markup"	\$11	1		100 million - 11
g	= c+d+e+f	EMWD all-in treated rate	\$1,304			
h	= a * g	EMWD WHOLESALE WATER COST (\$)		\$5,346,400	\$18,256,000	\$23,602,400
i	= b - h	COST SAVINGS (\$)		\$2,882,708	\$4,778,412	\$7,661,120

### TABLE ES4 | Savings In Water Cost When FPUD & RMWD Switch From SDCWA to EMWD

### NO. 4 | A DEPARTURE FEE

As I understand their positions, SDCWA argues that, if they detach, FPUD and RMWD should be liable for covering their shares of SDCWA's bonded and other indebtedness, which totals about \$21 billion. Their share could amount to around \$1 billion. In contrast, FPUD and RMWD argue that they should be able to detach without any further financial liability. In my judgment, as an economist experienced in the economics of water, neither position – a liability of about \$1 billion nor a liability of zero – is reasonable.

However, the decision maker here is San Diego LAFCO, not me. The question confronting LAFCO is whether two SDCWA member agencies with a distinctive set of needs and situated at a distinctive location should be allowed to walk away scot-free, entirely unencumbered by any of the financial commitments that SDCWA has assumed on behalf of its member agencies.

The purpose of a departure fee is to assist SDCWA in covering its financial obligations that are fixed, ongoing and unavoidable for a limited period while it adjusts to the changed financial situation. It is not intended as payment for water being received; it is payment for obligations incurred when receiving water in the past, given that water supply is highly capital-intensive, requires long-term commitments, and is not operated on a PayGo basis.

If San Diego LAFCO were inclined to require a departure fee as a condition for approving detachment by FPUD or RMWD, it would need to decide what is the appropriate share to assign to FPUD or RMWD, of which SDCWA ongoing financial obligations, and for what length of time.

SDCWA is committed to making annual payments that run through 2047 (for IID Transfer water) and 2112 (for canal lining water). This year (CY 2021), the annual payments for QSA water amount to almost \$285 million. LAFCO might use that amount as a starting point for thinking about what a fair and reasonable departure fee could be.

Table ES5 illustrates what an annual departure fee might be if it is framed as FPUD/RMWD's share of SDCWA's annual QSA payment commitment in CY 2021 (\$284,524,900), using their three-year average share of either all deliveries or deliveries for M&I (non-PSAWR) use.

### TABLE ES5 | Calculation of a Departure Fee

	Share	Annual payment
USING THE SHARE OF	M&I DELI\	/ERIES
FPUD	1.9%	\$5,295,156
RMWD	2.7%	\$7,710,209
Total	4.6%	\$13,005,365
USING THE SHARE OF	ALL DELIV	ERIES
FPUD	2.3%	\$6,402,041
RMWD	4.3%	\$12,107,975
Total	6.5%	\$18,510,016

This calculation could be adjusted in many different ways and as LAFCO sees fit.

### NO. 5 | WATER SUPPLY RELIABILITY

EMWD has both retail and wholesale customers. While about half of EMWD's supply is local supplies, it does not share those with its wholesale customers. Under the present arrangement, if FPUD and RMWD become members of EMWD this will not bring them access to any of EMWD's local supply. Through EMWD they will receive only M-water from MWD. With the Santa Margarita Conjunctive Use Project online, about half of FPUD's total consumption is now local supply, but RMWD has almost no local supply and will be essentially as dependent on MWD as SDCWA was in 1991. In contrast, SDCWA is now largely independent of M-water: that accounted for 24% of SDCWA's supply in CY 2020, about 12% in CY 2021, and is projected to decline even further over the next decade. The bulk of SDCWA's supply portfolio is: (i) QSA water from the Colorado River which comes under a higher priority water right than most of MWD's Colorado River M-water, and (ii) water from the Carlsbad Desal facility, which is fully protected against streamflow uncertainty.

The superior reliability of SDCWA's supply has benefitted FPUD and RMWD in the past. In the drought of 2009, SDCWA faced a 13% cut-back in the delivery of M-water. However, because of its access to QSA water, SDCWA was able to reduce deliveries to its member agencies by only 8%. In the 2015-2016 drought, the supply from the Carlsbad Desalination Facility was certified as drought-resilient, which lowered FPUD and RMWD's mandated water use reduction from 36% to 28%. In May 2016, the conservation mandate was replaced with a localized "stress test" under which a wholesale water agency could document its ability to meet demands for 2017-2019 should dry conditions continue. Based on the availability of SDCWA's drought resilient supply, the conservation requirement for FPUD, RMWD and other member agencies was reduced to 0%.

Both of MWD's sources of M-water – SWP water and Colorado River water -- have supply reliability issues.

There are supply reliability issues for SWP water with regard to: (i) the amount of water available for it to take from its source, the Feather River in the Sacramento Valley, and (ii) the ability to convey that water through the Sacramento/San Joaquin Delta to SWP member agencies south of the Delta.

- With regard to the availability of Feather River water, long-standing issues are that droughts are a fact of life in California and that SWP has relatively little carryover storage. A new factor is climate change and the growing recognition that droughts will become more frequent and more severe. Before 2013, there were only two years since SWP deliveries began in 1972 when it delivered a very low supply relative to its Table A commitment; but six of the nine years since then have seen a very low SWP supply. In addition, with soils becoming drier, with climate warming, northern California streamflow is becoming harder to predict using the standard hydrological models, rendering water supply less predictable.
- With regard to conveyance through the Delta, there are two issues: (i) environmental restrictions on releases have increased since the 2000s and (ii) there is a general recognition that the levee system used to convey SWP water is unreliable and will have to be replaced. The first proposal, launched in 2015 and known as WaterFix, involved two tunnels under the Delta, at an estimated cost of about \$17 billion in 2017 dollars. MWD planned to acquire a 64.6% share in the supply at a projected cost of \$10.8 billion. The proposal was withdrawn by Governor Newsom in 2019, and a one-tunnel project is being developed, known as the Delta Conveyance Project, with a preliminary cost estimate of \$15.9 billion (in 2020 dollars). Exactly when the project will be completed, and at what cost, is unknown. It might not come into full operation for another 10 or 15 years. Without it, the ability to convey SWP (and CVP) water to users south of the Delta remains at risk.

The Colorado River was MWD's original source of water and remained its larger source until the QSA took effect in 2003, reducing MWD's firm supply of Colorado River water. Starting in 2003, SWP made up the majority of MWD's water. The recent difficulties with SWP deliveries are causing a return to Colorado River water. However, there has been a twenty-year drought on the Colorado River, and the impacts are now beginning to be felt. Lake Mead and Lake Powell, the country's two largest reservoirs, are now at their lowest levels ever. In September, for the first time in history, a Tier 1 shortage was declared on the river. Tier 1 reduces diversions by Arizona and Nevada but not California. California loses about 5% of its diversion under Tier 2b, and about 8% under Tier 3. Current projections are that there is a 25% chance of a Tier 3 declaration in 2023, a 44% chance in 2024, and a 59% chance in 2025. In the event of a California reduction, the brunt would be borne by MWD, not SDCWA, because of the seniority of the water right to which SDCWA has access. Looking to the future, Tier 3 will not be enough to manage the Colorado River under the "new normal" conditions now being anticipated; sharper cutbacks will probably be required for all three lower basin states.

In anticipation of possible shortage, MWD has built up substantial dry-year reserves stored in groundwater banks in the San Joaquin Valley and Coachella Valley and in Lake Mead. This will enable it to withstand two or three critical shortage years in a row. However, projected climate change scenarios indicate the possibility of significantly longer droughts in the future. It is not clear that MWD yet has the practical capacity to sustain more severe and prolonged drought, especially on the Colorado River.

In switching from being wholesale customers of SDCWA to EMWD, FPUD and especially RMWD may face some challenges. Riverside County is the fastest growing county in California. While EMWD has significant local supplies, it does not share those with its wholesale customers – it provides only MWD water to them. Most of EMWD's wholesale customers themselves have substantial local supplies. The City of Perris and RMWD will be the only EMWD wholesale customers who are solely dependent on MWD water.

EMWD presented an analysis showing that it would be able in a drought to withstand a 30% reduction in MWD deliveries, sparing any wholesale customer (including FPUD and RMWD) from being short of supply. However, that analysis rests on certain assumptions which I find unrealistic.

In summary, while I believe that FPUD and RMWD are taking something of a gamble on supply reliability if they switch from SDCWA to EMWD, the gamble ultimately is not one of running out of water but, rather, paying a higher price than they had anticipated to get by in a drought.

### NO. 6 | WHAT IS THE PROBLEM?

The problem generally is not that SDCWA is using water that is too expensive. My analysis indicates that QSA water is not more expensive than M-water from MWD. Desal water from Carlsbad is expensive, but it also has real economic value as insurance against disruption of supplies derived from streamflow, and it proved its value during the 2015-2016 drought. It would be even more valuable if this reliability could be shared across a wider set of Southern California water users.

Increased use of recycled water is also not a solution to the high cost of water supply. While recycling brings important environmental benefits and also has a significant economic benefit as the solution to overcapacity in wastewater collection, treatment and disposal systems, it is generally an expensive source of water supply.

The larger problems underlying the present detachment issues are problems with SDCWA's fiscal model and, to some degree, its governance model.

There is a severe structural imbalance in SDCWA's finances, arising from a mismatch between the share of its revenues that are variable versus fixed and the share of its expenditures that are variable versus fixed. That creates significant financial vulnerability when the volume of water delivered to member agencies declines. When it delivers less water, while it saves on some expenditure, its revenue declines even more, causing a net loss. This vulnerability is not unique to SDCWA – it is shared with MWD and many other water agencies. Table ES6 below shows the mismatch between its variable revenue share and its variable expenditure share for SDCWA in comparison with MWD.

	SDCWA	MWD
PERCENT OF EXPENDITURE THAT VARIES WITH AF DELIVERED	15%	16%
PERCENT OF REVENUE THAT VARIES WITH AF DELIVERED	72%	88%

### TABLE ES6 | Financial Exposure to Variation in Water Sales

These figures are based on SDCWA's current rate structure and could change if the rates changed. They also indicate that MWD is even more vulnerable to a reduction in deliveries than SDCWA. Still, SDCWA's situation is quite serious. As a rough example, I estimate that for every 1,000 AF less that SDCWA delivers to member agencies, on average its annual *net* revenue falls by almost \$1M. This is a significant concern given that, over the coming decade, SDCWA is projected to experience a 60,000 AF reduction in deliveries as member agencies substitute increased use of local recycled water for SDCWA water.

The problem with SDCWA's governance is also shared with many other water agencies, including MWD. The problem is that the Board of Directors makes major investment decisions without any upfront commitment by member agencies to take and pay for the water that will be generated. This strategy commits current resources without guaranteeing the future revenues to pay for new investments. This is a problem that was noted for MWD in a Blue Ribbon Task Force Report to which I contributed in 1993-1994, and it still has not been fixed by MWD.

Member agencies need flexibility to change their supply portfolio in the future without being tied down by long-term purchase commitments. But water supply infrastructure is massively capital intensive and very long-lived. It cannot be funded on a PayGo basis; it needs a long-term financial commitment. The problem was less severe in the past when property tax revenues provided the main repayment source for water infrastructure investments. That source of revenue stability is now lacking.

It has been suggested elsewhere that water transfers and exchanges can contribute to solving the financial dilemmas of urban water supply. Whether that is true depends, in part, on the nature and form of the transfer activity. Up to now, SDCWA and MWD have been the principal actors in water transfers in Southern California, initiating and implementing transfers through the networks that they control. However, the need for transfers now arises increasingly at the local level of individual member agencies with varying needs for reliability in water and varying willingness to pay for water. To take advantage of the variety in individual member needs and to overcome the financial challenges confronting Southern California's water at a time of climate change, it will be important that local member agencies step up, take more responsibility for the water they obtain through regional wholesalers, commit financially on a long- rather than shortterm basis, and become leading actors in shaping their individual supply portfolios through water transfers and exchanges as needed. In that scenario, SDCWA and MWD will to some degree become facilitators and providers of assistance rather than the principals. For this to work, it will also be essential to have a strong degree of cooperation and collaboration between SDCWA and MWD as Southern California's two premier water supply agencies.

### 2.1 HOW THE SAN DIEGO COUNTY WATER AUTHORITY SERVICE AREA GETS ITS WATER

# Q. If I am served by a member agency of the San Diego County Water Authority (SDCWA), where does my water come from?

**A**. Your water comes from one of two sources: (1) *local supplies* -- water your member agency obtains from local sources that it controls, and (2) water supplied to your member agency by SDCWA.

### Q. What are local supplies?

**A.** Historically, local sources were groundwater and surface water within the local area of the urban water agency. Before 1947, the San Diego region relied entirely on local surface water runoff and groundwater pumped from local aquifers.

Over time, local sources have expanded to include the use of treated wastewater from local wastewater plants, the use of desalinated local groundwater and, also, desalinated seawater (some of the seawater at the Carlsbad Facility is contracted for by SDCWA member agencies Carlsbad MWD and Vallecitos WD and counts as part of their local supplies).

However, as the region's population and economy grew, local supplies became insufficient to meet the region's water needs.

### Q. How did San Diego County's local supplies come to be augmented?

**A.** In 1928, the Metropolitan Water District of Southern California (MWD) was formed to develop, store and distribute supplemental water in Southern California, with the specific intention of importing water to the region from the Colorado River. MWD built the Colorado River Aqueduct (CRA) during the 1930s to convey this water, with the aqueduct coming into operation in 1941. The founding members were Los Angeles and its neighboring cities in Los Angeles County.

World War II caused a great increase in water consumption in San Diego and threatened to deplete the region's available local water supply. The solution was to connect the region to the Los Angeles area CRA and import Colorado River water from MWD. In 1943, engineering studies were completed for an aqueduct that would connect with the CRA at what is now called Lake Mathews and convey water south across Riverside County and into San Diego County. The San Diego County Water Authority was organized with nine original members in June 1944 under an enabling act of the California State Legislature known as the County Water Act.<sup>3</sup> The primary purpose was to contract with MWD as a member agency and supply imported MWD water to

<sup>&</sup>lt;sup>3</sup> SDCWA now has 24 member agencies.

the region. The San Diego Aqueduct was completed and placed in operation in December 1947. Between the 1950s and the 1980s, SDCWA constructed four additional aqueducts that are all connected to MWD's distribution system and import water to the County.

SDCWA supplies from 75% to 95% of the region's water consumption, depending on hydrologic conditions and yield from local supplies.

### Q. Where does SDCWA get its water from?

**A.** For almost sixty years, from 1947 to 2003, MWD was the sole provider of imported water to SDCWA. This changed in 2003; starting that year, SDCWA began to receive water purchased in a transfer agreement with Imperial Irrigation District (IID). In 2007, SDCWA started to receive an amount of water from projects that lined portions of the All-American Canal (AAC) and the Coachella Canal (CC) in order to conserve water that infiltrated into the ground before the canals were lined. The ramp-up in the delivery of this water from the Colorado River is depicted in the graph below:<sup>4</sup>



### FIGURE 1 | Build-up of QSA Water Delivery to SDCWA

I will refer to the water obtained by SDCWA from IID and from the canal lining as *QSA water*. It is conveyed from the Colorado River to the SDCWA service area by MWD using the CRA under a 2003 agreement known as the Exchange Agreement.

<sup>&</sup>lt;sup>4</sup> Source: Presentation to SDCWA Board, 1-25-2018, slide 65.

In addition, in 2016, SDCWA started to receive desalinated seawater from the Carlsbad Desalination Facility.

### Q. Why did SDCWA decide to broaden its source of water beyond water from MWD?

**A.** SDCWA decided it needed to expand the sources from which it received water in the light of its experience with MWD during the drought in 1991.

### Q. What happened to SDCWA during the drought in 1991?

**A.** The period from 1987 to 1992 saw one of the major droughts in California's history.

This was by no means California's first drought. There had been multi-year droughts in California in 1918-1920, 1928-1934, 1947-1950, 1976-1977 and, subsequently, there were droughts in 2007-2009 and 2012-2016. But, the droughts prior to 1976-1977 occurred when California's population was much smaller and before major reservoirs had been constructed.

What made the droughts of 1976-1977, 1987-1992, 2007-2009 and 2012-2016 so significant was the combination of very low precipitation, low runoff, and severely depleted reservoir storage.

1976-1977 was the single most severe drought in terms of precipitation and runoff, but it was just a two-year drought, and the water supply impact was not as severe as in the subsequent longer droughts starting with 1987-1992.

The drought of 1987-1992 came as a major shock to Southern California's water system. In April 1990, MWD's Board had approved a first-ever drought management plan, calling on agricultural and municipal water users within its service area to voluntarily reduce their usage of water. Adopting a tougher approach, in December 1990 MWD mandated cutbacks in water use by agricultural and municipal users. In January 1991 it mandated sharper cutbacks. It increased the mandated cutbacks in February 1991 and again in March 1991, when it ended up cutting deliveries of water for agricultural use by 90% and deliveries for municipal use by 30%. MWD came within a few weeks of an even more severe cutback – it had given notice of an upcoming cutback of 50% in the County's water supply. This was avoided when heavy rains fell during the March Miracle of 1991.

The 30/90% cutbacks that were implemented were still devasting to SDCWA. SDCWA was almost entirely dependent on delivered water from MWD – MWD deliveries accounted for 95% of the water supply in its service area that year, with local supplies making up only 5%. By contrast, the City of Los Angeles relied on MWD for about 60% of its water, having its own supplies for the remainder. A 30% cut back on 60% of Los Angeles' municipal water supply equated to an 18% cut overall, while a 30% cut back on 95% of San Diego County's water supply equated to a 28.5% cut overall. MWD's cutback of deliveries for agricultural users was even more draconian since, in 1991, SDCWA accounted for 63% of MWD's total agricultural water sales. The SDCWA Board decided to meld MWD's water supply cutbacks and impose a uniform 31% cut on all member agencies, regardless of whether those were agricultural or municipal uses of water.

### Q. What were the consequences of the 1991 drought experience?

**A.** The experience during the drought in 1991 had important consequences both for SDCWA and for MWD.

For SDCWA, the consequence was a desire for less dependence on MWD and "a unified regional resolve to use visionary planning and smart investments to ensure San Diego's water supplies would be more resilient to shortage."<sup>5</sup> This led to the 1998 agreement between SDCWA and IID under which SDCWA would purchase water from IID, and also to the negotiations between SDCWA and Poseidon Resources, initiated in 2002 and finally consummated in 2012, for the construction of the Carlsbad Desalination Facility.

For MWD, too, the consequence was a desire for greater resilience in its water supply, including more water marketing transactions and the acquisition of more water storage capacity outside MWD's service area.<sup>6</sup>

### Q. Where does MWD get its water from?

**A.** MWD has two core sources of water. The first source, as noted above, was water from the Colorado River, for which MWD was established in 1928, and which it started to deliver in 1941. The second is water from the State Water Project (SWP), which is owned by the State of California.

The SWP stretches more than 600 miles from Lake Oroville on the Feather River in Butte County down to Lake Perris in Riverside County. MWD contracted with California's Department of Water Resources (CDWR) in 1960 when the project was planned. MWD is one of 29 water agencies that have long-term contracts with the SWP. SWP was initially planned to deliver about 4.2 million acre-feet (MAF) of water, and MWD contracted for about 2 MAF, or about 48% of the total. MWD received its first deliveries of SWP water in 1972.

An important feature of the SWP contracts is that the full amount of water was not anticipated to be needed for at least the first 20-30 years. Facilities needed to transport the full 4.2 MAF were expected to be constructed over time as demands on the system increased. However, in a famous ballot in 1982, California voters rejected what was known as the Peripheral Canal Act that would have authorized building a canal around the periphery of the Sacramento-San Joaquin River Delta to move additional SWP water down to Central and Southern California. That left the SWP

<sup>&</sup>lt;sup>5</sup> Pete Wilson, Foreword on *To Quench a Thirst: A Brief History of Water in the San Diego Region* as quoted in SDCWA Combined Response, 9-18-2020, p. 18.

<sup>&</sup>lt;sup>6</sup> MWD's planning for the Eastside Reservoir (Diamond Valley Lake) had begun in 1987, and so predated the 1991 drought.

delivery capacity at about 2.7 MAF on average, and only about 1.2 MAF in a dry year. The most recent estimate of average SWP Table A deliveries is 2.4 MAF.<sup>7</sup> Following amendments to the SWP contracts under the 1994 Monterey Agreement, all SWP supplies are allocated to contractors in proportion to their original contractual entitlements. Thus, MWD's 48% share of total SWP contract entitlements allows it to receive about 1.2 MAF of average year SWP supplies, and about 0.6 MAF or less in a dry year depending on the severity of the drought.

In addition to a reduced supply of SWP water, MWD has also had to deal with a reduced supply of Colorado River water. Until 1963, MWD had a firm allocation of 1.2 MAF of Colorado River water through contracts with the U.S. department of Interior, which was enough to keep the CRA full. However, as the result of the U.S. Supreme Court's 1963 ruling in Arizona v. California, California's supply of Colorado River water was reduced to a total of 4.4 MAF and MWD's supply was reduced to 550,000 AF.

That ruling had little effect at first because Arizona and Nevada did not make use of the full apportionment of Colorado River water awarded to them by the U.S. Supreme court. In the interim, California water users, including MWD, took advantage of the situation to divert more Colorado River water than their allocation.

By the 1990s, the situation was different. By then, Las Vegas had grown into a large metropolitan area, and the Central Arizona Project, authorized by Congress in 1968 to deliver Arizona's apportionment of Colorado River water, had been completed. Arizona and Nevada were ready to take their full allocation of Colorado River water (2.8 MAF and 0.3 MAF, respectively). However, California water agencies, notably IID and MWD continued their high rates of diversion. On average during the 1990s, MWD was able to fill the CRA and California overall took 5.1 MAF of Colorado River water.<sup>8</sup> At this point the Secretary of the Interior stepped into the situation and moved to enforce the limits on California's use of Colorado River water.

The new arrangement on the Colorado River took effect when the Quantification Settlement Agreement (QSA) was signed in October 2003. This enforced the limits on California's use of Colorado River water, including MWD's limit of 550,000 AF.<sup>9</sup>

In addition to its contractual rights to SWP water and Colorado River water, MWD has augmented its water supply through water leasing and transfer arrangements with other parties outside its service area, including other holders of Colorado River water rights, other SWP contractors and other California water agencies. To store this water, MWD developed additional storage, both the Eastside Reservoir (which was completed in 2000) and additional storage outside its service

<sup>&</sup>lt;sup>7</sup> California DWR, *The Final State Water Project Delivery Capability Report 2019*, August 2020, Figure 5.2.

<sup>&</sup>lt;sup>8</sup> The years 1996-2000 were relatively wet in the Colorado River watershed and the Secretary of the Interior was able to declare that surplus water was available, which benefited California's water users and gave them some time to prepare for the coming change.

<sup>&</sup>lt;sup>9</sup> In addition, MWD had completed a water transfer agreement with IID in 1988 to obtain about 106,000 AF out of IID's right to Colorado River water. Under certain conditions, however, MWD must provide 50,000 AF to the Coachella Valley Water District. Therefore, MWD's firm supply from the Colorado River is about 600,000 AF.

area, including storage in groundwater banks and storage in Lake Meade through the Colorado River 's Intentionally Created Surplus program.

Figure 2 summarizes MWD's changing mix of supply sources over time.<sup>10</sup> After MWD first received SWP water in 1972, it reduced the amount of water it took from the Colorado River (labelled CRA water in the figure). The chart depicts the steep reduction in delivery of SWP water delivery in the 1991 drought; the reduction in MWD diversions of Colorado River water following MWD's loss of surplus supplies (662,000 AF) in 2003; the initiation of MWD's program to build up out-of-district storage supplies starting in 2004; the reduction in SWP deliveries following increasing environmental restrictions on Delta export pumping; and the severe drought emergency in 2014 leading to a drastic reduction in SWP deliveries which continued into 2015.



### FIGURE 2 | MWD's Changing Reliance on Sources of Supply

### Q. Where does Fallbrook Public Utility District (FPUD) get its water from?

A. FPUD obtains its water from (i) some small local supplies and (ii) mainly from SDCWA.

Local supplies: according to FPUD's 2020 Urban water Management Plan, in Calendar Year (CY) 2020 FPUD obtained 100 AF from local groundwater and 517 AF of recycled water from its Fallbrook Water Reclamation Plant, for a total local supply of 617 AF.

SDCWA: In addition, FPUD obtained 8,303 AF from SDCWA in CY 2020.

<sup>&</sup>lt;sup>10</sup> Taken from Presentation to SDCWA Board on 6-26-2014, slide 146.

### Q, Will FPUD's local supplies increase in the future?

**A.** Yes: there are three projects that will increase FPUD's local supplies.

FPUD recently completed a rehabilitation of its Fallbrook Water Reclamation Plant which will allow it to increase the use of recycled water from 517 AF to 830 AF.

FPUD has been developing a major new local supply project, the Santa Margarita Conjunctive-Use Project, in collaboration with Camp Pendleton. The project involves capturing high surface water flows along the Santa Margarita, a short intermittent river that runs through Camp Pendleton, and storing the surplus flow in an aquifer on Camp Pendleton. Facilities to pump raw water from the aquifer near the Pendleton/FPUD boundary have been completed, and FPUD is currently constructing an advanced water treatment plant to desalinate the brackish groundwater extracted from the aquifer. The project came online during 2021. The amount of water yielded is expected to vary with hydrological conditions; it has been assessed conservatively at an average annual yield of 4,200 AF.

FPUD is also working on a project to obtain 300 AF of surface water by relocating a water right it held to the Santa Margarita but could not utilize to a diversion point on a tributary of the river outside its service area, upstream of Lake Skinner in Riverside County. Lake Skinner is MWD's reservoir that feeds MWD's Skinner Drinking Water Treatment Plant which provides drinking water to MWD's member agencies in Riverside and San Diego Counties. FPUD will store the water it diverts from the tributary in Lake Skinner, and MWD will wheel (convey) the water to FPUD via the SDCWA pipeline that connects SDCWA and MWD in return for a treatment charge plus a wheeling charge to be levied by MWD. When this comes into operation, it is conservatively expected to provide a yield of 300 AF for FPUD.

### Q. Where does Rainbow Municipal Water District (RMWD) get its water from?

**A.** RMWD, like FPUD, is a member agency of SDCWA. It currently has no local supply and relies on SDCWA for the entirety of its water supply, which amounted to 14,297 AF in CY 2020.

### Q. Will RMWD develop some local supply in the future?

**A.** RMWD is investigating the feasibility of developing local San Luis Rey River basin groundwater resources as a local supply of water. This would require the construction of a desalting plant or some other appropriate form of treatment facility for the groundwater extracted. In its 2020 Urban Water Management Plan, RMWD anticipates that this groundwater project might provide a local supply of 2,000 AF by 2030.

### Q. Is FPUD served by MWD as its wholesaler?

### **A.** No.

So far in its history, PFUD has had no supply relationship with MWD. FPUD is not a member agency of MWD, and MWD does not sell water to non-member agencies. FPUD is a member agency of SDCWA, and SDCWA is its sole wholesale supplier.

If FPUD starts to receive a surface water diversion from upstream of Lake Skinner, wheeled to it by MWD, then it will have a relationship with MWD. But MWD will then be serving in the roles of a treater of the water and a (partial) conveyor of the water, not as a supplier of that water.

MWD's water distribution line that comes down from Riverside County and connects to SDCWA's distribution system is owned by MWD for some of its length and by SDCA for the rest.<sup>11</sup> Although the county line demarcates the boundary of SDCWA's service area, the county line did not serve as the demarcation point between the portion of the pipeline controlled by MWD and the portion controlled by SDCWA. Instead, the control demarcation points for Aqueducts 1, 2, 3 and 4 are located at varying distances into San Diego County.

In consequence, FPUD and RMWD are each served by some turnouts owned by MWD and some owned by SDCWA. The details are presented in the following table:<sup>12</sup>

 $<sup>^{\</sup>mbox{\scriptsize 11}}$  This was motivated by how the pipeline's construction cost was split between MWD and SDCWA.

 $<sup>^{\</sup>rm 12}$  Provided to me by SDCWA in an email dated 8-31-2021.

		(FY 20:	17 - FY 2021	)			
Meter Description	Pipeline Turnout Structure Owner	Flow Control Facility (FCF) Owner	FY 2017	Mete	r Deliveries FY 2019	FY 2020	FY 2021
-	Owner	Fallbrook Pu	blic Utility I	District			
Del uz 1 ECE	MWD	MWD	2 180	2 264	1.541	1.426	1 5 7 9
Fallbrook 3 ECE	MWD	SDCWA	1,739	1 485	1 340	2 393	2 635
Fallbrook 4 ECE	SDCWA	SDCWA	1,132	1 499	1,197	2,000	2,000
Fallbrook 5 FCF	MWD	SDCWA	CWA Not in Service				
Fallbrook 6 FCF	MWD	MWD	VD 3.667 5.102 3.808			3.763	4,799
		Total	8,718	10,350	7,886	7,874	9,013
		Database Mus					
		Rainbow Wun	icipal water	District			
Rainbow 1 FCF	MWD	SDCWA	2,151	2,892	2,584	2,940	3,149
Rainbow 1 FCF Rainbow 3 FCF	MWD SDCWA	SDCWA SDCWA	2,151 3,560	2,892 4,335	2,584 3,534	2,940 2,293	3,149 3,564
Rainbow 1 FCF Rainbow 3 FCF Rainbow 4 FCF	MWD SDCWA MWD	SDCWA SDCWA SDCWA	2,151 3,560	2,892 4,335	2,584 3,534   lot in Service	2,940 2,293	3,149 3,564
Rainbow 1 FCF Rainbow 3 FCF Rainbow 4 FCF Rainbow 5 FCF	MWD SDCWA MWD SDCWA	SDCWA SDCWA SDCWA SDCWA	2,151 3,560	2,892 4,335   N	2,584 3,534   lot in Service Not in Service	2,940 2,293	3,149 3,564
Rainbow 1 FCF Rainbow 3 FCF Rainbow 4 FCF Rainbow 5 FCF Rainbow 6 FCF	MWD SDCWA MWD SDCWA SDCWA	SDCWA SDCWA SDCWA SDCWA SDCWA	2,151 3,560 2,403	2,892 4,335 0 2,393 2,393	2,584 3,534   lot in Service Not in Service 1,962	2,940 2,293   1,866	3,149 3,564 2,799
Rainbow 1 FCF Rainbow 3 FCF Rainbow 4 FCF Rainbow 5 FCF Rainbow 6 FCF Rainbow 7 FCF	MWD SDCWA MWD SDCWA SDCWA SDCWA	SDCWA SDCWA SDCWA SDCWA SDCWA SDCWA	2,151 2,151 3,560 2,403 3,110	2,892 4,335   2,393 3,119   2,517	2,584 3,534   lot in Service Not in Service 1,962 2,601	2,940 2,293   1,866 1,191	3,149 3,564 2,799 383
Rainbow 1 FCF Rainbow 3 FCF Rainbow 4 FCF Rainbow 5 FCF Rainbow 6 FCF Rainbow 7 FCF Rainbow 8 FCF	MWD SDCWA MWD SDCWA SDCWA SDCWA MWD	SDCWA SDCWA SDCWA SDCWA SDCWA SDCWA MWD	2,151 3,560 2,403 3,110 2,238	2,892 4,335 2,393 3,119 2,647	2,584 3,534 Not in Service 1,962 2,601 1,425	2,940 2,293 1,866 1,191 3,585	3,149 3,564 2,799 383 3,747
Rainbow 1 FCF Rainbow 3 FCF Rainbow 4 FCF Rainbow 5 FCF Rainbow 6 FCF Rainbow 7 FCF Rainbow 9 FCF Rainbow 9 FCF	MWD SDCWA MWD SDCWA SDCWA SDCWA MWD MWD	SDCWA SDCWA SDCWA SDCWA SDCWA SDCWA MWD MWD	2,151 3,560 2,403 3,110 2,238 1,617	2,892 4,335   2,393 3,119   2,647 1,842	2,584 3,534   lot in Service Not in Service 1,962 2,601   1,425 1,496	2,940 2,293 1,866 1,191 3,585 1,197	3,149 3,564 2,799 383 3,747 1,456
Rainbow 1 FCF Rainbow 3 FCF Rainbow 4 FCF Rainbow 5 FCF Rainbow 6 FCF Rainbow 7 FCF Rainbow 8 FCF Rainbow 9 FCF	MWD SDCWA MWD SDCWA SDCWA SDCWA MWD MWD MWD	SDCWA SDCWA SDCWA SDCWA SDCWA SDCWA MWD SDCWA	2,151 3,560 2,403 3,110 2,238 1,617 955	2,892 4,335 2,393 3,119 2,647 1,842 1,060	2,584 3,534 lot in Service 1,962 2,601 1,425 1,496 548	2,940 2,293 1,866 1,191 3,585 1,197 462	3,149 3,564 2,799 383 3,747 1,456 634
Rainbow 1 FCF Rainbow 3 FCF Rainbow 4 FCF Rainbow 5 FCF Rainbow 6 FCF Rainbow 7 FCF Rainbow 8 FCF Rainbow 10 FCF Rainbow 11 FCF	MWD SDCWA MWD SDCWA SDCWA SDCWA MWD MWD MWD SDCWA	SDCWA SDCWA SDCWA SDCWA SDCWA SDCWA MWD SDCWA SDCWA SDCWA	2,151 3,560 2,403 3,110 2,238 1,617 955 1,167	2,892 4,335   2,393 3,119   2,647 1,842   1,060 922	2,584 3,534 lot in Service Not in Service 1,962 2,601 1,425 1,496 548 506	2,940 2,293 1,866 1,191 3,585 1,197 462 946	3,149 3,564 2,799 383 3,747 1,456 634 1,239
Rainbow 1 FCF Rainbow 3 FCF Rainbow 4 FCF Rainbow 5 FCF Rainbow 6 FCF Rainbow 7 FCF Rainbow 8 FCF Rainbow 9 FCF Rainbow 10 FCF Rainbow 11 FCF Rainbow 12 FCF	MWD SDCWA MWD SDCWA SDCWA SDCWA MWD MWD SDCWA SDCWA	SDCWA SDCWA SDCWA SDCWA SDCWA SDCWA MWD SDCWA SDCWA SDCWA SDCWA	2,151 3,560 2,403 3,110 2,238 1,617 955 1,167	2,892 4,335   2,393 3,119   2,647 1,842   1,060 922	2,584 3,534 Not in Service 1,962 2,601 1,425 1,496 548 506 Not in Service	2,940 2,293 1,866 1,191 3,585 1,197 462 946	3,149 3,564 2,799 383 3,747 1,456 634 1,239

### TABLE 1 | Metered Deliveries to FPUD and RMWD (AF)

As shown, FPUD was served by three pipeline turnouts owned by MWD and one owned by SDCWA. FPUD took delivery of water from the turnout owned by SDCWA for the last time in November 2019 (within FY 2020).

RMUD is currently being served by four pipeline turnouts owned by MWD and by four owned by SDCWA.

# Q. Are there any other SDCWA member agencies that have turnouts on a portion of the pipeline from Lake Skinner owned by MWD?

**A.** No. FPUD and RMWD are the only SDCWA member agencies located sufficiently far north in San Diego County that they receive water from turnouts owned by MWD rather than SDCWA.

# Q. Does the fact that MWD owns a turnout from which FPUD or RMWD receives water make MWD a wholesale supplier to FPUD or RMWD?

**A.** No. The fact that MWD owns a turnout from which a SDCWA member agency receives water does not make that member agency a wholesale customer – or any other form of customer – of MWD. The member agency is solely a customer of SDCWA.

This is so for several reasons:

SDCWA is the entity that acquired the water from MWD.

SDCWA is the entity billed by MWD for the water.

SDCWA owns the water it obtains from MWD.

# Q. Does the fact that SDCWA waives its Transportation Charge for water received by FPUD and RMWD from a turnout owned by MWD make that not SDCWA water?

**A.** No. The fact that SDCWA has decided to waive its Transportation Charge for water received by FPUD and RMWD does not make this something other than SDCWA water, for the reasons stated above.

# Q. Is it the case that, if FPUD and RMWD exit from SDCWA, they still would end up receiving the same MWD water from the same turnouts on the same pipes? Nothing would really change?

A. No – that is not the case.

FPUD and RMWD would not receive water from turnouts owned by SDCWA.

More importantly, FPUD and RMWD would NOT be receiving the same water as they receive as member agencies of SDCWA.

### Q. Why will it not be the same water?

**A.** It will be water belonging to MWD and supplied by MWD, rather than water belonging to SDCWA and supplied to FPUD and RMWD by SDCWA.

### Q. How is water supplied by MWD different from water supplied by SDCWA?

**A.** It is different in source, it is different in supply reliability, and it is different in pricing.

## Q. How is MWD water physically delivered by MWD to FPUD and RMWD different in source from SDCWA water physically delivered by MWD to FPUD and RMWD?

**A.** SDCWA, as an MWD member agency, purchases water from MWD. But this is supplemental water. SDCWA's base water supply – water that it owns directly – consists of QSA water from the Colorado River (canal lining water and IID Transfer water) and desalinated water from the Carlsbad Facility.

MWD base supply – water that it owns directly – consists of water obtained under its right to Colorado River and water purchased from IID, totaling approximately 600,000 AF, plus water obtained by MWD through its 48% share of the SWP supply.

### Q. Isn't it true that MWD currently delivers to SDCWA some water from the SWP?

**A.** It is more complicated than that. MWD delivers molecules of SWP water to SDCWA in *two distinct capacities*.

MWD delivers SWP water to SDCWA as a *supplier* of water. MWD also delivers water as a conveyor of water through an exchange agreement with SDCWA.

# Q. What is the difference between MWD's role as a supplier of water versus its role as a conveyor of water under an exchange agreement with SDCWA?

**A.** As a supplier of water, MWD is both selling the water and transporting the water to SDCWA. MWD owns the water supplied and it owns the conveyance facility. It charges for both the water supplied and for the conveyance.

Under the exchange agreement with SDCWA, MWD is providing water to SDCWA in exchange for water owned by SDCWA and received by it from SDCWA – it is charging just for conveyance of the exchanged water.

### Q. Is MWD's exchange agreement the same as wheeling water?

**A.** No.

A dictionary definition of wheeling water is the following:

"The conveying of water through the unused capacity in a pipeline or aqueduct by someone other than the owner."

There is an important distinction between wheeling water and what MWD does for SDCWA under the 2003 Exchange Agreement between those two parties. Typically, wheeling occurs only if there is available capacity in the pipeline.

Under the exchange agreement, however, MWD is obligated to making capacity available. SDCWA pays MWD a volumetric rate to cover MWD's expenses in exchange for the conveyance of water. "Unlike the wheeling context, the Exchange Agreement does not literally call for the conveyance of water but instead for the *exchange* of water."<sup>13</sup>

<sup>&</sup>lt;sup>13</sup> Karnow, August 28, 2015, p.27.

### Q. Is MWD selling the water it delivers to SDCWA under the Exchange Agreement?

**A.** This question was resolved in the course of rate litigation between SDCWA and MWD.

MWD had argued that the Exchange Agreement involved a purchase of water by SDCWA because, under the agreement, SDCWA gives money and water to MWD (namely, QSA water) and obtains from MWD different water – some blend of Colorado River water and SWP water.

The trial judge in San Francisco Superior court ruled against MWD and in favor of SDCWA. He held that "San Diego is not purchasing water from Met. San Diego is exchanging water with Met to make use of its own independent supplies. The parties agreed to exchange an equal amount of water; the only water quality requirement was for Met to provide San Diego with water of at least the same quality as the water Met received from San Diego. These facts underscore that the Exchange Agreement was not an agreement pursuant to which San Diego obtained water from Met, but instead an agreement pursuant to which Met in effect conveyed water on behalf of San Diego. That the Exchange Agreement differs in some respects from a wheeling contract does not mean that the Exchange Agreement was not in substance an agreement to convey, rather than purchase water."<sup>14</sup>

The trial judge's ruling was relitigated before the California Court of Appeals in 2017. The Court of Appeals upheld the trial court on this point. It stated:

"The trial court found 'the Exchange Agreement was not an agreement pursuant to which [the Water Authority] obtained water from [Metropolitan], but instead an agreement pursuant to which [Metropolitan] in effect conveyed water on behalf of [the Water Authority].' ... We agree with this conclusion."<sup>15</sup>

The Appeals Court further stated: "The purpose, structure and terms of the [exchange] contract make it clear that the Water Authority is not purchasing water from Metropolitan but from Imperial. As the trial court rightly discerned, the Water Authority is exchanging water with Metropolitan 'to make use of its own independent supplies.' ... In agreeing to pay rates equal to the Metropolitan-supplied water rates, the Water Authority did not agree it was purchasing Metropolitan water. There was no purchase of Metropolitan water..."<sup>16</sup>

# Q. Is water delivered by MWD to SDCWA as a member agency the "same water" as water provided by MWD to SDCWA under the exchange agreement?

### **A.** No.

The molecules of water may be the physically and chemically indistinguishable, but they are different legally, with regard to both their underlying water right and their reliability.

<sup>&</sup>lt;sup>14</sup> Karnow, August 28, 2015, pp. 28-29.

<sup>&</sup>lt;sup>15</sup> Court of Appeals, June 21, 2017, 372.

<sup>&</sup>lt;sup>16</sup> Op cit., 373.

With what I will call *M*-water, water that MWD delivers to SDCWA in its capacity as a MWD member agency, this is water owned by MWD under its right to Colorado River water or under its contract with the SWP.

With what I will call *E-water*, water supplied to QSA under the 2003 Exchange Contract, this is water that MWD is exchanging with SDCWA in return for water that is owned by SDCWA under SDCWA's agreements with IID for QSA water, which in turn reflect IID's right to Colorado River water.

As explained further below, IID's right to Colorado River water is senior to MWD's right to Colorado River water and is therefore more reliable.

MWD's obligation to deliver E-water to SDCWA is different from its obligation to deliver M-water to SDCWA.

MWD has the same obligation to deliver M-water to SDCWA as it has to deliver that water to other MWD member agencies. MWD's obligation to deliver E-water to SDCWA is unique to SDCWA.

If MWD experiences a shortfall in its supply of water from the SWP or in its diversion of water from the Colorado River, it can declare a reduced allocation to MWD member agencies, including SDCWA in its capacity as a member agency. Regardless of that, if SDCWA delivers to MWD the volume of water specified under the Exchange Agreement, my understanding is that MWD is not free to deliver a reduced amount of water to SDCWA under that agreement: it is obligated to deliver the amount specified in the Exchange Agreement.<sup>17</sup>

### Q. Is most of the water delivered by MWD to SDCWA M-water?

A. That used to be true, but it is no longer true– see Table 2 below.<sup>18</sup>

<sup>&</sup>lt;sup>17</sup> The terms of the exchange are that (1) SDCWA makes the water that it purchases from IID and that it obtains from the lining of canals available to MWD at Lake Havasu, and (2) MWD delivers a like amount of water from any source to SDCWA in equal 1/12th monthly deliveries, regardless of when in the year SDCWA makes the IID and canal lining water available to MWD (SDCWA Exhibit 28, p. 6). <sup>18</sup> This uses data provided to me by SDCWA in an email dated 9-2-2021.

Fiscal Year	QSA Water	MWD Water	Total	QSA Share
2012	156,604	282,948	439,552	35.6%
2013	183,500	296,472	479,971	38.2%
2014	180,256	325,729	505,985	35.6%
2015	180,123	305,039	485,162	37.1%
2016	179,347	187,057	366,404	48.9%
2017	178,278	189,919	368,197	48.4%
2018	194,326	163,639	357,965	54.3%
2019	192,241	132,831	325,072	59.1%
2020	230,430	82,843	313,273	73.6%
2021	274,702	42,322	317,024	86.7%
2012-2021	1,949,807	2,008,798	3,958,604	49.3%
2012-2013	340,104	579,420	919,523	37.0%
2017-2021	1,069,977	611,554	1,681,531	63.6%
2020-2021	505,132	125,165	630,297	80.1%

### TABLE 2 | Breakdown of Water Delivered by MWD to SDCWA

As Table 2 shows, in the past decade overall, the water delivered by MWD to SDCWA broke down almost evenly between M-water and E-water, but the share of E-water has grown steadily from 37% in 2012 and 2013 to almost 64% in the last five years, to 80% in the most recent two years.

A clear implication is that the bulk of the water received by FPUD and RMWD, whether through turnouts owned by MWD or by SDCWA, is now E-water, not M-water.

### Q. Are FPUD and RMWD different from other SDCWA member agencies?

**A.** Two features stand out as points of some difference between FPUD and RMWD versus other SDCWA member agencies.

First, as noted above, FPUD and RMWD are the only member agencies located sufficiently far north in San Diego County that they receive water from turnouts owned by MWD rather than by SDCWA.

Second, FPUD and RMWD are heavily agricultural users of water. Agricultural water uses in SDCWA's service area overall amounted to about 37,050 AF, or 8% of total water use in the service area in 2020.<sup>19</sup> However, in RMWD agricultural use amounted to 8,876 AF out of a total use of 14,297 AF in 2020, or 62%. <sup>20</sup> FPUD had about 2,676 AF of agricultural use, or about 30% of total water use.<sup>21</sup>

<sup>&</sup>lt;sup>19</sup> SDCWA 2020 Urban Water Management Plan p. ES-1.

<sup>&</sup>lt;sup>20</sup> RMWD 20202 Urban Water Management Plan, Table 4-1, p. 4-1.

<sup>&</sup>lt;sup>21</sup> FPUD 2020 Urban Water Management Plan p. 12.

Other SDCWA member agencies with significant levels of agricultural use include Valley Center MWD, Ramona MWD, Yuima MWD and the City of Escondido, all located in the northern parts of the County.

The primary crops grown by SDCWA's agricultural water users include avocado, citrus, cutflowers, vegetables, vine crops and nursery products. These are generally high value agricultural crops. Nevertheless, a high price for water is an issue for many agricultural producers, even of high value crops. As shown below, SDCWA's charges for water have risen significantly since 2000. The consequent rise in the retail price of water has been a factor in the reduction of crop production and agricultural water use in the FPUD and RMWD service areas since 2000. In the case of RMWD, its total annual water use has declined by about 50% from around 30,000 AF in 2000 to 14,297 AF in 2020.

### 2.2 HOW EXPENSIVE IS SDCWA WATER, AND WHY?

### Q. What does SDCWA charge for water?

**A.** SDCWA obtains revenue from its member agencies as their wholesale supplier through a mix of charges. The charges for CY 2021 and CY 2022 are itemized in Table 3, below.

### TABLE 3 | SDCWA Rates and Charges

1		ITEM	CY 2021	CY 2022
	CHARGED TO	D MEMBER AGENCIES		-
а		M&I water supply rate (\$ /AF)	\$940	\$1,009
b		Agricultural water supply (\$/AF)	\$777	\$799
c		Transportation rate (\$/AF)	\$150	\$173
d		Treatment rate (S/AF)	\$295	\$310
é		Customer Service charge - Total, all member agencies (\$)	\$25.6M	\$25.6M
f		Storage Charge - Total, all member agencies (\$)	\$60.0M	\$60.0M
g		Supply Reliability charge - Total, all member agencies	\$38.84M	\$39.3M
h		Infrastructure Access charge (S/meter equivalent)	\$4.24	\$4.24
1	e+f+g+h	Fixed charges equivalent (\$/AF)	\$384	\$341
i	a+c+i	All-in Untreated (\$/AF)	\$1,474	\$1,523
k	d+j	All-in Treated (\$/AF)	\$1,769	\$1,833
	CHARGED TO	D PROPERTIES IN SERVICE AREA		
1		Water Availability Standby charge (per property)	\$10	\$10
m		Ad valorem Property Tax	VARIES	VARIES
n		System Capacity Charge per new meter less than 1" (\$)*	\$5,312	\$5,328
0		Treatment Capacity Charge per new meter less than 1" (\$)*	\$147	\$149
1		* varies by meter size		

Some of the items are charged to member agencies (items a-h), and others are charged to properties in the SDCWA service area (I-o).

Depending on the item, charges to member agencies vary by acre-feet of water supplied each month (items a-d), or by the individual agency's proportional share of a three-year or five-year rolling average of the total quantity supplied to all member agencies, or by the number of individual meter equivalents served by the agency in the previous year (h).<sup>22</sup>

Items a-d are volumetric charges. Economists classify these as *variable costs* for member agencies since they vary directly with the quantity of water delivered that year to the member agency. The other charges listed in Table 3 are fixed charges; these are what economists call *fixed costs* for member agencies because they do not vary directly with the quantity of water delivered that year to the member agency.<sup>23</sup> Items e-f-g do vary *indirectly* with the quantity of water delivered, in that they apportion to each member agency a portion of a quantum of fixed cost (\$25.6M, in the case of item e) based on the member agency's share of the total quantity delivered to all member agencies over a span of three or five years. A change in the quantity of water delivered to a member agency in 2021, say, will have the potential to change the agency's allotted share of a cost item e, f, or g three or five years hence.

SDCWA offers a separate rate for water delivered to member agencies for agricultural use known as the Permanent Special Agricultural Water Rate (PSAWR). The PSAWR rate applies item b in place of a.<sup>24</sup> It includes the transportation rate, c, the treatment rate, d, and the customer service charge, e, but it excludes the storage charge, f, and the supply reliability charge, g. In exchange for this special agricultural rate water users are subject to higher cutbacks compared to M&I users in the event of a supply limit imposed by MWD ("an allocation") or other water shortages faced by SDCWA.<sup>25</sup> PSAWR users do not receive the benefit from the supply reliability or storage programs since they do not pay the charges for those programs.<sup>26</sup>

For planning purposes, a common practice is to convert the fixed charges e-f-g-h into equivalent volumetric charges (\$/AF) by dividing them with the total (projected) quantity of water delivered to member agencies. For CY 2021, SDCWA estimates that its *all-in untreated water cost* <sup>27</sup>amounts to \$1,474/AF, while its *all-in treated water rate* amounts to \$1,769/AF.<sup>28</sup>

These all-in rates are averages across all SDCWA member agencies. For any individual member agency, its actual all-in rate for SDCWA water will vary with the quantity of water it buys that year from SDCWA, as well as with its mix of M&I water versus PSAWR water. The member agency allocations of fixed charges are based on the agencies' past shares of total water deliveries and

<sup>&</sup>lt;sup>22</sup> Customer service charge is applied to a three-year rolling average of all SDCWA deliveries; Storage charge is applied to a three-year rolling average of M&I (non-PSAWR deliveries); and Supply reliability charge applies to a five-year rolling average of M&I (non-PSAWR) deliveries.
<sup>23</sup> This does not imply that fixed charges cannot be lowered: it means that they cannot be lowered *just by delivering less water*.

<sup>&</sup>lt;sup>24</sup> By design, SDCWA's agricultural water supply rate, item b, is kept the same as MWD's full volumetric rate for its Tier 1 water supply (items a plus c plus d in Table 4).

<sup>&</sup>lt;sup>25</sup> If MWD imposed a reduction in its delivery of M-water (as opposed to E-water), deliveries to PSAWR users would be cut in the proportion used by MWD regardless of the availability of QSA water or Carlsbad water.

<sup>&</sup>lt;sup>26</sup> Less than half of FPUD and RMWD's agricultural customers avail themselves of the PSAWR rate.

<sup>&</sup>lt;sup>27</sup> The all-in cost is the unit cost or average cost of water.

<sup>&</sup>lt;sup>28</sup> The all-in treated water agricultural water rate amounts to \$1,295/AF in CY 2021 and \$1,355 in CY 2022.

total M&I deliveries; if an agency takes less SDCWA water this year than it had in the past (which is especially true of FPUD in 2021 and 2022), it will raise its all-in SDCWA water rate.

### Q. How has the cost of SDCWA water changed over time?

A. Figure 3, plots SDCWA's all-in treated water rate over the period FY 1999 through FY 2019.<sup>29</sup>





The all-in treated water rate was \$516/AF in FY 1999, and it stayed around that level through FY 2003. It started to rise in FY 2004, and it grew at a faster rate after FY 2009. FPUD and RMWD have cited the increasing trend in SDCWA's all-in treated water rate as their reason for wanting to depart from SDCWA.

<sup>&</sup>lt;sup>29</sup> This figure was prepared by RMWD and presented to the RMWD Board of Directors on December 3, 2019. See Memorandum Subject: Consider Adoption of a Resolution of Application Authorizing the General Manager to Prepare and Submit an Application to the San Diego LAFCO to detach from SDCWA and Annex to EMWD." Page 46 of 238.

### Q. What does MWD charge for water?

Table 4 below shows how MWD currently charges its member agencies for water this year.<sup>30</sup>

MWD's Tier 1 water supply rate applies to a member agency's water purchases that are within the agency's set Tier 1 maximum. In addition, MWD applies its System Access rate and its System Power rate to cover MWD's cost of transporting water delivered to member agencies. Up to CY 2020, MWD also applied its Water Stewardship Rate. Thus, the MWD Full-Service Tier 1 untreated rate, the sum of items a, c, d and f, amounted to \$755/AF for CY 2020, \$777/AF for CY 2021, and \$799/AF for CY 2022.

The Full-Service Tier 1 treated water rate (row k) adds in the treatment surcharge (item e), for a total of \$1,078/AF in CY 2020, \$1,104/AF in CY 2021, and \$1,143/AF in CY 2022.

Items a-f are all variable (volumetric) charges in the sense defined above. Items g and i are fixed charges, although they vary indirectly with the quantity of water delivered by MWD. Item g (the Readiness to Serve Charge, RTS) allocates to each member agency a portion of a fixed quantum (\$130M, in CY 2021) identified by MWD as recovering the cost of providing capacity, including emergency storage capacity, to meet outages and hydrologic variability. This cost is allocated to member agencies based on each agency's proportional share of a ten-year rolling average of all M-water deliveries.<sup>31</sup> It is a fixed charge in the short run; it is a variable charge in the long-run as the ten-year rolling average adjusts.

Item i (the Capacity Charge) is charged on each member agency's individual peak (maximum) summer day delivery of water from MWD measured, in cfs, over a three-calendar year period. This varies, therefore, with changes in peak daily delivery, but not with total annual delivery.

For planning purposes, SDCWA converts g and i into equivalent volumetric charges (\$/AF) by dividing them by the quantity of water it expects to purchase from MWD as a member agency (i.e., the quantity of M-water).<sup>32</sup> The table includes those equivalent per-acre foot charges (rows h and j) for CY 2020, 2021 and 2022, as presented to the SDCWA Board on 2-25-2021. What SDCWA refers to as MWD's all-in rate adds the per-acre foot equivalent MWD RTS and Capacity charges (rows h and j) to MWD's other charges (rows a+c+d+e+f) shown in Table 4.

<sup>&</sup>lt;sup>30</sup> The charge structure was different in the past. MWD used to have a special agricultural rate which was discontinued.

<sup>&</sup>lt;sup>31</sup> Member agencies may choose to have a portion of their total RTS obligation offset by standby charge collections levied by MWD on their behalf, and SDCWA chooses to do this.

<sup>&</sup>lt;sup>32</sup> This is a delicate calculation. In the case of row g, the per-acre-foot estimate varies depending on whether one uses the average annual delivery over the previous ten years, on which the RTS is based, the projected delivery to SCWA this year (used by SDCWA here), or the actual realized CY delivery.

### TABLE 4 | MWD Water Rates and Charges

-	ITEM	CY 2020	CY 2021	CY 2022
	CHARGED TO MEMBER AGENCIES			-
а	Tier 1 Water supply rate (\$/AF)	\$208	\$243	\$243
b	Tier 2 Water supply rate (\$/AF)	\$295	\$285	\$285
с	System Access rate (\$/AF)	\$346	\$373	\$389
d	System Power rate (\$/AF)	\$136	\$161	\$167
e	Treatment surcharge (\$/AF)	\$323	\$327	\$344
f	Water Stewardship rate (\$/AF)	\$65		-
g	Readiness to Serve (RTS) charge (\$M)	\$136	\$130	\$140
h	Readiness to Serve charge (\$/AF)*	\$179	\$161	\$174
1	Capacity charge (\$/cfs)	\$8,800	\$10,700	\$12,200
j	Capacity charge (\$/AF)*	\$103	\$137	\$156
k	Full-service Tier 1 treated (\$/AF)	\$1,078	\$1,104	\$1,143
l = h+j+k	All-in Tier 1 treated charge (\$/AF)	\$1,360	\$1,402	\$1,473
	CHARGED TO PROPERTIES IN SERVICE AR	EA		
m	Ad Valorem Property Tax	VARIES	VARIES	VARIES
n	Standby charge per parcel	VARIES	VARIES	VARIES
	*Equivalent charge per acre foot for SDCV	VA.		

### Q. How does what SDCWA charges for water compare with what MWD charges?

**A.** Comparisons of what MWD charges for water versus what SDCWA charges are typically framed in terms of the all-in rates for water discussed above.<sup>33</sup> Table 5 presents the comparison of SDCWA versus MWD all-in water rates in CY 2021.

	SDCWA	MWD
All-in untreated water rate	\$1,474	\$1,075
All-in treated water rate	\$1,769	\$1,402
Agricultural treated water rate (PSAWR)	\$1,295	NA

### TABLE 5 | All-in Rates Compared (\$/AF) CY 2021

The all-in SDCWA treated water rate is about 26% higher than the all-in MWD treated water rate (\$1,769 vs \$1,402). This is due primarily to the difference in the charge for untreated water, where the SDCWA rate is about \$400/AF higher than the MWD rate, which amounts to a price differential of 37% (\$1,474 vs \$1,075). SDCWA's treatment cost is about 10% lower than MWD's treatment cost (\$295 vs \$327).<sup>34</sup>

### Q. Is it surprising that SDCWA charges more for water than MWD?

### **A.** No.

In addition to having its own source of water (E-water), SDCWA obtains water from an outside wholesale supplier, namely M-water from MWD. Every water agency that is supplied with water by an outside wholesaler supplies water to its own customers at a higher cost than what its wholesale supplier charges. This is because the water agency is both paying towards the costs of the wholesale supplier's infrastructure and also covering the cost of its own supply infrastructure for its own service area.

Thus, there definitely should be a difference between what MWD charges and what SDCWA charges. SDCWA obtains water through the MWD pipeline at the north end of San Diego County and then maintains, operates and manages a distribution system serving the entire western portion of the county. It is obvious that there has to be some mark-up over MWD's wholesale rate to cover the cost of maintaining, operating and managing water distribution in the county.

<sup>&</sup>lt;sup>33</sup> I expand on that cost analysis below.

<sup>&</sup>lt;sup>34</sup> Some commentaries have compared the MWD all-in untreated rate of \$1,075/AF with the SDCWA all-in treated rate of \$1,769/AF, but that is comparing apples with oranges. Others have compared SDCWA's all-in treated water rate with MWD's Full-service Tier 1 treated rate, rather than MWD's all-in treated rate – see Figure 4 below.

It also should be noted that, just as SDCWA's wholesale water rate has increased substantially over the past two decades, so has MWD's wholesale rate.

I do not have the data to consistently compare SDCWA's and MWD's water rates over time. What I have is shown in Figure 4. This compares SDCWA's *all-in* treated water rate not with MWD's allin rate (Table 4, row I) but, rather, with MWD's *Full-service* Tier 1 treated water rate (row k). This omits the Readiness to Serve and Capacity charges imposed by MWD – rows h, j -- which amount to \$282/AF in CY 2020, \$298/AF in CY 2021, and \$330/AF in CY 2022. Figure 4 thus has the effect of overstating the rate differential between SDCWA and MWD. Nevertheless, it is probably correct in pinpointing when the differential began to widen.

From 2000 to 2005, the differential between SDCWA's rate and MWD's rate as depicted in Figure 4 was around \$100/AF; from 2006 to 2009, it was around \$150/AF. In 2010 it rose to about \$220/AF, in 2011 it became about \$300/AF, and it continued to rise thereafter. Thus 2010 seems to have been the turning point when SDCWA's wholesale water rate began to rise significantly faster than MWD's rate.



### FIGURE 4 | Comparison of SDCWA All-In Rates and MWD Full-Service Rate for Treated Water <sup>35</sup>

Sources: San Diego County Water Authority; Metropolitan Water District of Southern California Karthika Namboothiri / The San Diego-Union Tribune

### Q. Is it significant that the differential between SDCWA rates and MWD rates widened starting around 2010?

A. Yes.

<sup>&</sup>lt;sup>35</sup> Joshua Smith "What Fallbrook and Rainbow's revolt says about San Diego's skyrocketing water rates" San Diego Union-Tribune December 18, 2021, retrieved on 12-28-2021 from https://www.sandiegouniontribune.com/news/environment/story/2021-12-18/fallbrook-rainbow-revolt-water-rates

That widening differential between SDCWA rates and MWD rates has been an important factor underlying FPUD and RMWD's wish to detach from SDCWA.

### Q. Why did the differential between SDCWA rates and MWD rates widen starting around 2010?

**A.** Below, I investigate four possible explanations:

- (1) QSA water (E-water) is more expensive for SDCWA than M-water from MWD.
- (2) The Carlsbad desalination water is more expensive for SDCWA then M-water from MWD.
- (3) SDCWA made major infrastructure investments soon before and after 2010; this was a time when MWD happened not to be making major infrastructure investments.
- (4) SDCWA was hit harder than MWD by a sharp reduction in demand for its water from its member agencies.

### Q. Is QSA water (E-water) more expensive for SDCWA than M-water from MWD?

**A.** It depends on what is being referred to: more expensive in terms *average* cost or *marginal* cost? Also, more expensive in terms of *short-run* marginal cost or *long-run* marginal cost?

I compare here the average cost of QSA water for SDCWA versus the average cost of M-water, and also the marginal cost of E-water versus the long- and short-run marginal costs of M-water.

The average cost of water is defined as the total amount paid divided by the volume of water received; it is the cost per unit of water delivered (E-water or M-water). If this cost per unit is multiplied by the number of units of water delivered, this yields the total amount paid that year, inclusive of all charges, for E-water or M-water.

The marginal cost is defined as the change in total cost paid per unit change in the amount of water delivered. It measures the *incremental* cost per *incremental* unit of water.

The marginal cost is relevant when contemplating changes in the amount of water delivered. If a change in the amount of water delivered to SDCWA is contemplated, multiplying the marginal cost by the change in the delivered amount yields the change in total cost paid by SDCWA. Using the short-run marginal cost yields the savings in cost paid if this is a one-time reduction in water delivery that year. Using the long-run marginal cost yields savings in cost paid if the reduction in quantity delivered is sustained over a multi-year period.

While both variable and fixed costs count towards the calculation of average cost, only variable costs (volumetric charges) count towards the calculation of marginal cost. Thus, the all-in costs reported in the text preceding Table 5, and in Table 5 itself, are average costs, not marginal costs. Table 6A and 6B assess the cost of QSA water to SDCWA versus the cost of M-water in FY 2021 (as opposed to CY 2021), breaking cost down into its components and separately identifying average cost versus short-run marginal cost versus long-run marginal cost.

				CY 2021	
1	ITEM	FORMULA	Rate (\$/AF)	Supply (AF)	Cost (\$M)
			(a)	(b)	(c)
1	IID transfer	1(c) = 1(a)*1(b)	\$688	200,000	\$137.6
2	IID early transfer	2(c) = 2(a)*2(b)	\$214	5,000	\$1.1
3	IID Socioeconomic reimbursement	3(a) = 3(c)/3(b)	(\$2)	205,000	(\$0.3)
4	Canal Lining OM&R	4(c) = 4(a)*4(b)	\$17	77,700	\$1.3
5	Canal Lining Debt Service	5(a) = 5(c)/5(b)	\$76	77,700	\$6.0
6	Total QSA charge (fixed cost)	6(c) = 1(c) + + 5(c)			\$145.7
7	Melded QSA Supply rate (average cost)	7(a) = 6(c)/7(b)	\$515	282,700	1
8	MWD System Access rate (marginal/average cost)	From Table 4	\$373	C	
9	MWD System Power rate (marginal/average cost)	From Table 4	\$161		
10	MWD Exchange rate (marginal/average cost)	12(a) = 8(a) + 9(a)	\$534		
11	Combined cost QSA supply (average cost)	11(a) = 7(a) + 10(a)	\$1,049		
12	Combined cost QSA supply (marginal cost)	12(a) = 10(a)	\$534	1	

### TABLE 6a | AVERAGE/MARGINAL COST QSA E-WATER

Table 6A deals with the QSA water, which came to SDCWA in FY 2021 in three separate varieties: (i) regular transfer water whose amount had built up on a schedule specified in the 2003 Revised Fourth Amendment Transfer Agreement between SDCWA and IID; (ii) early transfer water which provided for the additional transfer of small quantities of IID water to SDCWA in 2020, 2021 and 2022 at a special, low price; and (iii) canal lining water which became available to SDCWA from the Coachella Canal in 2007 and from the All-American Canal between 2008 and 2010. IID transfer water came with a specified scheduled of annual prices that grew over time. The price rose by roughly 10% a year between 2007 and 2015; from 2016 through 2034 it follows a price index which, so far, has been rising at less than 2% a year. For canal lining water, there is no charge for the water per se, but SDCWA pays an annual debt service on its financing of the canal lining, amounting to roughly \$76/AF per year, plus a small annual amount to cover the cost of operations, maintenance and replacement, which amounted to \$17/AF in 2021. In summary, of the two main supply items, canal lining water provides SDCWA with 77,700 AF/year at a current unit cost of \$93/AF which will increase by only a couple of dollars a year, and IID transfer water provides 200,000 AF/year at a purchase cost in FY 2021 of \$688, which, currently, is rising at less than 2% per year. The weighted average of the costs of these two forms of QSA water amounted, in FY 2021, to \$515/AF.

The key feature of these QSA costs is that, in economic terms, they are all fixed costs, stemming from commitments that SDCWA has made. SDCWA has committed to pay for the specified annual amounts of IID transfer water at the specified annual prices, and it borrowed money to co-fund the lining of the canals. Therefore, SDCWA's QSA expenditure would not be reduced if, for whatever reason, it decided to take less than 200,000AF/year from IID, or less than
77,700AF/year from the canal lining. These are long term commitments: the canal lining contract runs through 2113; the IID transfer contract runs through 2047 and can be extended to 2077 upon mutual consent.

To transport the QSA water from the Colorado River to the San Diego County service area, SDCWA signed the Exchange Agreement with MWD, which runs through 2047. Under this agreement, MWD charges a rate per acre-foot exchanged. In CY 2021, the exchange rate amounted to \$534/AF (row 10).

Prior to CY 2021, MWD's Exchange Rate for QSA water had also included the Water Stewardship charge levied by MWD (amounting to \$65/AF in CY 2020). In June 2010, SDCWA sued MWD challenging the Exchange Rate which MWD had adopted for CY 2011 and 2012 on the grounds that (i) MWD was misallocating certain SWP costs included in the System Access charge and System Power rate and wrongfully applying them towards the QSA water Exchange Rate, and (ii) the Stewardship rate was really a cost of MWD water supply and should not be included in the Exchange Rate.<sup>36</sup> The San Francisco Superior Court issued a ruling in April in 2015, which was then appealed. The California Court of Appeal issued its ruling in June 2017. My understanding is that the Superior Court essentially upheld both of SDCWA's claims, (i) and (ii); the Appeals Court reversed this judgment on (i) while upholding it on (ii). There is still ongoing litigation on these and other issues related to the Exchange Rate in more recent years.<sup>37</sup> However, MWD's Board of Directors decided to suspend the Stewardship rate for CY 2021 and 2022, thus removing it from both M-water and E-water.

If, for whatever reason, SDCWA had decided to take less than the contracted amounts of QSA water in CY 2021, it would have avoided paying the MWD Exchange Rate cost (\$534/AF) per acrefoot not taken, but it would still have had to pay the contracted total of \$145.7M shown in row 6 of Table 6A. Thus, the average (unit) cost of QSA water for SDCWA in CY 2021 was \$1,049/AF (= \$515 + 534), while the marginal cost saved by taking a smaller amount of QSA water than was contracted for would have been \$534/AF.

<sup>&</sup>lt;sup>36</sup> MWD used the Stewardship rate to fund member agency investments in local resources including recycled water, conservation and demand management.

<sup>&</sup>lt;sup>37</sup> According to a press release issued by SDCWA on 10-28-2021, the two parties are now seeking to resolve the remaining issues outside of court. Also, MWD recently refunded to SDCWA some excess payment of the Stewardship rate plus interest.

1			CY 2021
	ITEM	FORMULA	Rate (\$/AF)
1	MWD Tier 1 untreated rate (marginal/average cost)	From Table 4	\$243
2	MWD System Access rate (marginal/average cost)	From Table 4	\$373
3	MWD System Power rate (marginal/average cost)	From Table 4	\$161
4	Tier 1 full service untreated	4 = 1 + 2 + 3	\$777
5	Treatment surcharge		\$327
6	Tier 1 full service treated	6 = 4 + 5	\$1,104
7	Readiness to Serve (long-run marginal cost)	Total amount of RTS/Projected total MWD delivery	\$88
8	Readiness to Serve (average cost)	= SDCWA RTS/actual SDCWA delivery	\$161
9	Capacity Charge (average cost)	= SDCWA Capacity charge/actual SDCWA delivery	\$137
10	All-in MWD Tier 1 untreated (average cost)	10 = 4 + 8 + 9	\$1,075
11	All-in MWD Tier 1 treated (average cost)	11=6+8+9	\$1,402
12	All-in MWD Tier 1 untreated (long-run marginal cost)	12 = 4 + 7	\$865
13	All-in MWD Tier 1 untreated (short-run marginal cost)	13 = 4	\$777

### TABLE 6b | Average/Marginal Cost of MWD M-Water

Table 6B shows the costs to SDCWA of M-water from MWD. As with QSA water, there are two main charges: a cost for the water itself and a cost to transport it through MWD's system to the SDCWA service area. In addition, there are some other MWD charges that do not vary directly with the quantity of M-water supplied that year.

The cost for the water itself is the Tier 1 untreated rate (row 1), which in CY 2021 amounted to \$243/AF. The variable costs are the MWD System Access charge and the System Power Rate (rows 2, 3), which together total \$534/AF.

The other charges for untreated M-water are the Capacity charge and the Readiness to Serve (RTS) charge (rows 8, 9). The Capacity charge depends on the peak (maximum) daily delivery of water by MWD to a member agency. If the annual delivery of water to a member agency changes but the peak daily delivery does *not* change, then the Capacity charge would be effectively a fixed cost, not a variable cost, and it would not count towards the marginal cost of M-water.<sup>38</sup> The RTS charge does count towards the marginal cost of M-water, but it counts differently in the long-run and the short-run.

Converting these charges to a per-acre-foot equivalent is non-trivial, and it produces varying estimates depending on whether the quantity of water being divided into these charges is the projected water use looking forward over the coming year or the historical water use that actually materialized, looking backward. Also, in the case of the RTS, it makes a difference whether one uses an agency's proportional share of a ten-year rolling average of total M-water deliveries or

<sup>&</sup>lt;sup>38</sup> The flow of M-water to SDCWA drives the capacity charge paid to MWD by SDCWA. Since E-water is delivered in equal monthly instalments under the Exchange Agreement, it should not impact the peak daily flow received by SDCWA from MWD.

its actual delivery that year. In the case of the per-acre-foot equivalents of the RTS and the Capacity charge reported by SDCWA and used in Table 4 (rows j and l) and Table 6B (rows 8 and 9), I believe SDCWA was using the projected water delivery that calendar year. The difference between the amounts reported in row 7 versus row 8 of Table 6B is as follows. The amount in row 7 (\$88/AF) is the MWD-wide RTS charge per acre foot, obtained by taking the target amount to be raised through this charge (\$130M in CY 2021) and dividing it by the past ten-year rolling average total delivery of M-water to all MWD member agencies (1,475,544 AF). However, the amount of M-water taken by SDCWA has been declining over the past 10 years (see Tables 8 and 9 below), so that amount of M-water projected to be taken by SDCWA in CY 2021 is below its proportionate share of that ten-year average. Dividing SDCWA's proportional share of the \$130M RTS charge by the lower amount of its projected delivery of M-water in CY 2021 raises SDCWA's average per acre-foot RTS charge from the systemwide average of \$88/AF to \$161/AF (row 8).

Table 7 summarizes the results of this analysis. It shows SDCWA's average supply costs of QSA water and M-Water in FY 2021, broken down into three components: cost per unit for water supply, cost per unit for conveyance, and cost per unit for fixed charges. It also shows the marginal supply cost of QSA water and the long- and short-run marginal supply costs of M-water. In FY 2021, the average cost of M-water from MWD was a little higher than the average cost of QSA water, \$ 1,075/AF versus \$1,049/AF, and the short- and long-run marginal costs of M-water were also higher than those of E-water.

	CY 2021		
ITEM	E-WATER	M-WATER	
Average cost (\$/AF)		1000	
Water supply	\$515	\$243	
Conveyance	\$534	\$534	
Fixed charges		\$298	
Total	\$1,049	\$1,075	
Long-run Marginal cost (\$/AF)	\$501	\$865	
Short-run Marginal cost (\$/AF)	\$501	\$777	

### TABLE 7 | SDCWA's Supply Cost for Untreated E-Water vs. M-Water

Table 8 extends the analysis back in time to 2003 when delivery of QSA started, on a CY basis. Following the methodology employed in Tables 6A,B and 7, the cost reported in column (C) of Table 8 represents the average cost of QSA water for SDCWA, while the cost reported in column (B) is the marginal cost of QSA water. The cost reported in column (G) is the long-run marginal cost of M-water for SDCWA.<sup>39</sup> I do not have the data needed to calculate SDCWA's average cost

<sup>&</sup>lt;sup>39</sup> The sum of columns (D) and (E) constitutes the short-run marginal cost of MWD water.

of MWD water over the period 2003-2020. I don't know the per-acre-foot equivalent of the shortrun MWD RTS charge (SDCWA's actual annual payment by divided by the amount of M-water actually delivered that year), but it is probably larger than the amount recorded in column F in the same way that row 8 in Table 6B is larger than row 7. I also do not know the per-acre-foot equivalent of the annual MWD Capacity charge, corresponding to row 9 in Table 6B. Those two missing items should be added to the number in column (G) to calculate the average cost of Mwater. This would significantly reduce the cost difference between QSA water and M-water, shown in column (I), and reverse it in some years.

Two conclusions emerge from this analysis:

- (1) While the annual average cost of QSA water for SDCWA may have been higher than that of M-water from MWD in some individual years, that difference would not have been large. Quite often the costs would have been about the same. Sometimes, including recently, the average cost of QSA water was lower than that of M-water.
- (2) It is unlikely that the importation of QSA water starting in 2003 had a significant role in the widening of the gap between the all-in SDCWA rate and the all-in MWD rate starting around 2010, as depicted in Figure 5.

		QSA (E-WATER)			MWD M-W	VATER			
	QSA OVERALL	MWD EXCHANGE	QSA TOTAL	TIER 1 UNTRD	ACCESS + POWER	READINESS	TIER 1 UNTRD	RATIO	QSA
CY	RATE	RATE	COST	RATE	+ STEWARDSHIP	TO SERVE	TOTAL COST	QSA/MWD	WATER
1-1	(\$/AF)	(\$/AF)	(\$/AF)	(\$/AF)	(\$/AF)	(\$/AF)	(\$/AF)	(C)/(G)	SHARE*
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(0)
2003	258	253	\$511	\$73	\$253	\$52	\$378	135.1%	1.5%
2004	267	253	\$520	\$73	\$253	\$52	\$378	137.4%	3.0%
2005	275	258	\$534	\$73	\$258	\$50	\$381	140.0%	5.5%
2006	286	258	\$544	\$73	\$258	\$49	\$3.80	143.1%	6.8%
2007	225	258	\$483	\$73	\$258	\$48	\$379	127.4%	10.5%
2008	214	278	\$492	\$73	\$278	\$49	\$400	123.0%	14.4%
2009	191	314	\$505	\$107	\$314	\$53	\$474	106.6%	26.2%
2010	225	314	\$540	\$101	\$314	\$60	\$475	113.6%	33.9%
2011	238	372	\$610	\$103	\$372	\$60	\$535	114.0%	35.2%
2012	312	396	\$708	\$104	\$396	\$78	\$578	122.6%	41.1%
2013	332	453	\$785	\$106	\$453	\$78	\$637	123.3%	36.6%
2014	363	445	\$808	\$140	\$445	\$94	\$679	118.9%	31.5%
2015	381	424	\$805	\$148	\$424	\$91	\$663	121.4%	35.9%
2016	383	438	\$821	\$156	\$438	\$89	\$683	120.2%	40.9%
2017	385	465	\$850	\$201	\$465	\$100	\$766	110.9%	50.1%
2018	429	486	\$915	\$209	\$486	\$83	\$778	117.6%	55.6%
2019	464	522	\$986	\$209	\$522	\$82	\$813	121.3%	74.7%
2020	494	547	\$1,041	\$208	\$547	\$87	\$842	123.5%	87.6%
_	+ 054 mare 0	fcombined OSA + M	WD supply					-	

### TABLE 8 | SDCWA's Supply Cost for Untreated E-Water vs. M-Water

## Q. Tables 7 and 8 show that SDCWA pays a higher unit cost for water supply for QSA water compared to MWD M-water, but exactly the same unit cost for conveyance. Is this surprising?

**A.** The fact that the water supply cost per unit of QSA water is higher than that for M-water is not a surprise. The fact that the conveyance cost per unit of QSA water is the same as that of M-water *is* something of a surprise.

## Q. Why is it not a surprise that the water supply cost per unit of QSA water is higher than that for M-water?

**A.** Three factors explain why the supply cost of MWD M-water is relatively low.

1) There is no water supply cost per se for the water that MWD obtains from the Colorado River under its own water right of 550,000 AF.

2) MWD does pay for the 108,000 AF of Colorado River water that it contracted to obtain from IID in 1988; that price was represented by IID as \$128/AF.

In the negotiation with IID, MWD required that the price of this water "not exceed -- indeed, remain below – the cost for State Water Project deliveries south of the Tehachapi's (at the time \$249/AF inclusive of power charges to get the water over the mountains)."<sup>40</sup> IID had wanted to receive a higher price which MWD rejected. The outcome was that IID did not sell an additional 200,000 AF to MWD which had been on the table. This is the supply that SDCWA contracted for with IID in 1998, at an initial cost (in 2003) of \$253/AF, roughly twice what MWD had been willing to pay in 1988.

3) The supply cost component of water projects – whether the SWP or the lining of the Coachella and All-American canals – are typically based on the historical construction cost of the project, not the future replacement cost. With inflation over time, the supply cost of water from an older project is lower than that of a more recently constructed project: older water is cheaper. The SWP, the major NON-Colorado River source of MWD water, was constructed in the 1960s and is older water.

## Q. Why is it something of a surprise that the conveyance cost of QSA water is exactly the same as that of M-water?

**A.** The Exchange Rate set by MWD is based on its cost of transporting all of its water, not just water from the Colorado River but also SWP water from Northern California. The setting of this rate was beset by contention from the very beginning – there was what has been called a "wheeling-rate war" between SDCWA and MWD in which their other past feuds became

<sup>&</sup>lt;sup>40</sup> Norris Hundley, *The Great Thirst*, University of California Press, Revised edition, 2001, p. 474.

entangled.<sup>41</sup> The wheeling rate that emerged reflected MWD's desire "that SDCWA continue paying its full share of MWD expenses"<sup>42</sup> rather than being a fine-grained calculation of the economic cost to MWD of transporting and exchanging QSA water.

SDCWA has stated that the real point-to-point cost to MWD for performing the exchange of QSA water is less than half the Exchange Rate charged by MWD.<sup>43</sup> However, I am not in a position to make my own assessment of that statement.

SDCWA first sued MWD with regard to the proposed Exchange Rate in 1997. The litigation continued on and off since then, picking up in 2010, and continuing in some form to the present day. The Court of Appeal ruled in 2017 that the Exchange Rate is not illegal. That does not make it actually fair or reasonable. The Court held that: ""[s]ubstantial deference must be given to [Metropolitan's] determination of its rate design. Rates established by the lawful rate-fixing body are presumed reasonable, fair and lawful."<sup>44</sup>

## Q. Could the sharp increase in SDCWA's all-in water rate be due to the desalinated seawater from the Carlsbad Facility?

**A.** At a CY 2021-unit cost of \$2,752/AF,<sup>45</sup> water from the Carlsbad Facility is significantly more expensive for SDCWA than purchased MWD water with an all-in rate of \$1,075/AF. But this is unlikely to explain much of the escalation in the SDCWA's all-in water rate for two reasons.

<sup>&</sup>lt;sup>41</sup> Hundley, *op. cit.*, pp 483-501.

<sup>&</sup>lt;sup>42</sup> Hundley, ibid.

<sup>&</sup>lt;sup>43</sup> For example, Dan Denham presentation to SDCWA Imported Water Committee, January 26, 2017.

<sup>&</sup>lt;sup>44</sup> 2017 Ruling, p. 29, citing a 2004 ruling in SDCWA's earlier litigation against MWD.

<sup>&</sup>lt;sup>45</sup> Presentation by Jeremy Crutchfield to SDCWA Board of Directors, October 22, 2020.

		Water	Authority Supp	lies		
Fiscal Year	Local Supplies	Seawater Desalination	QSA	From MWD	Total Water Used	Total Supplied by SDCWA
1999	150,173	-	1.1	454,436	604,609	454,436
2012	111.914		156.604	282 948	551.466	439 552
2013	104.081		183,500	296.472	584.052	479.971
2014	97,185	2.10	180,256	325,729	603,170	505,985
2015	53,668		180,123	305,039	538,830	485,162
2016	62,875	25,599	179.347	187.057	454.877	392,003
2017	74,910	34,421	178.278	189,919	477.528	402.618
2018	125,699	34,907	194,326	163,639	518,570	392,871
2019	98,526	40.036	192.241	132,831	463.634	365.108
2020	116,706	33,157	230,430	82,843	463,137	346.431
2021	138,171	47,530	274,702	42,322	502,725	364,554
	BREA	KDOWN OF ALL SO	URCES BY SHAR	F	-	
	Dite		onces of sha			
Fiscal Vear	Local Supplies	Seawater	054	From MWD		
1999	24.8%	Desennedun	Gon	75.2%		2
1000	24.070			13.2.4	1	
2012	20.3%		28.4%	51.3%		
2013	17.8%		31.4%	50.8%	-	
2014	16.1%		29.9%	54.0%	-	
2015	10.0%		33.4%	56.6%		
2016	13.8%	5.6%	39.4%	41.1%		
2017	15.7%	7.2%	37.3%	39.8%		
2018	24.2%	6.7%	37.5%	31.6%	1.	
2019	21.3%	8.6%	41.5%	28.6%		
2020	25.2%	7.2%	49.8%	17.9%		
2021	27.5%	9.5%	54.6%	8.4%		
	BREAK	DOWN OF SDCWA S	UPPLY BY SOU	RCE		
_						
Fiscal Year		Seawater Desalination	Q5A	From MWD		
1999		-		100.0%		
2012	1	- F	35.6%	64.4%		
2013		14	38.2%	61.8%		
2014		-6	35.6%	64.4%		
2015			37.1%	62.9%		
2016		6.5%	45.8%	47.7%		
2017		8,5%	44.3%	47.2%		
2018		8.9%	49.5%	41.7%		
2019		11.0%	52.7%	36.4%		
2020		9.6%	66.5%	23,9%		-
2021		13.0%	75 4%	11.6%		

### TABLE 9 | Total Water Use in SDCWA Service Area, Broken Down By Source

First, the sharp increase in SDCWA's all-in rate began around 2010, but SDCWA did not start receiving Carlsbad water until 2016.

Second, since 2016 Carlsbad water has accounted for only a small fraction of the water delivered by SDCWA -- see Table 9.

Table 10 compares the unit cost (average cost) of the three sources of water used by SDCWA: QSA (E-water); desalinated water from the Carlsbad facility; and M-water from MWD.

	WATER SOURCE	Supply	Unit Cost	
	1	Share	(\$/AF)	
а	QSA (E-water)	75.4%	\$1,049	
	Desal (Carlsbad)	13.0%	\$2,725	
b	MWD (M-water)	11.6%	\$1,075	
i.	WEIGHTED AVERAGE		\$1,271	
a =	Melded QSA (\$515) + M	WD Exchang	e rate (\$534)	
b =	Full service Tier 1 untrd	(\$777) + RTS	(\$161) + Capa	city (\$137)

### TABLE 10 | SDCWA's Untreated Water Supply Cost

If SDCWA had not used any Carlsbad Desal water and, instead, delivered a 75-25 mix of E- and M-water in CY 2021, its water cost would have been \$1,056/AF instead of \$1,271/AF, a savings of \$215/AF. However, Carlsbad Desal water is more reliable than E- or M-water because it is not derived from streamflow that is being affected by climate change. Moreover, the \$215/AF cost differential between Carlsbad and E/M-water accounts for only part of the \$399/AF differential between SDCWA's and MWD's rates for untreated water (Table 5). So, something else is at work. I believe that two other factors contributed to the rate differential: (1) SDCWA invested in some major water supply infrastructure just before and after 2010, a period when MWD happened not to be making any unusually large investments. (2) Between 2010 and now, SDCWA experienced twice as large a reduction in member agency demand as MWD and that would have caused the rate differential to widen, given that both agencies have very high fixed costs.

# Q. Could the fact that SDCWA made some major infrastructure investments soon before and after 2010 help explain the widening of the gap between the all-in SDCWA rate and the all-in MWD rate starting around 2010?

**A.** Yes. In those years, SDCWA made some major investments in water supply infrastructure projects, including the following:<sup>46</sup>

Olivenhain Dam (2003)	\$198M
Coachella Canal Lining (2006)	\$129M
Twin Oaks Treatment Plant (2007)	\$179M
All-American Canal Lining (2009)	\$149M

<sup>&</sup>lt;sup>46</sup> Amounts and dates taken from presentation to SDCWA Board, 6-9-2015.

San Vicente Pipeline (2011)	\$300M
Lake Hodges Pumped Storage (2012)	\$208M
San Vicente Dam Raise (2014)	\$825M
Carlsbad Desal Facility (2015)	\$1,000M

Figures 5A and 5B together chart SDCWA annual capital improvement program expenditures between FY1991 and FY 2021. Annual CAPEX expenditures from 2006 through 2010 reached levels above \$250M, roughly double the amount in the years before or since then. These were substantial financial commitments for SDCWA.

To illustrate the scale of this financial commitment by SDCWA, it is useful to make the comparison with MWD's capital improvement expenditures (Figure 6). In the recent period, MWD had CIP expenditures exceeding \$300M only in FY 2007-2008-2009, and its annual CIP expenditure in those peak years was about \$500M, less than twice SDCWA's peak annual expenditure, while MWD delivers three to four times more water than SDCWA.

It is not that MWD has never undertaken capital investments on the scale experienced by SDCWA around 2010. MWD had made comparably scaled financial commitments at the time of the construction of the State Water Project.

CIP investments tends to occur in cycles, and the period around 2010 found SDCWA and MWD at different phases of their investment cycles.

Figures 7A and 7B show that SDCWA took on significant debt to finance these investments, but this large debt burden will be extinguished by 2039.



### FIGURE 5a | SDCWA CIP Spending FY 1991-2014<sup>47</sup>





<sup>&</sup>lt;sup>47</sup> Presentation to SDCWA Board, 6-28-2012.

<sup>&</sup>lt;sup>48</sup> Presentation to SDCWA Board, 1-28-2021.









<sup>&</sup>lt;sup>49</sup> Figure 5-2 in MWD 2020 Annual Report.

<sup>&</sup>lt;sup>50</sup> Presentation to SDCWA Board, 6-28-2012.

### FIGURE 7b | SDCWA Debt Service<sup>51</sup>



## Q. Was SDCWA hit harder than MWD by a reduction in the revenue-earning supply of water to member agencies?

### A. Yes.

Figure 3 above depicts something else that changed for RMWD besides the price of SDCWA water. The amount of water purchased by RMWD from SDCWA fell dramatically from around 30,0000 AF through about 2006 to around 14,297 AF in 2020. The reduction in water demand may have been especially pronounced in RMWD because of the large component of agricultural water use, which is likely to be more price-sensitive than urban use generally. However, a striking reduction in water demanded by member agencies was occurring at this time throughout SDCWA's service area. The phenomenon was not limited to RMWD. It was driven by two things: a very substantial reduction in per capita water use in SDCWA's service area combined with increased development of member agency local supplies.

Figure 8 documents the very substantial decline in per capita water use in SDCWA's service area. Per capita use declined by 19% between 1990 and 2005 and by even more between 2005 and 2017 -- 35%.

<sup>&</sup>lt;sup>51</sup> Presentation to SDCWA Board, 1-26-2017.



FIGURE 8 | Decline in Per Capita Potable Water Use in SDCWA Service Area<sup>52</sup>

The reduction in water sales by SDCWA to its member agencies was even larger than the reduction in per capita water use, as shown in Figure 9.





<sup>&</sup>lt;sup>52</sup> Presentation by Tim Bombadier to SDCWA Board, February 22, 2018.

<sup>&</sup>lt;sup>53</sup> Presentation to SDCWA Board of Directors, January 28, 2021.

Sales to member agencies declined from over 600,000 AF in 2008 to about 365,000 AF in 2020, a reduction of almost 40%.

The fact that sales to member agencies declined by more than the reduction in per capita use signifies the effect of increased development of member agency local supply.

MWD also experienced a reduction in the volume of water purchased from it by its member agencies. MWD's sales to member agencies are shown in Figure 11. Note that MWD includes in this data the QSA water that it supplies to SDCWA under the Exchange Agreement. However, as noted above, it earns significant revenue from this water. Between 2008 and 2020, there was a 20% reduction in MWD's sales of revenue-earning water. This is about half the magnitude of the reduction in SDCWA's sales of revenue-earning water shown in Figure 10.



### FIGURE 10 | MWD Supply to Member Agencies (Fiscal Years)<sup>54</sup>

<sup>&</sup>lt;sup>54</sup> Figure 3-8 in MWD 2020 Annual Report.

Q. Could SDCWA's larger reduction in the supply of revenue-earning water help explain the widening of the gap between the all-in SDCWA rate and the all-in MWD rate starting around 2010?

**A.** Yes, assuming that, for both SDCWA and MWD, a large share of operating costs is fixed costs.

## Q. Is it the case that, for both SDCWA and MWD, a large share of their operating costs is fixed costs?

**A.** Yes. Table 11 presents a breakdown of SDCWA operating expenditures in FY 2020. Table 12 similarly presents a breakdown of MWD's operating expenditures for FY 2021.

TABLE 11	SDCWA	<b>Expenditures</b>	FY	2020

					Cost		
		ITEM	\$ Thousands	Percent	Туре		
		Water Supply	-		1.000		
а		Colorado River Water					
þ		MWD Wheeling Cost	\$119,184	15.1%	Fixed		
C		All other Colorado River water costs	\$124,414	15.8%	Fixed		
d		Water Purchased from MWD	\$82,967	10.5%	Variable		
e		Carlsbad Desal Plant	\$97,934	12.4%	Fixed		
f		All Other Water Supply Expenses	\$61,639	7.8%	Fixed		
g	= a + + f	Subtotal - water supply	\$486,138	61.7%			
h		Operating Departments*	\$54,252	6.9%	Fixed		
1	= g + h	COST OF WATER OPERATIONS	\$540,390	68.5%	-		
j		Debt Service*	\$148,716	18.9%	Fixed		
k	1000	CIP Expenditures*	\$81,111	10.3%	Fixed		
		Equipment Replacements*	\$3,012	0.4%	Fixed		
m		Grant Expenditures*	\$13,162	1.7%	Fixed		
n		Other Expenditures*	\$1,944	0.2%	Fixed		
	= í + + n	TOTAL	\$788,335	100.0%			
	* NOTE: "Variable" means that this revenue varies directly with the quantity of water						
	delivered that year by SDCWA to its member agencies. "Fixed" means that the revenue						
	does not va	ry directly with the quantity of water deliv	ered that year.				
	* FY20 obta	ined by halving FY20 & 21 amount in Table	e 1.				
-	SOURCE: SE	CWA Adopted Budget EV 2021 & 2022 Ta	hle 1, n 76				

For SDCWA, I estimate that only about 15% (= row d/row i) of its cost of operation in FY 2020 was variable cost, namely the portion associated with its purchase of M-water.<sup>55</sup> Back in 2010, however, M-water constituted a larger component of SDCWA's supply than now. Instead of being about 24% of SDCWA's supply in 2020 (Table 9), M-water was about two-thirds of SDCWA's supply in 2010, QSA water being the rest. As a rough estimate, I assume that the purchase of M-water – SDCWA's only variable cost component – might have accounted for about 30% of SDCWA's cost of operation in 2010.

For MWD, I estimate that only about 12% (= rows a + c) of its cost of operation in FY 2021 is variable cost. I assume that the proportion was roughly the same back in 2010.

				Cost
	ITEM	\$ Thousands	Percent	Туре
1.1.1.11	State Water Project	1.0		
а	Variable Transportation & OAC*	\$166,984	9.2%	Variable
b	All other SWP costs	\$473,784	26.0%	Fixed
с	Colorado River Power Costs	\$52,237	2.9%	Variable
d	Supply Programs	\$68,683	3.8%	Fixed
ė	Demand Management	\$48,532	2.7%	Fixed
f	Operating Departments*	\$529,254	29.1%	Fixed
g	Recycled Water Program Planning Costs	\$15,000	0.8%	Fixed
h	Other Operating costs	\$14,878	0.8%	Fixed
i	Subtotal - cost of water operations	\$1,369,352	75.2%	
i	Capital Financing	\$408,690	22.5%	Fixed
k	Increase/(Decrease) in Required Reserves	\$42,400	2.3%	Fixed
l=i+j+k	TOTAL	\$1,820,442	100.0%	
NOTE: "Vari	able" means that this expenditure varies direct	y with the quantity	ofwater	
delivered th	at year by MWD its member agencies. "Fixed" r	neans that the exp	enditure	
does not va	ry directly with the quantity of water delivered	that year.		
* Estimate				

### TABLE 12 | MWD Planned Expenditures FY 2021

<sup>&</sup>lt;sup>55</sup> The cost associated with the MWD Exchange Agreement would become a variable cost if SDCWA decided to take less than its committed quantity of IID Transfer water or canal lining water, but I see that as highly unlikely at present.

### Q. How could SDCWA's larger reduction in the supply of revenue-earning water help explain the widening of the gap between the all-in SDCWA rate and the all-in MWD rate starting around 2010?

In the case of SDCWA in 2010, under my assumptions 70% of its total operating cost was fixed cost and would not change if it sold less water; 30% of its total operating cost was variable costs and this *would* fall if it sold less water. If it sold 40% less water, its total variable cost would go down by 40%. Its total operating cost – fixed plus variable -- would go down by only 12%: 70% of that cost would not change, while the other 30% would fall by 40%.

Its total operating cost would fall by 12%, but this cost would now have to be raised from the sale of 40% less water. SDCWA would be financing 88% of the previous cost while selling only 60% of the previous quantity of water. This would raise the unit cost per acre-foot sold by 47%.

Turning to MWD in 2010, under my assumptions 88% of its total operating cost was fixed costs and would not change if it sold less water. 12% of its total operating cost was variable costs and this *would* fall if MWD sold less water. If it sold 20% less water, its total variable cost would go down by 20%. Its total operating cost – fixed plus variable -- would go down by only 2.4%: 88% of that cost would not change, while the other 12% would fall by 20%.

MWD's total operating cost would fall by 2.4%, but this cost would now have to be raised from the sale of 20% less water. MWD would be financing 97.6% of the previous cost while selling only 80% of the previous quantity of water. This would raise the unit cost per acre-foot sold by about 22%, or just under half SDCWA's increase in unit cost. Table 13 summarizes these calculations.

### TABLE 13 | Impact of Sales Reduction on Unit Cost

SDCWA	MWD
Total cost drops by 12% (= 0.4*0.3)	Total cost drops by 2.4% (= 0.2*0.12)
AF sold drops by 40%	AF sold drops by 20%
Cost (\$/AF) <i>rises</i> by 47% (= 0.88/0.6)	Cost (\$/AF) <i>rises</i> by 22% (= 0.976/0.8)

Two conclusions result from this analysis:

- 1) When the cost of water supply contains a large, fixed cost component, a reduction in the quantity of water supplied raises the unit cost to provide water, and this puts upwards pressure on rates charged for the water.
- 2) Since SDCWA experienced about twice as large as a sales reduction starting in 2010 as that experienced by MWD, this would have caused the rate differential between SDCWA's water rate and MWD's water rate to widen after 2010.

## Q. In summary, what caused the differential between SDCWA's all-in water rate and MWD's all-in water rate to widen starting around 2020?

**A.** Here are my conclusions:

- 1) Given the way that QSA water was priced under the Exchange Agreement with MWD, the importation of QSA water did not have a significant role in the widening of the rate differential that started around 2010.
- 2) Using water from the Carlsbad Desalination Facility contributes in some degree to the rate differential but only since 2016: it was not a factor in 2010 -2015.
- 3) SDCWA's investment in some major water supply infrastructure projects just before and after 2010, a period when MWD happened generally not to be making major infrastructure investments, caused the rate differential to widen starting around 2010.
- 4) The fact that SDCWA experienced a 40% reduction in member agencies' demand for its water between 2010 and now, while MWD experienced only a 20% reduction, also would have caused the rate differential to widen.

## Q. Was the reduction in member agency demand for SDCWA water starting around 2010 caused by the increase in SDCWA's all-in water rate?

A. On the whole, I believe the answer is no.

I believe the reduction in member agency demand starting around 2010 was driven by two longer-run trends that were set in motion before the differential in SDCWA and MWD all-in rates started to widen in 2010. Those trends were

- 1) Increased conservation which accelerated following the experience of the 2007-2009 drought in California and motivated Governor Schwarzenegger's 2009 initiative requiring that urban water demand be reduced by 20% by the year 2020.
- 2) increased development of local supplies, including expanded use of treated groundwater and treated wastewater.

Higher water rates at the retail level will have complemented these trends,<sup>56</sup> but I do not believe that higher retail water rates were generally the prime mover.

<sup>&</sup>lt;sup>56</sup> There is some evidence that urban water agencies with increasing block rates that sharpened those rate structures during the 2014-2016 drought had more success in meeting Governor Brown's conservation mandate than other urban water agencies.

## Q. Did the increase in SDCWA's water rates cause agricultural water use to decline in SDCWA's service area?

**A.** Table 14 presents data on the trends in total water use and agricultural water use within SDWCA's service area and within RMWD, using data from their respective Urban Water Management Reports.

In both cases, there was a substantial drop in both total water use and agricultural water use between 2005 and 2010, and between 2015 and 2020. By comparison, the changes in water use between 2010 and 2015 were smaller. The drop in water use between 2005 and 2010 came about in the aftermath of the 2007-2009 drought; the drop between 2015 and 2020 was in the aftermath of the 2014-2016 drought.

It looks as though the drought experiences may have had more impact on water use than the increase in SDCWA water rates following 2010.

	SDCWA	/*	RMWD*	*
YEAR	AGRICULTURAL	TOTAL	AGRICULTURAL	TOTAL
	USE	USE	USE	USE
	(AF)	(AF)	(AF)	(AF)
2005	83,480	642,152	19,298	24,154
2010	43,515	566,443	11,854	18,158
2015	41,055	539,361	12,312	20,062
2020	37,100	463,128	8,876	14,297
* Fiscal ye	ear			
** Calenda	ar year			

### TABLE 14 | Trends in Water Use, SDCWA and RMWD

## Q. Will the differential between SDCWA water rates and MWD water rates stay this wide in future, or widen, or become smaller?

A. I don't know.

The recent trend has been for the average cost of M-water to SDCWA to grow faster than the that of QSA water. That would tend to narrow the differential between SDCWA's all-in rate and MWD's all-in rate.

### Q. Are the rates that SDCWA has charged its member agencies unfair?

A. I will note two facts.

1) So far, I have not been presented with any evidence that would support a claim of unfairness by SDCWA.

2) Whether or not one agrees with this, it is worth quoting what the California Court of Appeal has stated: "Rates established by the lawful rate-fixing body [of a water agency] are presumed reasonable, fair and lawful."

### Q. Has FPUD and/or RMWD paid an unfairly high share of SDCWA's fixed charges?

**A.** No.

The report by London Moeder Advisors, *Rainbow MWD and Fallbrook PUD Cost-Benefit Analysis of SDCWA Membership* dated 9-15-2020 asserts that, in the years from 2009 to 2019, FPUD and RMNWD paid an excessively large share of the fixed charges collected by SDCWA and, over that period, subsidized the other member agencies by \$49.5 M. It also asserts that, over this period, FPUD and RMWD achieved a benefit-to-cost ration of 0.12 from the payment of fixed charges, while the remaining SDCWA member agencies benefited from this imbalance, representing a benefit-to-cost ratio of 1.04.

I have analyzed those assertions – see Appendix A – and find that they lack foundation.

### 2.3 THE FINANCIAL IMPACT OF DETACHMENT

This section analyzes both the financial impact on the other member agencies of SDCWA if FPUD and/or RMWD detach from SDCWA and also the financial impact on FPUD and RMWD.

I start with the financial impact on SDCWA member agencies. Then I discuss the financial impact on FPUD and RMWD.

The detachment of a member agency reduces the revenues received by SDCWA. It also to some degree reduces the expenses incurred by SDCWA in operating in its water supply and distribution system. The key question is the net impact: will SDCWA's revenues be reduced by as much or more than its operating expenses?

### Q. How large are FPUD and RMWD in relation to the other SDCWA member agencies?

A. FPUD and RMWD accounted for 1.7%<sup>57</sup> of the population served by SDCWA in FY 2020 and 8.1%<sup>58</sup> of the acreage in SDCWA's service area.<sup>59</sup> Tables 15 shows the breakdown of SDCWA deliveries over the period FY 2017 - FY 2021 to FPUD and RMWD versus other member agencies.<sup>60</sup> Over this period, FPUD accounted for an average of 2.3% of all SDCWA deliveries to member agencies, and RMWD accounted for 4.4%. which represents a higher rate of usage per capita, but not per acre, than the average across all member agencies.

Going forward, FPUD's share of water delivered to SDCWA member agencies will fall as the Santa Margarita Conjunctive-Use Project comes on-line.

About 42% of the water received by FPUD and RMWD has come under the SDCWA's Permanent Special Agricultural Water Rate (PSAWR) program for agricultural water users in the SDCWA service area.

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	5 - YEAR AVERAGE
ALL MEMBERS (AF)	405,400	392,871	365,083	346,431	376,465	377,250
FPUD (AF)	9,101	10,007	7,766	7,893	8,822	8,717
RMWD (AF)	16,983	19,240	14,831	14,386	17,082	16,504
FPUD (%)	2.2%	2.5%	2.1%	2.3%	2.3%	2.3%
RMWD (%)	4.2%	4.9%	4.1%	4.2%	4.5%	4.4%

### TABLE 15 | SDCWA Deliveries to FPUD & RMWD FY 2017-2021

Source: SDCWA Annual Reports

### (TABLE CONTINUED...)

<sup>&</sup>lt;sup>57</sup> = 54,944/323,060.6.

<sup>&</sup>lt;sup>58</sup> = 75,658/934,777.5.

<sup>&</sup>lt;sup>59</sup> These and the following statistics are taken from the SDCWA Annual Report FY 2020, consulted online at sdcwa.org/annualreport/2020/diversification-and-operation/water-sources-and-uses.php on 6/11/2021.

<sup>&</sup>lt;sup>60</sup> Data supplied to me by SDCWA in an email on 10-7-2021.

	FY'17	FY '18	FY '19	FY'20	FY'21
Carlsbad	12,149	13,780	12,095	11,719	12,501
Del Mar	939	1,078	961	954	1,046
Escondido	14,886	9,526	12,435	7,416	12,286
Fallbrook	9,101	10,007	7,766	7,893	8,822
Helix	24,960	25,713	24,480	21,035	24,756
Lakeside	2,604	2,839	2,643	2,879	3,223
National City	2,978	246	495	526.9	296
Oceanside	21,249	22,510	19,902	19,844	22,240
Olivenhain	17,475	19,432	16,817	17,189	19,548
Otay	27,002	29,638	27,385	28,309	30,126
Padre Dam	9,346	10,321	9,300	9,585	10,244
Camp Pendleton	134	188	201	166	163
Poway	8,635	10,231	8,535	8,837	9,752
Rainbow	16,983	19,240	14,831	14,386	17,082
Ramona	4,406	4,872	4,291	4,075	4,510
Rincon del Diablo	4,981	5,468	4,738	4,839	5,271
San Diego	153,496	152,193	143,551	140,505	137,049
San Dieguito	3,984	2,660	3,382	3,127	3,820
Santa Fe	7,450	5,819	6,435	5,642	6,911
South Bay	10,691	1,709	3,531	1,929	2,897
Vallecitos	10,910	12,634	10,724	10,877	12,053
Valley Center	20,220	22,526	16,500	16,684	18,846
Vista	16,332	4,156	9,340	3,361	7,401
Yuima	4,494	6,088	4,747	4,653	5,624
Total	405,400	392,871	365,083	346,431	376,465

### Acre Feet Deliveries-Includes certified and non-certified ag water

## Q. If FPUD and/or RMWD leave SDCWA's service area, which of SDCWA's revenue sources shown in Table 3 would be affected?

**A.** If FPUD and/or RMWD leave SDCWA's service area, SDCWA's revenue from every row in Table 3 would be affected. The revenue items fall into four groups:

- A. Volumetric charges on deliveries to member agencies
- B. Fixed service charges applied to member agencies
- C. Annual charges borne by properties in the SDCWA service area
- D. Charges paid by new meters for properties within the SDCWA service area

All of these revenue items will be reduced if FPUD and RMWD leave SDCWA's service.

So far, at least four estimates have been presented of the financial impact on SDCWA and its remaining member agencies if FPUD and RMWD depart:

- (i) SDCWA presented its estimate of the financial impact on pages 54-62 of its Combined Response dated 9-18-2020. This contained estimates of the financial impact both in a single year and in a ten-year sequence. SDCWA staff provided backup for that analysis in a zoom call on 6-23-2021 and then in a spreadsheet and memo emailed to me on 7-2-2021.
- (ii) I provided an estimate of the financial impact at the Advisory Committee meeting on June 14, and I corrected an error in my presentation and my report on June 18.
- (iii) My October Draft Report contains an analysis of the financial impact combining what I had presented in June and what SDCWA had presented in their 2020 Combined Response.
- (iv) In comments on my Draft Report date 10-25-2021, FPUD and RMWD submitted their own analysis of the financial impact, replicating the decadal analysis submitted by SDCQA in 2020 but with differences.

Below, I present a new analysis which replaces the one contained in my October Draft Report.

I will not present a multi-year analysis. I feel that there is now too much uncertainty about future water supply, future water demand, and future rate schedules to justify making a projection of the annual financial impact over the coming decade. Therefore, I restrict my analysis to an estimate of the financial impact in CY 2022.

A key variable is how much water FPUD and RMWD would purchase from SDCWA as their wholesale supplier if they stayed within the SDCWA service area.

I based my June analysis on the FY 2020 delivery levels for FPUD and RMWD as reported in SDCWA's *2020 Comprehensive Annual Financial Report*, namely 7,822 AF for FPUD and 14,479 AF for RMWD.<sup>61</sup> Since then, FPUD's Santa Margarita Conjunctive-Use Project has come online, replacing up to about 4,000 AF formerly received by FPUD from SDCWA. In recognition of this, SDCWA had projected FPUD's FY 2022 water use as 4,130 AF. FPUD's projection, consistent with the 2020 Urban Water Management Plan, is 4,045 AF. I will use 4,100 AF as a rough estimate of FPUD water use in CY 2022. SDCWA had projected RMWD's FY 2022 water use as 13,924 AF; RMWD projects it as 13,750. I will use 14,000 AF as a rough estimate of RMWD water use in 2022.<sup>62</sup> In line with FPUD and RMWD estimates, I assume that 1,600 AF of the FPUD's 4,100AF, and 6,000 AF of RMWD's 14,000 AF, are received under SDCWA's PSAWR rate. To assess the loss of revenue, I use SDCWA's CY 2022 water rates.

<sup>62</sup> FPUD and RMWD also propose lower bound estimates of their 2022 water use that are 15% lower, on the grounds that Urban Water Management generally overstate future water demand by about 15%. Since the 2020 Urban Water Management Plans were delivered in June 2021, a 15% overstatement for the year beginning six months later seems too high. I will stick with the single projection given above.

<sup>&</sup>lt;sup>61</sup> Those are different from the FY 2020 delivery levels listed in Table 14, which come from an email from SDCWA dated 10-4-2021.

Table 16 presents my estimate of the annual revenue loss to SCDCWA in CY 2022 if FPUD and/or RMWD detach from the SDCWA service area.

There appears to be some question as to whether SDCWA would continue to receive all, some, or none of the property tax revenue if FPUD and/or RMWD detach. If SDCWA would continue to receive all the property tax revenue, the overall one-year revenue loss for SDCWA amounts to \$32.9 M; if it would receive none of the property tax revenue, the one-year revenue loss is \$33.3 M. To put this in context, Table 17 shows the percentage breakdown of SDCWA's overall revenue in FY 2020. 88.1% of SDCWA revenue came from water sales (row f). If FPUD and RMWD both detach, that revenue would be reduced by \$31.3 M (row m in Table 16). The remaining revenue loss hits Other Revenue items in Table 16.

		1	1	FI	DUD	RM	OWN	FPUD + RMWD
1.77			Unit	Quantity	Revenue	Quantity	Revenue	Revenue
		ltem	Rate	Change (AF)	Reduction (\$)	Change (AF)	Reduction (\$)	Reduction (\$)
-		M&I Water supply	S					
a	1	Water Supply	\$1,009	2,500	\$2,522,500	8,000	\$8,072,000	\$10,594,500
b	-	Transportation*	\$173	0	\$0	2,400	\$415,200	\$415,200
c		Treatment	\$310	2,500	\$775,000	8,000	\$2,480,000	\$3,255,000
		Ag Water supply	1					
d	-	Water Supply	\$799	1,600	\$1,278,400	6,000	\$4,794,000	\$6,072,400
e		Transportation	\$173	1,600	\$276,800	6,000	\$1,038,000	\$1,314,800
f		Treatment	\$310	1,600	\$496,000	6,000	\$1,860,000	\$2,356,000
g	= a + ., + f	Subtotal - volumetric charges	1	a.a. 31	\$5,348,700	1	\$18,659,200	\$24,007,900
h		Customer Service Charge			\$561,780	1	\$1,057,632	\$1,619,412
1		Storage Charge	1		\$1,052,568		\$1,560,780	\$2,613,348
1		Supply Reliability Charge	1	1	\$661,248	1 1	\$1,000,512	\$1,661,760
k		Infrastructure Access			\$604,812	1	\$756,288	\$1,361,100
1	= h + + k	Subtotal - charges			\$2,880,408		\$4,375,212	\$7,255,620
m	= g+1	SUBTOTAL - CHARGES PAID BY MEN	ABER AGEN	CY	\$8,229,108		\$23,034,412	\$31,263,520
n		"All-in rate" (\$/AF)	÷	4,100	\$2,007	14,000	\$1,645	
_		OTHER REVENUE	(	-				
0		Property Taxes**			\$160,000	1	\$190,000	\$350,000
p		Availability Standby Charge*			\$257,637	1	\$463,673	\$721,310
q		Capacity Charges*			\$103,396		\$831,042	\$934,438
ŕ	= m + p + q	TOTAL WITHOUT PROPERTY TAX			\$8,590,141		\$24,329,127	\$32,919,268
	= r + o	TOTAL WITH PROPERTY TAX	£;	-	\$8,750,141	1	\$24,519,127	\$33,269,268
	*Taken from	PUD/RMWD spreadsheet submitte						
	** Rounded	up from values used by SDCWA Com	bined Respo	nse 9-18-2020		F		1

### TABLE 16 | SDCWA Revenue Reduction CY 2022

					Revenue
		ITEM	\$ Thousands	Percent	Type*
		Water Related Revenue		· · · · 1	
a		Water Sales	\$420,165	63.3%	Variable
b		Infrastructure Access Charge	\$36,942	5.6%	Fixed
с		Customer Service Charge	\$25,600	3.9%	Fixed
d		Storage Charge	\$65,000	9.8%	Fixed
e	1.1	Supply Reliability Charge	\$37,430	5.6%	Fixed
f	= a + + e	SUBTOTAL Operating revenue	\$585,137	88.1%	
-		Other Revenue			
g		Property Tax	\$15,526	2.3%	Fixed
h		Standby Availability Charge	\$11,164	1.7%	Fixed
1		Capacity Charges	\$17,983	2.7%	Fixed
j	= g + h + i	SUBTOTAL Property related	\$44,673	6.7%	Fixed
		Other Income			1
k		CIP	\$2,726	0.4%	Fixed
1		Hydroelectric Revenue	\$3,192	0.5%	Fixed
m		Investment Income	\$6,789	1.0%	Fixed
n		Other Revenue	\$21,542	3.2%	Fixed
0	= k ++ n	SUBTOTAL Other Income	\$34,248	5.2%	Fixed
-	= f + J + o	TOTAL REVENUE	\$664,058	100.0%	
NOTI	E: "Varíable"	means that this revenue varies direct	ly with the quantity	of water	

### TABLE 17 | SDCWA Breakdown of Revenues FY 2020

As for the reduction in SCDCWA's expenditure if FPUD and/or RMWD detach from SDCWA's service area, Table 11 above showed how SDCWA's expenditures broke down in FY 2020. Because the short-run marginal cost of M-water to SDCWA is larger than that of E-water, if SDCWA faced a reduction in its deliveries to member agencies, it generally would be better financially for SDCWA to take less M-water rather than less E-water.<sup>63</sup> Therefore, for present purposes, M-water is the only variable input for SDCWA, and the cost of M-water is the only variable cost in SDCWA's budget; all the other cost items represent fixed costs. As Table 11 showed, only about 15% of SDCWA's cost of water operations is a variable cost (row d/row f), while 85% represents a fixed cost.

Table 18 presents my estimate of the reduction in SDCWA's annual expenditure in CY 2022 if FPUD or RMWD or both detach from the SDCWA service area. I assume that detachment leads

<sup>&</sup>lt;sup>63</sup> There are some logistical constraints on SDCWA's logistical ability to do this: it receives E-water in equal monthly amounts, which may limit the extent to which it can reduce M-water in peak delivery months.

SDCWA to purchase less treated M-water from MWD and I apply MWD's CY 2022 full-service Tier 1 treated rate. In the first year of detachment, that will have no impact on the amount of the Readiness to Serve charge paid by SDCWA to MWD (see short-run expenditure reduction), but over ten years it will build up to the amount shown as the long-run expenditure reduction. To account for the future long-run RTS impact, I apply MWD's CY 2022 RTS charge calculated as a per-acre-foot charge based on system-wide usage.

I do not know whether detachment would affect SDCWA's maximum daily delivery from MWD. It would have no effect in the first year (CY 2022) but if It did reduce maximum daily deliveries then, after three years, this would lower the Capacity charge paid by SDCWA to MWD. In the absence of other information, however, I assume no impact on the Capacity charge paid by SDCWA to MWD.

The short-run reduction in SDCWA annual expenditure is \$20.7M. In the long run, when the full impact on the RTS charge paid by SDCWA takes effect, the expenditure reduction is \$22.3M.

		FP	UD	RA	FPUD + RMWD	
	Unit	Quantity	Expenditure	Quantity	Expenditure	Expenditure
Item	Rate	Change (AF)	Reduction (\$)	Change (AF)	Reduction (\$)	Reduction (\$)
M-water, full service, Tier 1 trd	\$1,143	4,100	\$4,686,300	14,000	\$16,002,000	
MWD RTS charge - short run	0	4,100	\$0	14,000	\$0	
MWD RTS charge - long run	\$88	4,100	\$360,800	14,000	\$1,232,000	
TOTAL REDUCTION - short-run	\$1,143	4,100	\$4,686,300	14,000	\$16,002,000	\$20,688,300
TOTAL REDUCTION - long-run	\$1,231	4,100	\$5,047,100	14,000	\$17,234,000	\$22,281,100

### TABLE 18 | SDCWA Expenditures Reduction CY 2022

Table 19 presents my resulting estimate of the reduction in SDCWA net revenue in CY 2022 if FPUD and/or RMWD detach from SDCWA's service area. The short-run (immediate) reduction in annual net revenue is \$12.2M or \$12.6M, depending on whether SDCWA retains or loses the property tax revenue from FPUD and RMWD. The long-run reduction in annual net revenue after a decade is \$10.6M or \$11M.

ltem	FPUD	RMWD	FPUD + RMWD
REDUCTION IN REVENUE			
Without property tax loss	\$8,590,141	\$24,329,127	\$32,919,268
With property tax loss	\$8,750,141	\$24,519,127	\$33,269,268
REDUCTION IN EXPENDITURE			
Short-run	\$4,686,300	\$16,002,000	\$20,688,300
Long-run	\$5,047,100	\$17,234,000	\$22,281,100
CHANGE IN NET REVENUE			
SHORT-RUN			
Without property tax loss	\$3,903,841	\$8,327,127	\$12,230,968
With property tax loss	\$4,063,841	\$8,517,127	\$12,580,968
LONG-RUN			
Without property tax loss	\$3,543,041	\$7,095,127	\$10,638,168
With property tax loss	\$3,703,041	\$7,285,127	\$10,988,168

### TABLE 19 | SDCWA Net Revenue Impact CY 2022

This differs from my previous estimate in my Draft Report and from the estimates submitted by SDCWA and by FPUD/RMWD. The year is different, the assumed annual amounts of water are different, the water rates are different and some of the other cost items accounted for are different.

Two important differences are the following:

1) In its analysis of the financial impact of a detachment, SDCWA included an accounting for the use of reserves. In my Draft Report, I deferred to SDCWA's assessment of this item, which I understand was based on the financial model they use to manage their various reserve accounts. I exclude that item here, for two reasons. I myself am not an expert in debt finance and municipal accounting, so that I cannot form my own assessment of SDCWA's reserve accounts and their funding.<sup>64</sup> But, as I now understand SDCWA's rationale for including the item, I do not believe it is appropriate.

As I understand it, SDCWA was making the following argument. It argued that its water rates in CY 2022 were unduly low because it was drawing down reserves on a temporary basis to cover certain cost items that would normally be covered through the rate schedule. Had rates been set in the usual manner, the rates would have been higher,

<sup>&</sup>lt;sup>64</sup> In my previous experience as an expert witness in water rate litigation, a colleague with expertise in municipal bond finance was the one who testified on the funding of reserve accounts.

making the amount of revenue foregone by SDCWA if the delivery of water to FPUD and RMWD were discontinued larger by approximately \$3.6 M.<sup>65</sup>

I believe that it is more appropriate for me to make my assessment based on SDCWA's water rates as they are, and not as they might have been.

However, I do acknowledge that the following is a valid assertion. If the CY 22022 water rates that I use in Table 16 to calculate the reduction in SDCWA net revenue are unduly low because of a temporary and unusual reliance on funds obtained by drawing down reserves, my estimate will understate the revenue lost due to FPUD/RMWD detachment when SDCWA cannot draw down reserves in the same manner.

2) The FPUD/RMWD analysis reduced its estimate of the financial impact of detachment on SDCWA by the cost of the North County ESP Pumping Station that will not be needed in the event of detachment. The Pumping Station project is said to cost \$35 million, and this is divided into 10 annual amounts of \$3.5 million which are subtracted from FPUD/RMWD's estimate of the annual financial impact of detachment over the ten-year period FY 2022 – FY 2031. I do not agree with that adjustment.

For the sake of argument, I assume that the North County ESP Pumping Station would indeed cost \$35M. The adjustment proposed by FPUD/RMWD would have merit if (i) there had been a decision to go ahead and fund construction of the project and this was reflected in the current rates, and (ii) it was being cash funded out of those current rates. As I understand the situation, neither of those conditions holds. According to an email from SDCWA on 12-22-2021, "[T]he final phase of the ESP construction to provide complete service from the south to Rainbow and Fallbrook was scheduled to be done, and the initial construction had been budgeted (not funded)" when Fallbrook and Rainbow announced their intention to seek detachment.

At that point, the North County project was put on hold. Had it continued on schedule, according to an email from SDCWA 12-21-2021, it would have been debt financed over a 30-year period. Thus, the FPUD/RMWD adjustment is based on what SDCWA's rates might have been, rather than what they are.

There seems to be a degree of inconsistency in the position adopted by FPUD/RMWD – past financial commitments incurring ongoing payments and debt service appear not to be relevant when assessing FPUD/RMWD detachment, but future investments that would not be incurred *are* relevant to that assessment.

<sup>&</sup>lt;sup>65</sup> This refers to the foregone deliveries assessed by SDCWA in Table 4.7 of the Combined Response of 9-18-2020 and, specifically, the last row of that table.

## Q. Is the amount of \$12.2 – 12.6M short-run impact on SDCWA's net revenue just a one-year phenomenon?

### **A.** No.

There will be a recurring annual loss of net revenue for SDCWA once the detachment occurs, lasting for as long as SDCWA has to pay for the financial commitments that it has incurred to date. As elaborated below, these financial commitments last for varying periods of time and stretch far into the future.

The exact annual financial impact in the future will vary from year to year, depending on SDCWA's annual finances and rates.

The future financial impact will be lessened to the extent that SDCWA may find another buyer for the water that it would have delivered to FPUD and RMWD. But that will not fully offset the financial impact of FPUD/RMWD detachment for two reasons:

- (1) The payment from the sale may not cover all the payments made annually to SDCWA by FPUD/RMWD as member agencies.
- (2) The water not delivered to FPUD/RMWD does not belong to FPUD and RMWD individually. Any financial benefit to SDCWA in the event that it sells the water that would have been delivered to FPUD/RMWD to some other party belongs collectively to SDCWA member agencies, and not to FPUD and RMWD individually.

## Q. How large is this net financial impact in relation to SDCWA's total operating revenue and operating expenses?

**A.** SDCWA's actual operating revenues and expenses totaled around \$569 million in FY 2020. My estimate of a CY 2022 net revenue loss of about \$12.2M amounts to 2.1% of the FY 2020 operating revenue and expense.

### Q. What is the financial impact on FPUD and RMWD?

**A.** To answer this, I use the same assumptions as above. I focus on CY 2022, and I assume that FPUD obtains 4,100 AF from its wholesale supplier, whether SDCWA or EMWD, while RMWD receives 14,000 AF. FPUD and RMWD are planning to switch their wholesale supplier because this will lower the cost of their wholesale supply. Here I calculate the cost saving to FPUD and RMWD in their wholesale supply for CY 2022, recognizing that they may also bear some other expenses relating to their water equipment.

FPUD and RMWD avoid the cost they would have paid to SDCWA for this supply of water. Figure 16 shows that cost. Not every row in Table 16 represents a cost paid by FPUD and RMWD. Some of the revenue items lost by SDCWA in the event of detachment are paid by property owners within the FPUD and RMWD service areas (namely, rows o + p + q in Table 16). Row m in Table

16 totals up the portion of the revenue lost by SDCWA that is a cost paid by FPUD and RMWD to SDCWA. The totals in row m are a mix of variable charges (volumetric payments) and fixed charges. Row n in Table 16 converts the total payment (row m) into an equivalent payment per acre-foot received, i.e., an "all-in" amount, for each agency separately. The all-in cost of SDCWA water to FPUD amounts to \$2,007/AF; that cost to RMWD amounts to \$1,645. This reflects the fact that RMWD receives more than three times the amount that FPUD receives from SDCWA. Thus, when SDCWA's fixed charges are averaged over the amount of water delivered by SDCWA, the unit cost for RMWD is lower than for FPUD.

Table 20 compares what FPUD and REMWD would have paid SDCWA if they remained member agencies in CY 2022 with what they would pay if they became member agencies of EMWD. Row b in Table 20 is the same as row m in Table 16 and shows what they would pay SDCWA. Row h shows what they would pay if served by EMWD, based on my understanding that they would be asked to pay the MWD Tier 1 treated water rate, plus their shares of MWD's RTS and Capacity charges to EMWD, plus a markup of \$11/AF to cover EMWD's cost of collecting MWD's charges from them. I estimate that the cost savings to FPUD and RMWD combined in CY 2022 amounts to about \$7.7 million. FPUD and RMWD's net gain is less than SDCWA's net loss (Table 20).

			SDCWA	E	MWD		
5			Unit Rate	Unit Rate		FPUD	RMWD
	A	Item	FPUD	FPUD/RMWD	Other members	Expen	diture
			(\$/AF)	(\$/AF)	(\$/AF)	(\$)	(\$)
		SDCWA WHOLESALE SUPPLIER			1		
а		SDCWA average untreated supply cost*	\$1,271			· · · · · · · ·	
b	1 · · · · · · · · · · · · · · · · · · ·	SDCWA treatment charge	\$310	· · · · · · · · · · · · · · · · · · ·	1	1	
С	= d - a - b	SDCWA Wholesaler "markup"	\$252	1	)		
d	10	SDCWA all-in treated rate	\$1,833				
-	1	MWD WHOLESALE SUPPLIER					
g	= a + b	MWD Full service Tier 1 treated		\$1,143	\$1,143		
h	1	MWD RTS charge	10	\$122	\$122		
i		MWD Capacity charge*	1	\$28	\$28	1	
j		EMWD Wholesaler "markup"	+D+	\$11	\$246		
k	= c + d + e + h	EMWD all-in treated rate		\$1,304	\$1,539		
1	-	WATER DELIVERY (AF)				4,100	14,00
m	=i*I	SDCWA WHOLESALE WATER COST (\$)			-		
ń	=j*l	EMWD WHOLESALE WATER COST (\$)				\$5,346,400	\$18,256,00
-	= m - n	COST SAVINGS (\$)					

### TABLE 20 | Savings in Water Cost when FPUD & RMWD Switch from SDCWA to EMWD

### 2.4 A DEPARTURE FEE

I was asked to address the possibility of a financial obligation to be imposed on FPUD and RMWD if they are permitted to detach from SDCWA, such as a departure fee.

I am aware that there is currently disagreement among the parties with respect to whether LAFCO has the legal authority to prescribe conditions that include a financial obligation such as a departure fee. I am not being asked to opine on that legal question, and I am not offering an opinion on that question. Instead, I am being asked to examine whether there is a sound economic justification for imposing a financial obligation of FPUD and RMWD and, if so, what an appropriate obligation could be. However, the decision maker here is the LAFCO Commission.

There are two basic questions:

- (1) Should some form of financial obligation be placed on FPUD and RMWD as a condition for approving their detachment from SDCWA?
- (2) If the answer is yes, how large a financial obligation, and for what period of time?

Here, I offer some suggestions to LAFCO for answering these questions.

### Q. Do the parties agree on this?

A. No. They disagree.

As I understand their positions, SDCWA argues that, if they detach, FPUD and RMWD should be liable for covering their shares of about \$21 billion of bonded and other indebtedness. The combined share could amount to about \$1 billion. In contrast, FPUD and RMWD argue that they should be able to detach without any further financial liability.

In my judgment, as an economist experienced in the economics of water, neither position – a liability of about \$1 billion nor a liability of zero – is reasonable.

### Q. Is there a sound economic justification for imposing some continuing financial obligation?

### A. Yes.

Since 2000, SDCWA has made major infrastructure investments and has taken on substantial contractual commitments for a more reliable water supply. The infrastructure investments and the purchase commitments have benefited all member agencies, including both FPUD and RMWD. These commitments are long-term in nature, and they impose a fixed and ongoing financial burden on SDCWA and its member agencies.

Behind this disagreement lies the difficult challenge of financing San Diego County's water supply system and, more generally, Southern California's water supply system, in an era of conservation, growing recycling of wastewater, and increasing water supply uncertainty due to climate change.

Supplying water, as an industry, is exceptionally capital intensive – more so than supplying electricity, natural gas, telecom services, or any other utility industries. The infrastructure involved in water supply is exceptionally long-lived compared to that in other utility industries. The infrastructure is dominated by major economies of scale, which make it uneconomic to expand the infrastructure by small gradual increments. It has to be sized to meet future needs looking quite far into the future. Moreover, once installed, water supply infrastructure has little salvage value in any alternative use – if unneeded, it becomes a classic example of a stranded asset.

Over the past two decades, SDCWA has made major infrastructure investments and has made major long-term commitments to obtain some independent, and highly reliable, sources of water. It will be paying for those commitments for the next 20-25 years or more.

The question confronting LAFCO is whether SDCWA member agencies with a distinctive set of needs and situated at a distinctive location should be allowed to walk away scot-free, entirely unencumbered by any of the financial commitments that SDCWA has assumed on behalf of its member agencies.

### Q. If a departure fee were to be imposed, what would be the purpose?

**A.** The purpose of imposing some financial obligation on FPUD or RMWD if they are permitted to detach from SDCWA is to provide a level of financial protection for SDCWA and the remaining member agencies in the short run while they adjust to the changed financial situation of a detachment.

The purpose is to cover SDCWA's own financial obligations that are fixed, ongoing and unavoidable for the duration of a period of adjustment. These include the following:

- SDCWA is committed to paying for 78,700 AF of canal lining water through 2112.
- It is committed to paying IID for 200,000 AF of conserved water through 2047
- Under the exchange agreement, SDCWA is committed to paying MWD to convey this water for the same period of time as in those underlying supply contracts.

A departure fee is intended to promote flexibility and efficiency in the management of scarce water resources and in the operation of a supply network that is essential to the wellbeing of the regional economy. It is not appropriate that the departure fee afford such protection in perpetuity. It is important that SDCWA and all its member agencies receive an economic signal about the need for efficient network organization and rationalization. Compensation continuing for the long run would work against the objective of promoting the efficient use of the region's water infrastructure assets.

## Q. What portion of SDCWA's outstanding water-supply related obligations should serve as the basis for determining a departure fee?

**A.** That is a judgment call for LAFCO.

On the one hand, like every other SDCWA member agency, FPUD and RMWD have benefited from all of the financial obligations incurred by SDCWA because member agencies are bound together by an integrated infrastructure network. Each member agency benefits to some degree from all investments in the infrastructure either directly or indirectly.

A member agency benefits directly from an investment in a particular source of supply or in a particular component of the infrastructure if it is directly served by that particular infrastructure component or it directly receives water from that particular supply source. But, even if a member agency is not served directly by that particular component and does not directly receive water from that particular supply source, the member agency still benefits indirectly through being part of an integrated water distribution network. If *other* member agencies receive water from that particular source or through that particular component, it makes it possible for *this* member agency to receive water from another source within SDCWA's portfolio, thereby benefiting indirectly.

On the other hand, it is reasonable to recognize that FPUD and RMWD are in a somewhat special situation by virtue of both their particular location at the furthest end of SDCWA's distribution system and their rural and agricultural local economies.

In the light of these factors, I recommend that a departure fee be limited to the portion of SDCWA's outstanding obligations that relates specifically to QSA water. QSA water constitutes about 80% of the water FPUD and RMWD have received in the past two years.

### Q. What is the portion of SDCWA's outstanding obligations that relates to QSA water?

**A.** In its submission on 9-18-2020, SDCWA presented a table breakdown of its contractual water supply payment obligations as, follows:<sup>66</sup>

Desc.	CY 2021 Cost	Remaining Term (as of 1/1/2021) (yrs)	Escalation Factor	Net Present Value (3% Discount)
IID	\$135,000,000	27	2.5%	\$3,401,733,753
MWD Exchange - IID	\$106,800,000	27	4.6%	\$3,642,717,018
Canal	\$1,233,099	93	3.0%	\$114,678,207
MWD Exchange - Canal	\$41,491,800	93	4.6%	\$9,029,224,611
Desal	\$111,846,000	26	3.0%	\$2,907,996,000
Total	\$396,370,899			\$19,096,349,589

### TABLE 21 | SDCWA Contractual Water Supply Payment Obligations

The first four rows of this table cover SDCWA's payments relating to QSA water. SDCWA is committed to making annual payments that run through 2047 (for IID Transfer water) and 2112 (for canal lining water). This year (CY 2021), the annual payments for QSA water amount to \$284.525 M. This committed annual payment is projected to grow over time based on price adjustments built into SDCWA's contracts with IID, MWD and other parties. The combined total financial obligation over the lives of these QSA commitments amounts to just under \$16.2 billion.

LAFCO might use SDCWA's current annual payment for QSA water of around \$285 million as a starting point for thinking about what a fair and reasonable departure fee could be.

### Q. What is the underlying logic of the position being adopted by FPUD and RMWD?

**A.** The position being adopted by FPUD and RMWD – that, once they detach from SDCWA, they should not be liable for any ongoing financial obligation to SDCWA – would be reasonable if SDCWA were supplying water to its member agencies solely on a pay-as-you-go ("PayGo") basis. If that were the case, a member agency which no longer received water from SDCWA should have no obligation for any further payment to SDCWA. But, SDCWA does not supply water to its member agencies solely on a PayGo basis – nor does MWD, nor does any other wholesale water supply agency that I know of.

A departure fee is intended as a payment for obligations incurred by having received water in the past; it is not a payment for water to be received currently.

### Q. Why does SDCWA not supply water to its member agencies on a PayGo basis?

**A.** SDCWA does not supply water to member agencies on a PayGo basis because that would be extremely burdensome to them financially. This is so for at least two reasons.

- Much of the infrastructure being financed dams, aqueducts, treatment plants, etc.<sup>67</sup>

   has a useful life of 40 years to over 100 years. Financing this infrastructure on a cash basis at the time of construction would be burdensome, and also unfair, for contemporary water users. Debt finance is generally far more reasonable.
- 2) In the case of IID Transfer, IID would only agree to sell this water to SDCWA on a longterm basis. It was unwilling to sell water to SDCWA (or MWD) on a year-by-year basis. That was the commitment a buyer had to make in order to receive IID water with its senior water right.

## Q. Why don't water agencies rely more on property tax revenues to pay for long-term debt service and water purchase commitments?

**A.** Public and municipal water agencies used to rely almost entirely on property tax revenue to finance their debt service and other long-term financial commitments. However, they stopped

<sup>&</sup>lt;sup>67</sup> See for example the recent major investments by SDCWA listed on page 18 above.

doing this in the 1960s and 1970, and switched instead to relying on revenue from water sales raised particularly via volumetric water rates.

Figures 11a and 11b illustrate the switch from property tax to water sales as the foundational revenue source for the case of MWD.

The switch – at MWD and elsewhere – was motivated in part by concerns of fairness. In the case of MWD, for example, the City of Los Angeles had the highest property tax base of all member agencies, but it was using relatively little M-water from MWD because it had access to its own water from Mono Lake. Other growing member agencies had small property tax bases but were far more heavily reliant on water from MWD. Charging member agencies based on their usage of water was seen as fairer (and more efficient economically) than charging based on their property values.



### FIGURE 11a | Changing Sources of MWD Revenue Over Time<sup>68</sup>

<sup>&</sup>lt;sup>68</sup> Steven P. Erie, Beyond Chinatown. Stanford University Press, 2006, Figure 3.1,

### FIGURE 11b | MWD Revenue Sources<sup>69</sup>



## Q. What is a fair share of SDCWA's contractual obligation to pay for QSA water to assign to FPUD and RMWD?

**A.** This is something for LAFCO to decide.

It could be based on FPUD and RMWD's shares in either total deliveries to SDCWA member agencies or in deliveries for municipal and industrial use as opposed to deliveries made under SDCWA's special PSAWR agricultural rate program.

Table 22 provides an example of the calculation of these shares using the data for FY 2021.<sup>70</sup> In FY 2021, FPUD and RMWD together accounted for 6.9% of total water deliveries to all member agencies, and 4.8% of deliveries for M&I (non-PSAWR) use.<sup>71</sup>

<sup>&</sup>lt;sup>69</sup> Metropolitan Water District, *Report of the Blue Ribbon Committee*, April12, 2011, Figure 2.6.

<sup>&</sup>lt;sup>70</sup> Other years could also be used – the share in an earlier year, or the average share over a span of several past years.

<sup>&</sup>lt;sup>71</sup> In my October Draft report, I had used FPUD and RMWD's shares in projected FY 2021 deliveries of SDCWA water. Now I am using their

shares in the actual, realized FY 2021 deliveries, which turned out to be larger than had been projected.
#### TABLE 22 | FPUD/RMWD Share in SDCWA Water Deliveries

		FY 2012 ACTUAL		FY 2013 ACTUAL		FY 2014 ACTUAL		FY 2015 ACTUAL		FY 2016 ACTUAL
	Delivered (AF)	Share								
PSAWR DELIVERIES										
Fallbrook	3,953	10.3%	4,348	10.0%	4,811	10.0%	3,853	9.4%	3,039	9.6%
Rainbow	8,025	21.0%	9,769	22.4%	11,413	23.8%	9,688	23.6%	7,846	24.8%
Subtotal	11,978	31.3%	14,117	32.4%	16,224	33.8%	13,541	33.0%	10,885	34.3%
All Member Agencies	38,267		43,610		47,941		41,055		31,696	
M&I DELIVERIES										
Fallbrook	8,163	2.0%	8,594	2.0%	8,535	1.9%	7,876	1.8%	6,430	1.8%
Rainbow	12,441	3.1%	12,745	2.9%	11,567	2.5%	10,486	2.4%	9,204	2.6%
Subtototal	20,603	5.1%	21,339	4.9%	20,102	4.4%	18,362	4.1%	15,633	4.3%
All Member Agencies	401,285		436,439		458,044		444,107		360,307	
ALL DELIVERIES										
Fallbrook	12,116	2.8%	12,942	2.7%	13,346	2.6%	11,729	2.4%	9,468	2.4%
Rainbow	20,466	4.7%	22,514	4.7%	22,980	4.5%	20,173	4.2%	17,050	4.3%
Subtotal	32,582	7.4%	35,456	7.4%	36,325	7.2%	31,902	6.6%	26,518	6.8%
All Member Agencies	439,552		480,048		505,985		485,162		392,003	
			ſ <u>¯</u>				1			
	Delivered (AF)	Share	Delivered (AF	Share	Delivered (AF)	Share	Delivered (AF)	Share	Delivered (AF)	Share
PSAWR DELIVERIES	De		,		Dentered (,	<b>.</b>				
Fallbrook	2,602	8.3%	2,971	8.3%	1,843	7.3%	1,830	7.8%	1,998	6.9%
Rainbow	7,937	25.4%	8,807	24.7%	6,002	23.9%	5,654	24.2%	7,256	25.2%
Subtotal	10,538	33.7%	11,778	33.0%	7,845	31.2%	7,484	32.0%	9,255	32.1%
All Member Agencies	31,254		35,696		25,118		23,370		28,831	
M&I DELIVERIES			1							
Fallbrook	6,499	1.7%	7,035	2.0%	5,922	1.7%	6,063	1.9%	6,823	2.0%
Rainbow	9,046	2.4%	10,433	2.9%	8,830	2.6%	8,732	2.7%	9,826	2.8%
Subtototal	15,545	4.2%	17,469	4.9%	14,752	4.3%	14,795	4.6%	16,649	4.8%
All Member Agencies	374,147		357,175		339,965		323,061		347,634	
ALL DELIVERIES			1							
Fallbrook	9,101	2.2%	10,007	2.5%	7,766	2.1%	7,893	2.3%	8.822	2.3%
					.,		.,		-/-	

		3-YEAR AVERAGE	5-YEAR AVERAGE		10-YEAR AVERAGE		
	Delivered (AF)	Share	Delivered (AF)	Share	Delivered (AF)	Share	
PSAWR DELIVERIES							
Fallbrook	1,891	7.3%	2,249	7.8%	3,125	9.0%	
Rainbow	6,304	24.5%	7,131	24.7%	8,240	23.8%	
Subtotal	8,194	31.8%	9,380	32.5%	11,364	32.8%	
All Member Agencies	25,773		28,854		34,684		
M&I DELIVERIES							
Fallbrook	6,270	1.9%	6,469	1.9%	7,194	1.9%	
Rainbow	9,129	2.7%	9,373	2.7%	10,331	2.7%	
Subtototal	15,399	4.6%	15,842	4.5%	17,525	4.6%	
All Member Agencies	336,887		348,396		384,216		
ALL DELIVERIES							
Fallbrook	8,160	2.3%	8,717	2.3%	10,319	2.5%	
Rainbow	15,433	4.3%	16,504	4.4%	18,570	4.4%	
Subtotal	23,593	6.5%	25,222	6.7%	28,889	6.9%	
All Member Agencies	362,660		377,250		418,900		

7.4%

22,597

365,083

6.2%

22,279

346,431

6.4%

25,904

376,465

6.9%

Source: SDCWA Annual Reports

26,083

405,400

6.4%

29,247

392,871

Subtotal

All Member Agencies

### Q. What annual payment would be assigned to FPUD and RMWD, based on SDCWA's QSA-related financial obligations?

**A.** This is a decision for LAFCO.

The amount of the departure fee depends on (i) what one takes as SDCWA's annual expenditure commitment for QSA water, and (ii) what one takes as FPUD's share and RMWD's share of that annual cost.

Table 23 illustrates what an annual departure fee might be if it is framed as FPUD/RMWD's share of SDCWA's annual QSA payment commitment in CY 2021 (\$284,524,900), using their three-year average share of either all deliveries or deliveries for M&I (non-PSAWR) use.

	Share	Annual payment				
USING THE SHARE OF M&I DELIVERIES						
FPUD	1.9%	\$5,295,156				
RMWD	2.7%	\$7,710,209				
Total	4.6%	\$13,005,365				
USING THE SHARE OF ALL DELIVERIES						
FPUD	2.3%	\$6,402,041				
RMWD	4.3%	\$12,107,975				
Total	6.5%	\$18,510,016				

#### TABLE 23 | Calculation of a Departure Fee

These calculations could be modified in any manner that LAFCO sees fit.

In particular, the FPUD/RMWD share could be calculated for a different set of years.

There is also the question of for how many years an annual departure fee would be paid – that is also something to be decided by LAFCO. I offer some thoughts below.

### Q. Why should FPUD and/or RMWD be required to make an annual payment to SDCWA if they do not receive any water from SDCWA that year? How is that fair?

**A.** The logic of a departure fee is that it is not a payment being made in exchange for the delivery of water. Instead, it is a payment being made in exchange for being permitted to detach from financial commitments previously made on behalf of FPUD and RMWD along with the other SDCWA member agencies. It is a payment for obligations incurred by having received water in the past, for the purpose of providing some limited financial relief to SDCWA while it adapts to the change in its financial circumstances.

## Q. If FPUD and RMWD detach from SDCWA, would it possible for SDCWA to sell the water that it otherwise would have delivered to FPUD and RMWD to some other water agency that is *not* a member agency, thereby recouping lost revenue?

**A.** In theory, one mechanism by which SDCWA might recoup lost revenue is to sell water that otherwise would have been delivered to FPUD and RMWD to a *non-member* water agency. Logical possibilities are to sell water to MWD itself or to individual member agencies served by MWD. The water distribution systems serving MWD and SDCWA are sufficiently interlinked that this ought to be possible in principle, although there could be some operational complications and constraints.

From a purely economic perspective, Southern California as a region would be better served if there could be a more open and collaborative relationship between MWD and SDCWA, its largest single customer.<sup>72</sup>

However, depending on the price SDCWA was able to negotiate for the sale of any unneeded water, the revenue earned might not fully offset the net revenue lost by the detachment of FPUD and RMWD.

### Q. Wouldn't the justification for a departure fee be eliminated if SDCWA could work out an arrangement to resell part of the QSA water?

**A.** No, the economic justification for a departure fee would not be eliminated, for at least two reasons.

First, it is unlikely that SDCWA could arrange and implement a long-run financial adjustment within a year from when detachment occurs. A&N Technical Services states that almost all California water transfers are negotiated in less than 12 months.<sup>73</sup> Negotiation is not the same as implementation, especially where regulatory approval is required. *Short-run* transfers (leases) in California are often negotiated and consummated within twelve months, but that is because they are exempted from the conventional legal requirements for the transfer of an appropriative water right in California (proof of no injury and proof of the historical right) on condition that the water is being transferred for a period of one year or less. With regard to the proposed new transfer cited by A&N between Glenn-Colusa Irrigation District and Marin Municipal Water District, the newspaper article that they reference actually states the following: "If an agreement is worked out, it would be for a one-time transfer occurring in 2022."

<sup>&</sup>lt;sup>72</sup> The agreement announced on December 14 whereby SDCWA will make available to MWD some of the groundwater which it has stored in the Semitropic Water Bank, while a temporary arrangement for 2022, may be a harbinger of a new and more productive relationship between the two agencies.

<sup>&</sup>lt;sup>73</sup> Email dated 11-8-2021. On 11-5-2021, SDCWA submitted an email disputing this claim by A&N Technical Services.

It is thus likely that it will take SDCWA several years to work out and implement the adjustments needed as a permanent fix for the financial issues raised by detachment.

Second, assuming that SDCWA can replace the net revenue lost by the detachment through the resale of some QSA water to another party, as I noted above, the QSA water no longer delivered to FPUD and RMWD does not belong to them individually. Any financial benefit from resale of that water belongs collectively to SDCWA member agencies.

### Q. In the event of a detachment, would the departure fee be paid annually for a period of several years or in one lump sum?

**A.** This is something for LAFCO to decide. As noted above, the detachment will cause an ongoing loss of annual net revenue, not a one-time loss.

#### Q. Over how long a period should FPUD and RMWD bear an obligation for a departure fee?

**A.** This is something for LAFCO to decide.

The purpose of the financial obligation is to provide an appropriate level of protection for SDCWA and the remaining member agencies in the short run while they adjust to the changed situation of a departure.

I do not think it likely that the adjustment will be completed quickly.

If the departure fee involves an annual payment, the period during which FPUD and RMWD bear that financial obligation to SDCWA should not exceed 10 years. In the water industry, a period of 10 years would typically count as the short run for planning purposes. The period should not be less than three years, given the time likely to be needed to for SDCWA to arrange a permanent remedy for the financial impact of detachment on its member agencies.

### **Q.** Could there be a different approach to determine the amount of their financial obligation to SDCWA in the event that FPUD and RMWD detach?

**A.** Yes, there are other possible approaches besides the one I outlined above, based on assigning to FPUD and RMWD a share of SDCWA's annual payment commitment for QSA water.

For example, FPUD and RMWD could be obligated to make a pre-specified payment to SDCWA based on the contingency that SDCWA fails to earn a pre-specified level of revenue from water sales that year, or on the contingency that SDCWA fails to be able to sell a pre-specified quantity of water, or on some other contingency.

In principle, this is something that could be negotiated between SDCWA, FPUD and RMWD. In the end, however, LAFCO has the final decision on whether to approve the terms of a detachment.

#### 2.5 WATER SUPPLY RELIABILITY

The IID Transfer and canal lining agreements and some of SDCWA's major infrastructure investments listed above were motivated by SDCWA's desire to increase the reliability of its water supply portfolio.

That raises two questions:

- (A) Is SDCWA's wholesale supply of water actually more reliable than the wholesale supply of EMWD, which will become FPUD and RMWD's wholesale supplier if they depart from SDCWA?
- (B) If SDCWA's wholesale supply is more reliable, does that justify the higher cost of water when staying with SDCWA as a wholesale supplier?

In this report, I do not address question (B). That is a policy judgment for FPUD and RMWD Boards of Directors and perhaps LAFCO to make. This section contains my analysis of question (A).

#### Q. What are the threats to the reliability of supply for FPUD and RMWD?

**A.** There are conceptually two distinct kinds of threat: (1) A situation occurs where the wholesale supply agency – SDCWA, MWD or EMWD – does not itself have access to sufficient water to provide all the water that FPUD and/or RMWD wishes to obtain; the supply provided to them is curtailed or rationed. (2) A physical break or disruption occurs on a major pipeline supplying FPUD and/or RMWD and there is not sufficient connectivity remaining in the wholesale agency's distribution system to deliver the amount of water that FPUD and/or RMWD wishes to receive. In one case, the wholesale agency lacks sufficient water; in the other, it (temporarily) lacks sufficient connectivity.<sup>74</sup>

### Q. With regard to the possibility of an insufficient water supply, how could that differ as between SDCWA vs EMWD?

**A.** FPUD and MWD could face differences in the reliability of their water supply when served by EMWD versus SDCWA in two ways: (1) SDCWA and EMWD have supply portfolios with differing degrees of reliability, and (2) the member agency status currently proposed for FPUD and RMWD within EMWD will be different from the status they currently have within SDCWA, and that gives them a different degree of access to their wholesaler's full supply portfolio.

<sup>&</sup>lt;sup>74</sup> I do not analyze (2) here because that is beyond my expertise.

#### Q. How do EMWD and SDCWA differ in the reliability of their water supply?

**A.** EMWD relies on M-water from MWD for about half of its supply; the rest is local supplies from local groundwater, recycled water and desalination of brackish local groundwater.<sup>75</sup> However, under their proposed arrangement with EMWD, FPUD and RMWD would not have any access to EMWD's local supplies; they would be 100% reliant on M-water from MWD.

SDCWA relied on M-water from MWD for 24% of its supply in CY 2020 and about 12% in CY 2021 (Table 9). This is projected to decline even further over the next decade. The rest of SDCWA's supply portfolio is (i) QSA water from the Colorado River which comes under a higher priority water right than most of MWD's Colorado River M-water and (ii) water from the Carlsbad Desal facility which is fully protected against streamflow uncertainty.

#### Q. Has the distinctive reliability of SDCWA's supply portfolio actually made any difference?

**A.** Yes. It would have made a difference if SDCWA had QSA water in the 1991 drought, it did make a difference that SDCWA had QSA water in the 2007-2009 drought, and it made a difference that SDCWA had desal water in the 2015-2016 drought.

Figure 12 is a presentation made to the SDCWA Board on 6-28-2012 showing what difference it would have made if SDCWA had access to QSA water in the 1991 drought: member agency deliveries would have been reduced by 14% instead of 31%.



#### FIGURE 12 | What if SDCWA had QSA Transfers in 1991?

<sup>&</sup>lt;sup>75</sup> The figure of 50% reliance on MWD comes from an interview with EMWD's General Manager Mouawad in *Municipal Water Leader* dated December 1, 2021, accessed at <u>https://municipalwaterleader.com/joe-mouawad-of-eastern-municipal-water-district-diversifying-supply-for-efficiency-minded-customers/</u>. EMWD's 2020 Urban Water Management Plan gives the reliance on MWD as 60% in CY 2020.

Due to the drought in 2009, SDCWA faced a 13% cut from MWD in its FY 2010 delivery of M-water. However, because of its access to QSA water, SDCWA was able to reduce deliveries to its member agencies by only 8%.

Under the drought emergency regulation adopted in May 2015, FPUD and RMWD were required to reduce their monthly water use starting in June 2015 through February 2016 by 36% compared to the level in 2013. In February 2016, the emergency regulation was amended to allow for new local drought-resilient supplies developed after 2013. In March 2016, the supply from the Carlsbad Desalination Facility was certified as drought resilient. This lowered FPUD and RMWD's mandated water use reduction from 36% to 28%. In May 2016, the conservation mandate was replaced with a localized "stress test" under which a wholesale water agency could document its ability to meet demands for 2017 - 2019 should dry conditions continue. Based on the availability of SDCWA's drought resilient supply, the conservation requirement for FPUD and RMWD was reduced from 28% to 0%.

#### Q. How does MWD water have supply reliability issues?

**A.** Both of MWD's sources of M-water – SWP water and Colorado River water -- have some supply reliability issues.

#### Q. What are the supply reliability issues with SWP water?

**A.** There are supply reliability issues for SWP water with regard to (i) the amount of water available for it to take from its source, the Feather River in the Sacramento Valley, and (ii) the ability to convey that water through the Sacramento/San Joaquin Delta to SWP member agencies south of the Delta.

### Q. What are the supply reliability issues with regard to the amount of water SWP can obtain from the Sacramento Valley?

A. There are two long-standing reliability issues and one newer issue now coming into focus.

The long-standing issues are that (i) droughts are a fact of life in California, and (ii) the SWP has relatively little carryover storage compared, say, to the Colorado River – two consecutive years of drought in Northern California could create a difficult situation for SWP supply.

The new factor now coming more clearly into focus is climate change. For almost twenty years now, scientists have been warning that climate change will make California's droughts worse – both more frequent and more severe.<sup>76</sup> The new feature is a recognition that not only will droughts become more frequent and more severe in California, but they will also become *harder to predict* on a seasonal basis. The higher temperatures currently being experienced in California

<sup>&</sup>lt;sup>76</sup> This was a major finding from the State of California's Climate Scenarios Project. I served on the steering committee for this project from 2003 to 2011.

are making seasonal forecasts of streamflow runoff less reliable, with past forecast methods turning out this year to be too optimistic.<sup>77</sup> Snowmelt in the Sacramento River Basin was forecast in early May this year to be about 800,000 AF less than had been predicted in early April based on the past relationship between snowpack and runoff. This was equivalent to 10% less Sacramento River system runoff than had been predicted by California's Department of Water Resources using its standard models and methods.<sup>78</sup>

#### Q. Has the SWP supply to member agencies diminished in recent years?

#### A. Yes.

One indication is the changing estimates of the average Table A amount that the SWP can deliver from the Delta which have appeared biennially in the SWP Delivery Capability Reports since 2005. The estimated average Table A delivery from the Delta was 2.818 MAF/yr in the 2005 Report and 2.414 MAF/yr in the most recent 2019 Report. This change is due to increased environmental regulation over the last three decades aimed at protecting native species of fish in the Delta.

In addition, however, actual SWP deliveries have decreased since 2006 in a manner indicative of climate change. Through 2012, there were only two years in SWP history where it delivered low supplies relative to the Table A amounts – 1991, where it delivered 20% of Table A, and 2008 where it delivered 35%. Since then, there have been six years of very low SWP supplies amounting to 35% of Table A entitlements in 2013, 5% in 2014, 20% in 2015, 35% in 2018, 20% in 2020 and 5% this year. On December 1 of this year, before the onset of the rains, the SWP set its initial 2022 allocation to M&I and agricultural contractors at 0%.

### **Q.** What is the Sacramento-San Joaquin River Delta and how does it affect the conveyance of SWP water?

**A.** The Delta is a web of channels and reclaimed islands at the confluence of the Sacramento and San Joaquin Rivers. It originated through sea level rise after the last ice age bringing a steady accumulation of sediment into a large freshwater marsh which commingled with vast quantities of organic matter from the vegetation, forming an area of shallow channels and sloughs amid low islands of peat and tule. Starting around 1850 with the planting of orchards to provide fresh fruit for the gold mining camps, these Delta lands were drained to reclaim them for farming and protected by levees to form a network of islands separated by freshwater channels. By 1900, nearly half of the Delta's land area had been reclaimed. By the 1920's reclamation of almost all the farmable land in the Delta had been completed.

<sup>&</sup>lt;sup>77</sup> As noted below, the same is turning out to be true for the forecasts of streamflow used for the Colorado River.

<sup>&</sup>lt;sup>78</sup> Abatzoglou, J. et al. "California's Missing Forecast Flows in Spring 2021 – Challenges for seasonal flow forecasting," CaliforniaWaterBlog.com, Posted on July 18, 2021.

When the Central Valley Project (CVP) came into operation in the late 1940s, and then the SWP in the 1960s, the Delta became the hub of the system for transporting water from the Sacramento Valley to the San Joaquin Valley and Southern California. Water stored behind dams in the Sacramento Valley is released into the Sacramento River and flows naturally into the northern end of the Delta. It flows south on the eastern side of the Delta, kept separate by the various islands from brackish water on the far western side of the Delta, which would be harmful for water supply purposes. The water flows in the channels between the Delta islands ("Tracts") but, instead of following the natural course of streamflow in a westerly direction to exit the San Francisco Estuary at the Golden Gate, it is sucked by powerful pumps at the southern end of the Delta into two major aqueducts that convey the water to CVP and SWP users in the San Joaquin Valley and Southern California.

### Q. What are the supply reliability issues with regard to the ability to convey SWP water through the Sacramento/ San Joaquin Delta to SWP member agencies south of the Delta?

**A.** The integrity of the levees has long been a concern. The levees were quite often poorly designed and constructed, they were generally poorly maintained, and they are subject to natural erosion. Moreover, the Delta islands are mainly peat soil which is highly erodible with wind action. The land inside the islands is now mostly below sea level. This land subsidence has triggered failures of some levee and flooding of some islands.

It has also long been known that there are several major earthquake faults within the vicinity of the Delta that are capable of generating ground shaking which could likely lead to levee failure, although so far there have been no significant earthquakes in or closely adjacent to the Delta since the late 1800s.

Between 1900 and 1982, there were over 160 levee failures, but significant improvements were then made to the levee system and there was no major levee failure for the next 22 years. On a sunny June day in 2004, with calm seas, the Upper Jones Tract levee failed spontaneously inundating the entire island with more than 150,000 AF. It took three weeks to repair the levee, using special equipment which had to be brought down from Seattle, and an additional five months to de-water the island, which lay 3 meters below sea level, for a total cost of about \$90 million.

Around the same time, new data mapping became available showing that the Delta islands lie further below sea level than previously thought, up to 8 meters in some cases. The implication was that, if a levee was breached, the task of restoring the land would be more arduous than expected because of the great volume of water that would have to be extracted.<sup>79</sup>

<sup>&</sup>lt;sup>79</sup> Jeffrey Mount and Robert Twiss, "Subsidence ,Sea Level Rise and Seismicity in the Sacramento-San Joaquin Delta." San Francisco Estuary & Watershed Science, vol. 3, issue 1 (March 2005).

Sea level rise due to climate change adds a new risk on top of seismicity. The sea level off San Francisco has risen about 10" since 1900 and is projected to rise by a meter or more by 2100. The threat from sea level rise becomes acute during a storm coming at high tide, because that increases the chance of waves overtopping levees and destroying them.

### Q. What is the current assessment of the supply reliability issues with regard to the ability to convey SWP water through the Delta?

A. Between land subsidence within the Delta Islands, the fragility of the Delta levees, the threat of an earthquake and the anticipated rise in sea level due to climate change, there is a very high likelihood – in fact, a certainty – of significant levee failures in the Delta during this century. Indeed, there is a high likelihood that *multiple* levees might fail at the same time, whether due to an earthquake or a winter storm at high tide, rather than a single levee failing as in June 2004. If several Delta levees were breached simultaneously, the physical resources would probably not be available to repair them all and the islands would be irreversibly flooded.<sup>80</sup> Depending on their location, the flooding of multiple islands would increase the risk of brackish water intruding and comingling with CVP and SWP water being conveyed through the Delta, thereby shutting down those projects' deliveries.

### Q. If it is certain that the current conveyance of CVP and SWP project through the water will not endure, what is California's policy response?

**A.** California's policy response, which emerged in the aftermath of the 2009 Delta Reform Act and became known as WaterFix, was to re-rout the conveyance of CVP and SWP project water underneath the Delta through two deep tunnels that would provide an alternative to conveyance using the Delta channels thereby eliminating dependence on the integrity of the Delta levees. More detailed engineering and financial analysis for the development of an EIR/EIS was initiated in 2015. In 2017, MWD approved its participation for a 26% share in the project (a 47% share in the SWP's 55% stake in the project). The estimated cost of WaterFix was about \$17 billion in 2017 dollars, with MWD's 26% share amounting to \$4.3 billion. MWD's Board subsequently authorized the acquisition of an unsubscribed share of the project, bringing its total share to 64.6% and its cost to about \$10.8 billion. In 2019, however, incoming Governor Newsom announced that he did not support a two-tunnel Delta project but preferred a smaller one-tunnel project instead. Planning documents are being developed for a one-tunnel project, now named the Delta Conveyance Project. A preliminary cost estimate released in August 2020 was \$15.9 billion (in 2020 dollars) and MWD has not yet determined its participation in the new project.

<sup>&</sup>lt;sup>80</sup> "Over the next 50 years there is a two-thirds chance of catastrophic levee failure in the Delta leading to multiple island flooding's and the intrusion of sea water" PPIC 2007, p. v

#### Q. Will the Delta Conveyance Project fix the reliability issues for SWP?

**A.** If the Delta Conveyance Project is completed, it will eliminate the present risk associated with the ability to convey SWP and CVP water to users south of the Delta. It will maintain the current ability to convey SWP water against the threat of future disruption. It is a means of preserving the status quo.

It will not fix the unreliability associated with declining streamflow in the Sacramento River Basin due to the effects of climate change.

#### Q. Will the Delta Conveyance Project raise the cost of SWP water?

#### A. For sure.

The Delta Conveyance Project does not generate any additional water supply. It prevents future reductions in SWP deliveries to member agencies south of the Delta that would be caused by failures of the levees in the Delta. In effect, SWP member agencies will have to pay more for the same water that they receive at present.

#### Q. When will the Delta Conveyance Project be completed?

**A.** That is not known at present. Once the Project is fully financed and authorized, which could perhaps take another three to five years, construction is expected to ramp up over a period of about ten years – so, perhaps, about 15 years from now.

### Q. How important is MWD's Colorado River water as a source of supply for MWD compared to its SWP water?

**A.** As noted earlier, MWD was formed to bring water from the Colorado River to Southern California. The Colorado River constituted MWD's only source of supply until SWP deliveries started arriving in the 1970s. The Colorado River remained MWD's dominant source of water until the QSA was implemented in 2003.<sup>81</sup> Between 1982 and 2002, MWD took an average of over 1.1 MAF annually from the Colorado River alongside an average of 860,000 AF annually from the SWP. Over this period, the Colorado River made up 56.8% of MWD's supply while the SWP made up 43.2%. The access to Colorado River water shielded MWD from the worst effects of drought on SWP supplies in 1977 and 1991.

The situation changed once the QSA came into effect in 2003. MWD's firm supply of Colorado River water was reduced to about 600,000 AF.<sup>82</sup> In consequence, MWD has come to rely more

<sup>&</sup>lt;sup>81</sup> In the fifty years prior to 2003, California overall had exceeded its 4.4 MAF annual apportionment of Colorado River water almost every year, drawing on Arizona's and Nevada's unused apportionments. About half of the time California took more than 5 MAF.

<sup>&</sup>lt;sup>82</sup> See footnote 7 above.

on its SWP supply. Between 2003 and 2020, the Colorado River made up about 37% of MWD's supply, while the SWP made up about 63%.

### Q. Apart from the reduction in MWD's water right once the QSA was implemented, are there any supply reliability issues affecting Colorado River water?

**A.** Climate change, which has been impacting the availability of streamflow in the Sacramento River Basin, is also affecting streamflow in the Colorado River Basin.

The drought in the Colorado River Basin has actually been more severe and more sustained than that in the Sacramento River Basin.

Lake Mead was last at full capacity (an elevation of 1,221 feet) in 2000. Over the subsequent 22 years, the watershed has experienced 17 dry years. According to Udall and Overpeck (2017): "Between 2000 and 2014, annual Colorado River flows averaged 19% below the 1906–1999 average, the worst 15-year drought on record. Approximately one-third of the flow loss is due to high temperatures now common in the basin, a result of human caused climate change."<sup>83</sup> The drought continued, with dry winters in 2019-2020 and in 2020-2021.

Until now, water users were shielded by the availability of extensive storage in the basin, including in Lake Mead and Lake Powell, the two largest reservoirs in the U.S. However. Those reservoirs have been depleted since 2000 and are now at the lowest levels ever reached since first being filled (Lake Mead around 1935, Lake Powell in 1980). Between January 1 and October 1 of this year, the water level in Lake Mead dropped by 16 feet and it dropped by another 10 feet by the end of December, for a total of 26 feet this calendar year, to a level of 1,066 feet on 12-28-2021. A decline of one foot in the level of Lake Mead corresponds to a reduction of about 85,000 AF held in storage. Lake Mead is now at 35% of its capacity.

### Q. Is the historically low water level in Lake Meade currently an issue for California's water supply from the Colorado River?

**A.** It is not currently an issue for California.

It *is* an issue for Arizona and Nevada under the Interim Guidelines for the Colorado River Lower Basin promulgated by the Secretary of the Interior in 2007 in response to then seven years of drought in the Colorado River Basin.

The Secretary of the Interior functions as the master of the river for the Colorado River Lower Basin and must approve all diversions in the Lower Basin. The 2007 Guidelines set limits on diversions by the three Lower Basin states depending on the amount of water in storage at Lake Mead. Those limits are now taking effect.

<sup>&</sup>lt;sup>83</sup> Xiao, Udall and Lettenmaier, "On the Causes of Declining Colorado River Streamflows" *Water Resources Research*, August 2018 subsequently modified this analysis to estimate that 50% of the flow reduction from 2000 to 2014 was due to higher temperatures.

The limits are tied to specific water elevations in Lake Mead. Under the Interim Guidelines, as supplemented by the 2019 Drought Contingency Plan for the Lower Basin, Tier Zero applies in a calendar year when the January 1 elevation is projected to fall below 1,090 feet. This has been in effect since January 2020. Under Tier Zero, Arizona forfeits 192,000 AF of its 2.8 MAF annual entitlement to Colorado River water, and Nevada forfeits 8,000 AF of its annual entitlement to 300,000 AF.

Tier One applies when the elevation at Lake Meade on January 1 is projected to fall below 1,075 feet (which happened this May).<sup>84</sup> Under Tier One, Arizona forfeits a total of 512,000 AF of its Colorado River entitlement, and Nevada forfeits 21,000 AF. In August, the Secretary of the Interior announced that the Tier One restrictions will take effect starting January 2022. Those apply to Arizona and Nevada but not California.

On December 15, California, Arizona and Nevada signed a new agreement, called the 500+ Plan, to spend up to \$100 million to add an annual 500,000 AF to storage in Lake Mead in each of 2022 and 2023 to prevent the reservoir level from becoming perilously low.<sup>85</sup> It is not yet clear where the extra 500,000 AF of water will come from. So far, it appears that it may come mainly from reduced agricultural use, with growers in the three states being paid to fallow land.

### Q. Could a historically low water level in Lake Meade become an issue for California's water supply from the Colorado River?

#### A. Yes.

California starts to forfeit some of its annual entitlement to Colorado River if the projected January 1 elevation falls below 1,045 feet, which triggers what is known as Tier 2b.<sup>86 87</sup> Under Tier 2b, California forfeits 200,000 AF of its 4.4 MAF entitlement to Colorado River water; Arizona forfeits 640,000 AF; and Nevada forfeits 27,000 AF.

If the projected January 1 elevation of Lake Mead falls below 1,025 feet, this triggers Tier Three for that year.<sup>88</sup> Under Tier Three, California forfeits 350,000 AF, Arizona forfeits 720,000 AF, and Nevada forfeits 30,000 AF.

The Bureau of Reclamation issues five-year projections of future conditions in the Colorado River system in January every year and then updates them in April and September (but known as the August projection). The projections released this September, looking through January 2026, project zero chance that Lake Mead will be below 1,025 feet in January 2022, a 25% chance in

<sup>&</sup>lt;sup>84</sup> To put this in perspective, as explained below Lake Mead is holding water to meet a delivery of 9 MAF to the Lower Basin states and to Mexico, plus there is 0.6 MAF of evaporation loss from Lake Mead. At an elevation of 1,075 feet, Lake Meade is storing about 9.6 MAF.
<sup>85</sup> The federal government will also contribute \$100 million. This is expected to raise the reservoir level by about 16 feet.

<sup>&</sup>lt;sup>86</sup> Tier 2a is triggered if the elevation falls below 1,050 feet. That tier impacts only Arizona (which forfeits 592,000 AF) and Nevada (which forfeits 25,000 AF).

<sup>&</sup>lt;sup>87</sup> At an elevation of 1,045 feet, Lake Mead is storing about 7.3 MAF.

<sup>&</sup>lt;sup>88</sup> At an elevation of 1,025 feet, Lake Mead is storing about 6 MAF.

January 2023 (thereby triggering Tier Three), a 44% chance in January 2024, a 59% chance in January 2025, and a 62% chance in January 2026.

The Bureau also projected that, while there is zero chance that Lake Mead will fall below 1,000 feet in January 2022 or 2023, there is a 12% chance that it will fall below 1,000 AF in January 2024, a 19% chance in January 2025, and a 22% chance in January 2026. An elevation below 1,025 feet, such as 1,000 feet, was not anticipated in the 2007 Interim Guidelines and would necessitate more drastic actions by the Lower Basin states.<sup>89</sup>

Obviously, conditions may change between now and January 2023 or January 2025, but as of today there is a real probability that Tier Three may take effect within the next three to five years, thus triggering a reduction in the amount of water that California can obtain from the Colorado River.

### Q. If California did have to reduce the amount of water it takes from the Colorado River water, would that affect MWD and SDCWA equally?

**A.** No.

Reductions in the diversion of Colorado River water are governed by the seniority of the right to that water within California. Under the 1931 Seven-Party Agreement among California users of Colorado River water, there are four tranches of seniority. The first two seniority tranches take up the full current allocation of 4.4 MAF. The senior allocation is 3.85 MAF for Palo Verde Irrigation District, the Yuma Project, and Imperial Irrigation District. Junior to this is an allocation of 550,000 for MWD.<sup>90</sup>

SDCWA obtains all of its Colorado River water in a transfer or exchange with IID, and this water is covered by IID's seniority.

Some of MWD's Colorado River water comes from a transfer agreement with Palo Verde Irrigation District (about 50,000 AF) and is covered by that seniority. The remainder of MWD's Colorado River water comes from its lower seniority right of 550,000 AF, and this is junior to the QSA water which SDCWA obtains from IID.

Therefore, if California is required to forfeit some of its entitlement to Colorado River water, the reduction would be disproportionately larger for MWD than for SDCWA.

Exactly how the reduction would be apportioned among the California users is something that could be modified in future negotiations, including negotiations among the Lower Basin States,

<sup>&</sup>lt;sup>89</sup> The 2019 Drought Contingency plan itself expires at the end of 2026, by which time a new Drought Contingency Plan will have to be negotiated.

<sup>&</sup>lt;sup>90</sup> Following this is an additional allocation of 662,000 AF to MWD, followed by an allocation of 300,000 to Imperial Irrigation District and Palo Verde Irrigation District. These would come into play in the event of a surplus supply of Colorado River water.

and also between them and the Upper Basin states, to formulate a post-2026 Drought Contingency Plan. Those negotiations are likely to be brutal.<sup>91</sup>

#### Q. Will the water supply situation in the Colorado River get better in the long run?

**A.** No.

In addition to climate change, there is a second calamitous threat to the Colorado River Basin states' entitlements to Colorado River water. Even without climate change, the fact is that the river was over-allocated when the Colorado River Compact was negotiated among the states in 1922. The seven basin states divided up among themselves water that did not actually exist.

The negotiators of the Compact believed that the natural flow of the Colorado River at Lees Ferry was 17.5 MAF. The Compact itself allocated 16.5 MAF – 7.5 MAF each to the Upper and Lower Basins, and 1.5 MAF held for an eventual arrangement with Mexico.<sup>92</sup> This was mistaken in two ways. It overlooked evaporation and operational losses, and it overestimated streamflow.

Because of evaporation and operational losses, there is a water deficit built into the Lake Mead Budget. With releases from Lake Powell upstream and side inflows, the annual inflow into Lake Mead would average 9.0 MAF. Lake Mead is intended to deliver 9.0 MAF to the Lower Basin and to Mexico. However, there is an evaporation loss of 0.6 MAF from Lake Mead itself, and there are evaporation and operational losses downstream of Lake Meade also amounting to about 0.6 MAF. The result is a structural deficit of 1.2 MAF.

At the time the Compact was negotiated, some government hydrologists had lower estimates of the average natural flow of the Colorado River over the prior period 1878-1920, including 14.2 MAF and 15 MAF.<sup>93</sup> These turned out to be closer to the mark. The average over the period 1906-2017 is 14.8 MAF, but with a clear downward trend. The average flow between 2000 and 2018 was only 12.8 MAF; extended through 2021, this average falls to 12.4 MAF.

At its maximum extent (Tier 3), the 2019 Drought Contingency Plan brought about a reduction of 1.1 MAF in total diversions by Lower Basin States, which more or less removed the structural deficit at Lake Mead with an average annual streamflow at Lees Ferry of 14.8 MAF. But, Tier Three is not adequate if the "new normal" average streamflow is 12.4 MAF. Closing that gap might require some cap on Upper Basin diversions along with a substantial increase – perhaps a doubling – in the reductions imposed on the Lower Basin states under a post-2026 Drought Contingency Plan.

<sup>&</sup>lt;sup>91</sup> The executive director of the Colorado River Board of California, which coordinates California's users of Colorado River water, was quoted last month as saying that the basin states must grapple with the "new normal" of reduced flows. "We're dealing with a new reality, and it's got to change the way we think about putting our long-term plans together" *FarmProgress*, September 17, 2021, accessed at https://www.farmprogress.com/print/444857.

<sup>&</sup>lt;sup>92</sup> The treaty with Mexico was negotiated in 1944.

<sup>&</sup>lt;sup>93</sup> The story of these estimates and their neglect by the parties negotiating the Compact is recounted by Kuhn and Fleck, *Science Be Dammed:* How Ignoring Inconvenient Science Drained the Colorado River. University of Arizona Press, 2019.

## Q. If MWD is forced to withdraw less water from the Colorado River, and at the same time faces a very much reduced SWP allocation, would that necessarily reduce the amount of water it will deliver to its member agencies, including EMWD?

**A.** Not necessarily – it depends on several factors including, in the first instance, (i) how much MWD's diversion of Colorado River water and allocation of SWP water are cut back, (ii) how much MWD is able – and decides -- to cushion that blow by drawing on its dry-year reserve of stored surface water and groundwater that year, and (iii) How MWD goes about allocating the remaining shortfall among its member agencies.

#### Q. How large is MWD's dry-year storage reserve?

**A.** In the 1991 drought, MWD had a very small dry-year reserve<sup>94</sup> limited primarily to storage in within-district reservoirs. Following the end of the drought, MWD has actively built up a large portfolio of dry-year balances, using both groundwater storage and surface water storage, and located within Southern California, in the San Joaquin Valley, in Coachella Valley, and in Lake Mead. Coming in to 2021, MWD had about 3.2 MAF in dry-year storage, a record high level. Its total storage capacity now amounts to almost 6 MAF.

### Q. To what extent would MWD's dry-year storage reserve cushion the blow of a reduced SWP and Colorado River supply?

**A.** MWD's annual delivery is about 1.6-1.75 MAF, so its beginning of year storage in 2021 represented a roughly two-year reserve supply. As late as early November, it was expecting to end 2021 with about 2.5 MAF in reserve storage, having drawn down about 700,000 AF of its reserve during 2021.<sup>95</sup> If the drought had continued into 2022 and beyond, MWD would have been able to rely on this storage reserve for a second and probably third year.

However, there are two potential complications. One is the fact that there can be some logistical constraints on MWD's ability to access and deploy its reserves at particular times. With storage in groundwater banks, there are constraints on put/take capacity and there may be constraints arising from the need to coordinate with other conjunctive use partners; there is a capacity constraint on the CRA; and there may be a constraint on the amount that MWD can withdraw from storage in Lake Mead when the lake level is dangerously low. The other concern is longer multi-year droughts than we have experienced so far. The period 2014-2016 was the longest multi-year period of critical water shortage experienced so far in modern California. But projected climate change scenarios conducted for California indicate the possibility of significantly longer droughts in the future. It is not clear that MWD yet has the practical capacity to sustain a more severe drought and a longer run drought, especially on the Colorado River.

<sup>&</sup>lt;sup>94</sup> Dry-year storage balances are distinct from emergency storage balances which are reserved for emergency events such as supply interruptions from earthquakes or pipe ruptures etc. MWD currently aims to hold 0.75 MAF in emergency storage.

<sup>&</sup>lt;sup>95</sup> MWD staff presentation to Board Water Planning and Stewardship Committee, item 6a, November 8, 2021.

#### Q. If MWD is short of water, how does it limit the supply available to its member agencies?

**A.** In 1990 (as noted above) MWD had adopted a first-ever drought management plan which called on member agencies to voluntarily cut their water usage. As that drought grew more severe, this became a mandatory requirement ultimately cutting back municipal water deliveries by 30% and agricultural deliveries by 90%. That rationing program ended when the drought abated.

In 2007, with the possibility of drought re-appearing, MWD initiated a process to develop what became its Water Supply Allocation Plan (WSAP), adopted in February 2008 and put into effect in April 2009, covering the period July 2009 – April 2011.

In 2014, when another dry year was anticipated, the WSAP was updated and then implemented in April 2015, covering the period July 2015 – June 2016.

The 2014 version remains MWD's official policy for allocating supplies in the event of shortage.

Key features of the WSAP are that (1) it does not impose mandatory cutbacks but, instead, uses an economic incentive to encourage member agencies to achieve their targeted reduction in water use, and (2) the targeted reduction is tailored to the circumstances of each member agency based on several factors including its dependence on MWD at the retail level and its existing level of per capita use.

As in the 1990 program, there are tiers of reduction corresponding to the degree of regional water shortage. In Tier 3, which applied in 2015-2016, depending on their situation, member agencies received an allocation from MWD that at a minimum is 7.5% less than their baseline allocation and is no more than 30% below that baseline.<sup>96</sup> In Tier 5, MWD member agencies receive an allocation that at a minimum is 12.5% below their baseline allocation and is no more than 37.5% below that baseline.

However, if a member agency needs to exceed its WSAP allocation, it can do so on payment of a surcharge of \$1,480/AF above the MWD Tier 1 water rate<sup>97</sup> for excess water up to 15% over the WSAP allocation, or a surcharge of \$2,960/AF for excess water beyond 15% over the WSAP allocation.

<sup>&</sup>lt;sup>96</sup> Member agencies more heavily dependent on MWD received a smaller cutback.

<sup>&</sup>lt;sup>97</sup> For comparison, the MWD Tier 1 rate for treated water is \$1,104/AF in 2021.

Q. Isn't supply reliability for an urban water agency in California becoming a non-issue because in any future drought the governor will mandate a cutback in per-capita use, following Governor Brown's precedent in 2015-2016, and that will take care of a shortage arising from reduced supplies?

**A.** No – that is likely too simplistic.

What happens will depend on multiple factors: (i) how severe the drought is and how great a shortage in supply it generates; (ii) whether the governor intervenes and how large a reduction in per capita consumption he mandates; and (iii) to what extent water users actually comply with the governor's mandate. Consumer compliance with a governor's conservation mandate should not be taken for granted. During Governor Brown's 2015-2016 conservation mandate there was less than perfect compliance. While RMWD met its conservation target during the period June 2015 – February 2016, FPUD did not; nor did EMWD. Moreover, during the drought this summer, there was significantly less conservation than had been requested by Governor Newsom.<sup>98</sup>

While SDCWA and MWD member agencies have experienced a remarkable reduction in percapita water use since around 2010, one cannot necessarily count on that trend to be repeated indefinitely. Looking into the future, demand hardening may become more noticeable.

In short, I do not think it prudent to assume that, as a general proposition, having a more reliable water supply in the future – whether from a more senior right to Colorado River water or from desalination – will have no economic value and will no longer be worth paying for.

## Q. Suppose FPUD and RMWD join EMWD and, some time thereafter, MWD faces a shortage of water and imposes an allocation on its member agencies including EMWD. Will FPUD and RMWD experience the same degree of shortage as other member agencies served by EMWD?

**A.** They may face a larger degree of shortage than some other EMWD wholesale customers.

EMWD is a both a retailer and a wholesaler of water. While about half of EMWD's water supply is local supplies, those are used almost exclusively for EMWD's retail customers. EMWD's wholesale customers receive only M-water from MWD. However, there is a difference with respect to how different wholesale customers receive M-water. By virtue of its location, one existing wholesale customer, Rancho California Water District (RCWD), takes water directly from turnouts on an MWD pipeline, as would FPUD and RMWD if they join EMWD. Other wholesale customers receive M-water pumped by EMWD through EMWD-owned and operated booster stations and transmission lines. These other wholesale customers are therefore connected to

<sup>&</sup>lt;sup>98</sup> Kurtis Alexander "Californians fail to meet Newsom's water-savings target amid growing drought" San Francisco Chronicle, September 22, 2021.

EMWD's distribution system, while RCWD and also FPUD/RMWD if they join are isolated from EMWD's distribution system.<sup>99</sup>

While FPUD and RMWD would – like EMWD's other wholesale customers – receive only M-water from EMWD, their isolation from the EMWD distribution system might leave them a bit more vulnerable in the event that MWD cuts its supply to EMWD: being connected to EMWD's distribution system would make it possible to tap into EMWD's local supply if EMWD were willing to allow that.<sup>100</sup>

RMWD could be especially vulnerable in a shortage of MWD water since it has no local supplies, while most of EMWD's other wholesale customers have substantial local supplies. RCMWD would join the City of Perris as the only wholesale customers entirely dependent on MWD water from EMWD.<sup>101</sup>

# Q. Doesn't EMWD's Technical Memorandum of February 12, 2020, demonstrate that EMWD has adequate supplies such that even with a Regional Shortage Level 5 (a 30% cut in MWD deliveries) no wholesale customer, including FPUD and RMWD, would run short of supply or be forced to pay MWD's allocation penalty surcharge?

**A.** EMWD's memorandum does reach that conclusion, but under some assumptions not all of which seem realistic.

In addition to the Regional Shortage level, which determines the magnitude of the reduction in MWD deliveries, the outcome depends on the base period consumption used by MWD and the adjustments applied to that baseline to account for population growth as well as other adjustments that MWD might apply when calculating the required reduction in member agency use (e.g., 30% reduction under Shortage level 5).

As explained in Appendix B, EMWD's analysis assumed that the baseline allocation to which MWD applied a 30% delivery cut was 47% higher than EMWD actually needed. That is why EMWD projected it had more than enough water for its member agencies, including FPUD and RMWD, in the event of a 30% cut by MWD.

Looking to the future, the notion that EMWD could absorb a 30% cut in MWD deliveries with no ill effect does not strike me as plausible.

<sup>&</sup>lt;sup>99</sup> The EMWD water rate proposed for FPUD and RMWD shown in Table 11 matches the rate currently paid by RCWD – the MWD Full-Service Tier 1 rate plus a share of MWD's RTS and Capacity charges plus an administrative fee of \$11/AF. Other wholesale customers who make use of EMWD's distribution system pay in effect the MWD Full-Service Tier 1 rate plus an EMWD charge of \$246/AF.

<sup>&</sup>lt;sup>100</sup> Despite being isolated from EMWD's distribution system, FPUD and RMWD could in theory obtain virtual access to EMWD's local supply through an in-lieu arrangement under which EMWD forebears from taking some MWD water, substituting more local supply, while FPUD and RMWD divert the additional quantum of water from MWD turnouts. However, that is not presently incorporated and priced into EMWD's agreement with FPUD and RMWD.

<sup>&</sup>lt;sup>101</sup> With the Santa Margarita Conjunctive Use Project online, about half of FPUD's total use is now local supply. About 58% of RCWD's total use is local supply; for the City of Hemet and Lake Hemet NWD, local supply is about two-thirds of the total use; for the City of San Jacinto, it is 98% of total use.

#### Q. Is urban growth in EMWD's service area also a possible consideration here?

#### A. Yes.

In 2019, Riverside County was identified as the fifth fastest growing county in the country. Based on data from the 2020 UWMP, EMWD's retail service population and its current wholesale service area population are each expected to grow by around 22% between 2020 and 2035. Demand for water is expected to grow more over this period -- by 46% in the retail service area and by 59% in the current wholesale service area. By 2035, EMWD will need to supply an additional 75,315 AF/yr (an increase of 49% overall).

While EMWD plans to increase its recycled water supply by 31% and its groundwater supply by 38%, it will also need an extra 24,920 AF/yr from MWD by 2035, an increase of 27% compared to now.

If FPUD and RMWD join EMWD's service area that adds an extra demand of about 17,600 AF/yr in 2030 and 2035, raising the need for extra MWD water to 42,543 AF/yr in 2035, an increase of 46% compared to now.

### Q. In summary, how does the reliability of supply for FPUD and RMWD differ if they join EMWD compared to the reliability they have with SDCWA?

**A.** Riverside County is the fastest growing county in California. EMWD relies on MWD for half of its supply, and it is that half which will have to meet the needs of EMWD's growing wholesale population. SDCWA now relies on MWD for less than 20% of its supply, but it fully shares its non-MWD supply with its member agencies. SDCWA's non-MWD supply is QSA water from the Colorado River, which comes under a higher priority water right than most of MWD's Colorado River M-water, and water from the Carlsbad Desal facility which is fully protected against streamflow uncertainty.

### Q. Is it likely that FPUD and/or RMWD will find themselves running out of water if they detach from SDCWA and join EMWD?

#### **A.** No.

While FPUD and RMWD are taking something of a gamble on supply reliability if they switch from SDCWA to EMWD, the gamble ultimately is not one of running out of water but, rather, paying a higher price than they had anticipated to get by during a drought.

For surface water users in Southern California (unlike some groundwater users) the risk is not that the tap runs dry but, rather, that a temporary solution in a drought emergency turns out to be a rather expensive proposition.

#### 2.6 WHAT IS THE PROBLEM?

The issue confronting LAFCO – the desire on the part of FPUD and RMWD to detach from SDCWA because of the high cost of SDCWA water – is obviously a serious problem. It raises issues that go beyond FPUD and RMWD, and beyond SDCWA. It points to some fundamental difficulties that are endemic to the economics of water supply in San Diego County that may need to receive more sustained attention.

#### Q. Is the problem that SDCWA is using water that is just too expensive?

#### **A.** No.

Of course, the problem is the high cost of SDCWA water. But the fact is that there is *no* cheap water available in Southern California. All water is expensive and will become even more so in the future.

My analysis above indicates that SDCWA's QSA water is no more expensive than M-water from MWD.

Desal water from Carlsbad is significantly more expensive. But, desal has real economic value as an insurance against both drought and state-mandated conservation reductions in water use, and it proved its value during the drought in 2015-2016.

Like all forms of insurance, desal water becomes economically more valuable if it can be shared across a larger number of persons at risk – that is to say, if it can be shared across a wider swathe of Southern California water users, including other member agencies of MWD. If there is a will to do this on both sides and if a price can be agreed, the economic value of the Carlsbad facility could be enhanced through more widespread sharing using in-lieu arrangements with other MWD members.

As noted above, SDCWA's use of Carlsbad water accounts today for barely over half the cost differential between SDCWA's and MWD's wholesale water rates. Two other factors are at work besides the cost of SDCWA's water supply portfolio.

One major driver of water supply cost is the cost of distribution infrastructure. That varies with several factors including timing and age: with continued inflation in construction costs, older infrastructure built long ago provides cheaper water than infrastructure built recently – until the older infrastructure needs a major investment for maintenance or replacement. Due to the happenstance of timing, SDCWA was significantly upgrading its storage and distribution infrastructure at a time when MWD was not making any unusually large infrastructure investments. This will be reversed in the future as MWD engages with the Delta Conveyance Project.

Another major driver of water costs is the fact that the overwhelming portion of water supply costs are what economists call fixed costs – costs that are not reduced much when the agency delivers less water. Then, almost the same cost has to be spread across fewer units of water supplied, which propels the unit cost upwards.

Rather than the expense of the SDCWA's water supply portfolio, these two factors are the main reason why the gap between SDCWA's and MWD's wholesale rates widened starting around 2010.

#### Q. Would recycling treated wastewater be a much cheaper source of potable water supply?

#### A. I do not think so.

Recycling treated wastewater for direct or indirect potable use is not necessarily a cheap source of supply. The cost depends on many factors, including location, treatment method, and the way in which the treated effluent is introduced into the potable distribution system. In some cases, recycled water is cheaper than desalinated water. In other cases, it may not be cheaper. In 2017, an MWD white paper assessed the cost of recycled water as a source of potable supply and found that it ranges from \$1,222/AF to \$3,224/AF in 2017 dollars.<sup>102</sup>

Even if it is not cost-effective as a source of water supply, recycled water has other important benefits that can justify its use, including environmental benefits and also economic benefits as a solution to overcapacity in wastewater collection, treatment and disposal systems.

#### Q. If it is not SDCWA's supply sources, what is the real problem with SDCWA water?

**A.** There are two underlying problems: a problematic fiscal model and a problematic governance model.

#### Q. What is problematic about SDCWA's fiscal model?

**A.** There is a structural Imbalance in SDCWA's finances. The imbalance arises from a mismatch between the share of revenues that are variable versus fixed and the share of expenditures that are variable versus fixed.<sup>103</sup> This imbalance is not unique to SDCWA. It is experienced by MWD and by many other water agencies.

If a water agency's variable/fixed split between revenues does match the variable/fixed split between its costs, any variation in the quantity of water that it sells should have little impact on its net revenue. Otherwise, sales variation can have a significant impact.

<sup>&</sup>lt;sup>102</sup> MWD California WaterFix Finance and Cost Allocation, August 2017.

<sup>&</sup>lt;sup>103</sup> I use "variable" and "fixed" in their economic sense. If an expenditure is fixed in this sense, this does not mean that it cannot be reduced; it means that it cannot be reduced *just by selling less water*. Some of the comments on my October Draft Report seem to have misunderstood that distinction.

For most water agencies in practice, the share of their costs that is fixed is far larger than the share of their revenues that is fixed. This is good news if there is a rising trend in water sales. Selling more water raises revenues more than it raises costs (because their revenue has a larger variable cost component than their expenditure). But, for many water agencies in Southern California, the sales trend is downwards, not upwards.<sup>104</sup> With a downward sales trend, revenue falls by more than costs, causing net revenue to drop.

Tables 11 and 12 above showed the split between variable and fixed components of expenditure for SDCWA and MWD. Table 23 below presents MWD's split between variable and fixed components of revenue, which can be compared with SDCWA's split shown in Table 17. Table 24 uses these data to compare the variable/fixed split between expenditures and revenues overall for SDCWA and MWD.

				Revenue		
	ITEM	\$ millions	Percent	Туре		
	Water Related Revenue					
а	Water Sales	\$1,188.0	75.7%	Variable		
b	Readiness to Serve Charge	\$134.5	8.6%	Fixed - short-run		
с	Capacity Charges	\$30.5	1.9%	Fixed - short-run		
d	Subtotal Operating Revenue	\$1,353.0	86.2%			
-	Other Revenue			1		
e	Property Tax	\$146.9	9.4%	Fixed		
f	Power Sales	\$15.9	1.0%	Fixed with regard to water sales		
g	Investment Income	\$28.9	1.8%	Fixed		
h	Other Revenue	\$24.5	1.6%	Fixed		
ī	TOTAL REVENUE & OTHER INCOME	\$1,569.2	100.0%			
NO	TE: "Variable" means that this revenue	varies directly wi	th the quant	ity of water		
del	ivered that year by MWD its member ag	gencies. "Fixed" n	neans that th	ne revenue		
doe	es not vary directly with the quantity of	water delivered	that year.			

#### TABLE 24 | MWD Revenue Breakdown

<sup>&</sup>lt;sup>104</sup> With EMWD and Riverside County being notable exceptions.

		SDCV	NA	MWD	
		% VARIABLE	% FIXED	% VARIABLE	% FIXED
	REVENUE				
а	As Share of Operating Revenue	72%	28%	88%	12%
b	As Share of Total Revenue	63%	37%	76%	24%
-	EXPENDITURE				
с	As Share of Operating Expenditure	15%	85%	16%	84%
d	As Share of Total Expenditure	11%	89%	12%	88%
sou	IRCE				
а	Table 17, row a/row f. Table 23, row a/	row d.			
b	Table 17, row a/row p. Table 23, row a/row i.				
С	Table 11, row d/row i. Table 12, (rows a + c)/row i.				
d	Table 11, row d/row o. Table 12, (rows	a + c)/row l.			

#### TABLE 25 | Shares of Fixed vs Variable Revenue & Cost, SDCWA and MWD

SDCWA and MWD are in a very similar position with respect to expenditures: the fixed costs of water supply account for about 85% of the cost of operations in the case of SDCWA and 84% for MWD. On the revenue side, fixed revenue sources account for only 28% of SDCWA's revenue but for significantly less – 12% -- in the case of MWD.

The difference in variable/fixed revenue split between SDCWA and MWD is testimony to SDCWA's foresight in introducing the Infrastructure Access Charge in 1998 and the Supply Reliability Charge in 2015. However, even though SDCWA's mismatch between the variable/fixed split of revenue and expenditure is less severe than MWD's mismatch, it still constitutes a serious financial problem for SDCWA in an era of declining deliveries to member agencies.

Consider the following hypothetical example. In FY 2020, SDCWA earned water operating revenue of \$585.1 M (Table 17) and it delivered 354,007 AF of water. That corresponds to an ex post all-in revenue rate of about \$1,653/AF.<sup>105</sup> Suppose SDCWA delivered 1,000 AF less to some member agencies. About 72% of the all-in rate is variable revenue which will be lost when sales decline by 1,000 AF, leading to a revenue loss of about \$1.2M (= 0.72\*1653\*1000). On the expenditure side, about 15% of the \$1,653/AF is variable cost, so SDCWA's saving in expenditures when it delivers 1,000 AF less to member agencies amounts to only about \$0.25M (= 0.15\*1653\*1000). Using these figures, when SDCWA deliveries decline by 1,000 AF its net revenue falls by \$0.94 M – unless the rate structure is altered to offset this.

<sup>&</sup>lt;sup>105</sup> This is an ex post all-in rate which will differ from the all-in rate stated when the next year's rates are announced, since that is based on a projection of sales. Also, \$1,653 is the all-in rate averaged over all member agencies. Because the balance of fixed and variable charges varies among member agencies, one member agency's all-in rate will be different from another's – as exemplified by the difference between FPUD and RMWD in row n of Table 16.

This back-of-the envelope calculation is intended as an illustration of the phenomenon that is in play not only with detachment by member agencies but also with demand roll-off when member agencies substitute increased use of local recycled water for SDCWA delivery. Such roll-offs are projected to occur between now and 2030 in an amount exceeding 60,000 AF.

Detachment is certainly different than demand roll-off because, with a roll-off, the agencies are still members of SDCWA and can in theory be assessed charges that would offset the net revenue loss; with detachment the members cannot be assessed charges except in the case of a departure fee. However, the difference between detachment and roll-off may turn out not to be that large in practice: both phenomena are financially detrimental to SDCWA.

#### Q. What is problematic about SDCWA's governance model?

A. Just as SDCWA's fiscal model is essentially the same as that of many other water agencies including MWD so, too, its governance model is not particularly different from that of other water agencies, including MWD. Under this common model, member agencies are represented on the Board of Directors, and the Board decides infrastructure investments through some form of majority voting. But investment decisions are made without any upfront commitment by member agencies to take and pay for the water that will be generated. This strategy commits current resources without guaranteeing the future revenues to pay for new investments. Almost thirty years ago, this was flagged as a problem for MWD by a 1993 Blue Ribbon Task Force.<sup>106</sup> The Task Force stated that it was

"troubled to learn, for example, that some of the member agencies most strongly supporting big-ticket projects like the [Eastside] reservoir also had the most aggressive plans to reduce their future MWD water purchases and develop independent supplies. In effect, such agencies appear to want MWD to develop costly backup capacity-or insurance-for their local supply strategies, while seeking to shift the costs for these benefits on to Metropolitan and other agencies and consumers."<sup>107</sup>

A consequence was that:

"Current users-which control the Board-will have incentives to define new and future capacity investments in ways that may shift the costs of system improvements that actually benefit both current and future consumers exclusively onto future users."<sup>108</sup>

This is ultimately a problem of governance. The Task Force asserted that "regional governance concerns are at the heart of MWD's planning, pricing, and strategic implementation activities" and it concluded that:

<sup>&</sup>lt;sup>106</sup> I served as a consultant to the Task Force's Subcommittee on IRP and Rate Structure.

<sup>&</sup>lt;sup>107</sup> Metropolitan Water District Blue Ribbon Task Force, *Final Report*, January 1994, p.23.

<sup>&</sup>lt;sup>108</sup> Op cit., p 17.

"Governance skills also will determine if MWD can actually pay for its future projects. With bond and property tax revenues limited, and in an era of high business and consumer rate sensitivity, MWD can no longer afford to build major facilities and hope that member agencies will buy enough water to pay for them over several years."<sup>109</sup>

In the same vein, MWD's 2010-2011 Blue Ribbon Committee remarked:

"The challenge going forward for MWD, and its members is to develop a business model, and associated governance approach, that manages risks associated with investments in both imported and local resources and infrastructure."<sup>110</sup>

It is certainly understandable that member agencies of an organization like SDCWA or MWD like the flexibility to change their supply portfolio in the future without being tied down by purchase commitments. But this can also be financially detrimental to the wholesaler organization and to other member agencies. Water supply infrastructure is massively capital intensive and very longlived. It cannot be funded on a PayGo basis; it needs a long-term financial commitment. The problem was less severe in the past when property tax revenues provided the main repayment source for water infrastructure investments. That source of revenue stability is now lacking.

MWD's 2010-2011 Blue Ribbon Committee identified two elements of a solution: (i) MWD should aim for water supply security through diversity in the supply portfolio, and (ii) MWD should play an increased role in facilitating and managing transfers and trades in water among member agencies. MWD and SDCWA have both made great progress with respect to (i), but almost none with respect to (ii).

#### Q. Are water transfers a solution?

**A.** It depends. There are two different conceptualizations of urban water marketing in Southern California, a top-down conception and a bottom-up conception.

### Q. What is the difference between the top-down and the bottom-up conceptions of water marketing?

**A.** In the top-down conception, SDCWA and MWD are the principal actors in the water transfer activity in Southern California, initiating and implementing transfers through the water distribution networks that they control.

The drawback with this approach is the fact that the necessity for water transfers arises increasingly from the local needs of member agencies reflecting a diversity of local factors – their changing customer mixes, their different potentials for water conservation, and their different opportunities for demand management and for increasing local supply through new recycling

<sup>109</sup> Ibid.

<sup>&</sup>lt;sup>110</sup> Metropolitan Water District, *Report of the Blue Ribbon Committee*, April 12, 2011, pp 50-51.

and/or groundwater development. This diversity creates differences in the need for, and economic value of, water supply reliability. Differences in the individual circumstances of SDCWA and MWD member agencies create the potential for a significant regional economic benefit from water transfers. In economics, gains from trade are generated, and markets thrive, where there is sufficient heterogeneity among the potential market actors. That level of heterogeneity now exists in Southern California – not so much as the aggregate regional level (SDCWA versus MWD) but at the level of individual water agencies – for example, RMWD versus the City of San Diego.

To take advantage of the variety in individual member needs and to overcome the financial challenges confronting Southern California's water at a time of climate change, it will be important that local member agencies step up, take more responsibility for the water they obtain through regional wholesalers, commit financially on a long- rather than short-term basis, and become leading actors in shaping their individual supply portfolios through water transfers and exchanges as needed. In that scenario, SDCWA and MWD will to some degree become facilitators and providers of assistance rather than the principals. For this to work, it will also be essential to have a strong degree of cooperation and collaboration between SDCWA and MWD as Southern California's two premier water supply agencies.

#### **APPENDIX A**

#### REVIEW OF LONDON MOEDER ADVISORS "RAINBOW MWD & FALLBROOK PUD COST-BENEFIT ANALYSIS OF SDCWA MEMBERSHIP"

The LMA Report contains three sections, each of which I consider in turn.

#### 1. Fixed Charge Analysis

LMA note that, over the period 2010 – 2019, SDCWA received approximately \$1.233 billion in revenue from fixed charges from member agencies – the customer service charge, storage charge, supply reliability charge and infrastructure access charge. The charges paid by FPUD and RMWD over that period amounted to approximately \$56 million, or 4.5% of the SDCWA total.

LMA go on to observe that between 2010 and 2019 there were a total of 908,302-to-925,093meter equivalents served by the SDCWA system. FPUD and RMWD consistently comprised approximately 2.7% to 2.9% of all meter equivalents served by SDCWA.

LMA note that had FPUD and RMWD's share of all SDCWA member agency fixed charges been the same as their share of meter equivalents (2.8%), FPUD and RMWD would have paid a total of \$34.5 million in fixed charges to SDCWA over the period 2010 – 2019, instead of \$56 million. LMA imply that FPUD and RMWD paid more than their fair share of SDCWA fixed charges.

I disagree.

While SDCWA allocates the total fixed charge revenue to be raised through the infrastructure access charge among member agencies in proportion to their share of the meter equivalents served by the Authority, it allocates the total revenue to be raised through each of the other three fixed charges in proportion to member agencies' share of the three- or five-year rolling average of all water purchases or M&I water purchases.

That FPUD's and RMWD's combined share of all fixed charges is 4.5% while their combined share of meter equivalents is 2.8% reflects the fact, on average, *FPUD and RMWD customers use more water per meter equivalent than do customers of the other SDCWA member agencies.* 

By way of example, in FY 2019, FPUD and RMWD together accounted for 5.9% of the water supplied by SDCWA to member agencies, while at the same time accounting for 2.9% of the meter equivalents. Specifically, In FY 2019 FPUD and RMWD received 22,253 AF from SDCWA for use by their 26,542-meter equivalents (ME), amounting to a usage of 0.8384 AF per ME. In FY 2019, the other member agencies combined received 356,277 AF for use by 898,551 ME, amounting to an average usage of 0.3965 AF per ME. *The average usage of SDCWA water per meter equivalent within the FPUD and RMWD service areas in FY 2019 was more than twice that of the other member agencies* (0.8384 AF/ME versus 0.3965 AF/ME).

Based on my own experience of analyzing the costs of municipal water supply systems in California, I see no reason for apportioning the fixed costs of water supply among wholesale customers of a supply agency like SDCWA based on the member agencies' shares of the total number of meter equivalents serviced by the wholesale agency.

From an economic perspective, it is more appropriate to allocate fixed costs among member agencies based on (i) their share of annual water deliveries, or on something like (ii) their share of peak hourly or daily deliveries. Those variables are more likely to drive the fixed costs experienced by SDCWA than the number of meter equivalents serviced by the individual member agencies.

#### 2A. Benefits Received by FPUD and RMWD

The LMA report equates the degree to which FPUD and RMWD benefit from their membership in SDCWA to the share of their water supply *not* "received from" MWD.

For example, the report states that, prior to 2020, 85% of FPUD's water supplies "were received directly from MWD facilities," the remaining 15% being received from SDCWA facilities. From this, the report infers that FPUD benefits from SDCWA membership only for 15% of its water supply.

LMA makes a parallel argument with respect to RMWD.

This argument is not correct.

Even if FPUD and RMWD were to receive *all* of their water supply as treated water from MWD's Skinner Water Treatment Plant delivered to them via flow control facilities owned by MWD, all of that water is a benefit of their SDCWA membership. FPUD and RMWD would not be in a position to receive a single drop of water from the Skinner Plant if (1) SDCWA were not a member agency of MWD, and (2) had not contracted with MWD to receive that water.

Some of the water from Skinner is QSA water that belongs to SDCWA, not MWD. The rest of the water from Skinner is MWD water (from the State Water Project or obtained under MWD's rights to Colorado River water) which has been purchased by SDCWA from MWD as a member agency. Either way, all of the water received by FPUD and RMWD from Skinner belongs to SDCWA and comes to FPUD and RMWD as a benefit of their membership in SDCWA. FPUD and RMWD cannot assert a sort of riparian right to water flowing in MWD-owned facilities through their service areas.

Therefore, LMA's conclusion that, over the period 2010 – 2019, FPUD and RMWD benefited from their membership of SDCWA only in the amount of \$6.5 million is not correct.

#### 2B. Benefit – to – Cost Ratio

The LMA Report's benefit-cost analysis is not correct.

The measurement of the benefits received by FPUD and RMWD is not correct for the reason I have stated above (in 2A).

The measurement of the "fair share of fixed charges" attributed by LMA to FPUD and RMWD is not correct for the reason I have stated above (in 1).

Consequently, the estimate in the Report that FPUD and RMWD have subsidized the remaining member agencies by \$49.5 million over the period 2010 – 2019 lacks foundation and is incorrect. The same observation applies to the statements in the LMA report that (1) during the years of 2010 through 2019, FPUD and RMWD achieved a benefit-to-cost ratio of 0.12 from the payment of fixed charges, and (2) the remaining MDCWA member agencies have benefited from this imbalance representing a benefit-to-cost ratio of 1.04. Both statements lack foundation and are incorrect.

#### 3. Reallocation of Fees

The LMA Report assesses the financial impact of FPUD and RMWD de-annexation on the remaining member agencies. The report observes that, between 2010 and 2019, FPUD and RMWD paid SDCWA an average of approximately \$5.6 million annually in fixed charges. The report goes on to state that \$5.6 million per year "represents the hypothetical amount that SDCWA will have to re-allocate to the remaining member agencies in order to avoid an increase in variable water rates."

The statement just cited is not correct, for two reasons.

First, under de-annexation, in addition to the loss of revenues from the fixed charges considered by LMA (the customer service charge, storage charge, supply reliability charge and infrastructure access charge), SDCWA would also lose some quantum of revenue from property taxes, capacity charges and the availability standby charge. These revenues are used to finance some of SDCWA's fixed costs of operation that would still be incurred by SDCWA for the benefit of its member agencies after de-annexation.

Secondly, SDCWA also uses a large portion (in fact, the majority) of the revenue from its variable water rates to cover fixed costs of operation. Under de-annexation, SDCWA's water rate revenue would go down, but it would still incur the same fixed costs that are paid for through variable water rates.

With a reduced volume of water delivered due to the de-annexation of FPUD and RMWD but the same fixed costs, SDCWA would have to raise not only its fixed charges but also its variable water rates in order to offset the revenue loss.

Consequently, LMA's estimate of \$5.6 million for the annual financial impact of de-annexation on the remaining SDCWA member agencies is a significant understatement.

#### **APPENDIX B**

#### REVIEW OF EMWD TECHNICAL MEMORANDUM "ANALYSIS OF EASTERN MUNICIPAL WATER DISTRICT'S WATER SUPPLY AND SYSTEM RELIABILITY WITH THE POTENTIAL ANNEXATION OF FALLBROOK PUBLIC UTILITY DISTRICT AND RAINBOW MUNICIPAL WATER DISTRICT" FEBRUARY 12, 2020.

This EMWD memorandum evaluates how annexation of FPUD and RMWD into EMWD's wholesale service area would impact EMWD's water supply portfolio under three planning scenarios and in three alternative Regional Shortage Levels (1, 3 and 5) as defined in MWD's Water Supply Allocation Plan (WSAP).

The memorandum finds that, under all of the conditions evaluated adequate supplies existed such that no single EMWD retail agency, including RMWD and FPUD, would be subject to the MWD allocation surcharge even at a Regional Shortage Level 5.

#### Context

In 1990, MWD had adopted a first-ever drought management plan which called on member agencies to voluntarily cut their water usage. As that drought grew more severe, this became a mandatory requirement ultimately cutting back municipal water deliveries by 30% and agricultural deliveries by 90%. That rationing program ended when the drought abated.

In 2007, with the possibility of drought re-appearing, MWD initiated a process to develop what became its Water Supply Allocation Plan (WSAP), adopted in February 2008 and put into effect in April 2009, covering the period July 2009 – April 2011.

In 2014, when another dry year was anticipated, the WSAP was updated and then implemented in April 2015, covering the period July 2015 – June 2016.

The 2014 version remains MWD's official policy for allocating supplies in the event of shortage.

Key features of the WSAP are that (1) it does not impose mandatory cutbacks but, instead, uses an economic incentive to encourage member agencies to achieve their targeted reduction in water use, and (2) the targeted reduction is tailored to the circumstances of each member agency based on several factors including its dependence on MWD at the retail level and its existing level of per capita use.

As in the 1990 program, there are tiers of reduction corresponding to the degree of regional water shortage. When MWD has a shortage, this is said to be an "allocation" situation. In a Tier 1 Shortage, depending on their situation member agencies face a reduction in the amount of water allocated to them by MWD amounting to between 5% and 7.5% of the amount that would

have been allocated in the absence of shortage.<sup>111</sup> In a Tier 3 Shortage, which applied in 2015-2016, member agencies face a reduction in the amount of water allocated to them by MWD amounting to between 15% and 22.5% of the amount that would have been allocated in the absence of shortage. In a Tier 5 Shortage, member agencies face a reduction in the amount of water allocated to them by MWD amounting to between 25% and 37.5% of the amount that would have been allocated in the absence of shortage.

However, if a member agency wishes to exceed its WSAP allocation, it can still do so on payment of a surcharge. The surcharge amount is \$1,480/AF above the MWD Tier 1 water rate<sup>112</sup> for excess water up to 15% over the WSAP allocation, or \$2,960/AF for excess water beyond 15% over the WSAP allocation.

Thus, rather than placing an absolute limit on the amount of water it will deliver to a member agency in a shortage situation, as in 1990, with the WSAP program MWD employs stiff financial incentives to constrain the demand for its water during an allocation year.

#### EMWD'S Analysis

EMWD analyzed three shortage scenarios.

One scenario was the 2015 Drought. This scenario considered how EMWD's customers, along with FPUD and RMWD, would have fared during the severe drought conditions resulting in 2014-2016 under the emergency conservation order issued by Governor Brown.

Another scenario was current day conditions, as of 2019 (the report was finalized in February 2020). This scenario considered how EMWD's customers, along with FPUD and RMWD, would have fared had MWD implemented an allocation during 2019.

The final scenario was future conditions in 2035. This scenario considered how EMWD's customers, along with FPUD and RMWD, would fare in the future, using projections for 2035 taken from EMWD's 2015 Urban Water Management Plan.

For my purposes, the current day conditions (2019) scenario seems most relevant. I confine my remarks here to that scenario. For that scenario, EMWD used several assumptions, the most important being the following:

 The base period used to calculate MWD's allocation was calendar year 2013 and 2014 – this is the base period previously used for an allocation by MWD and it represents the most recent period where demands were not influenced by drought response both at the

<sup>&</sup>lt;sup>111</sup> Member agencies more heavily dependent on MWD receive a cutback at the lower end of the scale. In addition, there is a reward for having lowered per capita water use as between a baseline period and the current year, which takes the form of a small additional allocation based on the amount of the reduction in per capita water use. Member agencies also receive a credit (in the form of a larger allocation) for

<sup>&</sup>quot;extraordinary" local supply being put to use during an allocation period.

 $<sup>^{\</sup>rm 112}$  For comparison, the MWD Tier 1 rate for treated water is \$1,104/AF in 2021.

local and state level. That is consistent with MWD's intent to define a base period that reflects non-drought conditions.

- 2. The allocation year is 2019.
- 3. The adjustment for population growth between the base period and the allocation period was based on population estimates generated by the California Department of Finance. Since the base period was 2013-2014, the growth rate was calculated as the growth from the 2013-2014 average population value to the 2019 population value.
- 4. Allocation year local supplies were assumed to be equal to actual local supply usage in calendar year 2019.
- 5. No adjustments permitted by the WSAP for conservation demand hardening or low percapita use were applied.
- 6. No extraordinary local supplies were considered.
- 7. While 2019 was actually a wet year rather than a dry year, the hydrology still resulted in reduced service area demands accordingly, 2019 totals were assumed to reflect a dry year with some degree of customer conservation in place.

EMWD's technical analysis demonstrated that, under these conditions in 2019, EMWD and all the agencies it served (plus FPUD and RMWD if it served them) would be in compliance with MWD's shortage allocation, regardless of whether the Shortage Level was Tier 1, Tier 3 or Tier 5. Neither EMWD nor its member agencies (including FPUD and RMWD) would be in a situation where they have to pay MWD's allocation surcharge.

#### Some Limits to EMWD's Analysis

EMWD's technical analysis is thoughtful and painstaking. It is certainly to be commended.

However, there is one important issue.

In an email dated October 15, 2021, responding to some questions I had emailed the day before, Nick Kanetis forwarded to me comments made in response by EMWD's Gordon Ng. Gordon Ng indicated that, while he couldn't be absolutely sure, he guessed that the cutback in MWD supplies imposed on EMWD during an allocation would likely be around the middle of the range – i.e., an 18% cutback in the case of a Tier 3 Shortage. Extrapolating, this implies a 6% cutback in the case of a Tier 1 Shortage, and a 30% cutback in the case of a Tier 5 Shortage.

Combining those percentage cutbacks with the resulting MWD allocations as projected by EMWD for the current day conditions scenario in Tables 5, 6 and 7 allows me to back out the implied allocation of water by MWD to EMWD in the absence of a shortage. This comes out to around 124,000 AF.

As reported by MWD, the amount of water actually delivered by MWD to EMWD in 2019 was about 84,000 AF. That figure is also consistent with the data in the first two columns of Tables 5, 6 and 7 in EMWD's Technical Memorandum. Those columns show EMWD's projected total

potable demand in 2019 and EMWD's local potable supply in 2019. The difference between the two numbers is what EMWD would have obtained from MWD, and that amounts almost exactly to 84,000 AF.

Thus, the current day conditions scenario in EMWD's Technical Memorandum has MWD allocating 124,000 AF for EMWD under non-shortage conditions, and then reducing that by 6%, 18% or 30% depending on whether there was a Tier 1 Shortage, a Tier 3 Shortage or a Tier 5 Shortage. But, EMWD actually needed only 84,000 AF from MWD in 2019. This difference is why EMWD turns out to have more than enough water for its member agencies (including FPUD and RMWD) in the face of a Tier 1, Tier 3 or Tier 5 shortage: MWD was basing the cutback on a presumed demand from EMWD for MWD water of 124,00 AF, which is about 47% larger than the actual demand from EMWD.

Some discrepancy between MWD's projection of a member agency's demand for MWD water in the absence of shortage and the agency's actual demand in a shortage year is inevitable for two reasons:

- (1) Under the WSAP protocol, MWD is basing its projection of demand for MWD water on updates of information from a previous base period, and the updating can introduce some error.
- (2) Because it is a shortage year, the demand for water in the member agency will be depressed by drought restrictions on water use and conservation requirements whether at the local or state levels.

In this case, however, drought restrictions *alone* are unlikely to explain a 47% gap between the actual member agency demand for MWD water in a shortage year and the non-shortage member agency demand from which MWD thought it was cutting back its delivery.

#### Implications

MWD and its member agencies are much better prepared for drought today than they were in 1990. MWD has vastly more reserves in storage today than it did in 1990. MWD's WSAP protocol is, in my view, a superior approach to handling scarcity than what MWD did before WSAP was introduced. However, it is also true that in past droughts MWD and Southern California were shielded from the effects more than Northern California because of their access to water from the Colorado River – in all of California's droughts up to now, including 2012-2016, Colorado River water was Southern California's bulwark.

As of this year, that has changed. The vulnerability of the Colorado River to climate change is being dramatically re-assessed, as reflected in the Bureau of Reclamation's new supply projection methodology introduced in the last month or two.

We know how painful a 30% cut in MWD deliveries was back in 1990. Therefore, the notion that EMWD could today absorb a 30% cut (Tier 5) in MWD deliveries with no ill-effect is quite striking. The technical analysis in EMWD's memorandum is impressive. But, I do not consider it conclusive proof that EMWD could not be significantly affected in the future by reduced MWD deliveries on the scale of a Tier 5 Shortage, or even a Tier 3 Shortage.
# **ESTIMATED DETACHMENT IMPACTS TO MEMBER AGENCIES + RATEPAYERS**

Agenda Report, June 5, 2023

STEP ONE Baseline			STEP TWO Isolating Detachment Impac	cts	STEP THREE Detachment True Ups		STEP FOUR Annual Agency II	npacts		STEP FIVE Annual Ratepaye	er Impacts
Water Sales + Equivale	nt Meter Un	iits	FPUD and RMWD Revenue Share		Adjusting for Detachments		Redistribution of Loss Re	evenue		Redistribution of Loss R	evenue
5-Year Averages FY17 to FY22			Assumes Property Tax Loss		Making Up for FPUD and RMWD Leaving.		MACRO: Each Agency (ar	nnual)		MICRO: Indivual Ratepay	yers (annual)
	% <b>o</b> f    #	# of Active	Years 1 to 10	Years 11 +	Adjusted			Years 1 to 10	Years 11 +		Years 1 to 10
	Total	EMUs	12,580,968	10,988,168	% of Total	differnece		12,580,968	10,988,168		12,580,968
Carlsbad MWD	4.80%	36,577	603,886.46	527,432.06	5.106%	0.306%	Carlsbad MWD	642,432	561,098	Carlsbad MWD	17.56
City of Del Mar	0.30%	2,506	37,742.90	32,964.50	0.319%	0.019%	City of Del Mar	40,152	35,069	City of Del Mar	16.02
City of Escondido	2.90%	35,618	364,848.07	318,656.87	3.085%	0.185%	City of Escondido	388,136	338,997	City of Escondido	10.90
Fallbrook PUD	2.10%	11,887	264,200.33	230,751.53	0.000%		Fallbrook PUD	-		Fallbrook PUD	-
Helix WD	5.60%	65,537	704,534.21	615,337.41	5.957%	0.357%	Helix WD	749,504	654,614	Helix WD	11.44
Lakeside WD	0.80%	8,199	100,647.74	87,905.34	0.851%	0.051%	Lakeside WD	107,072	93,516	Lakeside WD	13.06
City of National City	0.50%	*	62,904.84	54,940.84	0.532%	0.032%	City of National City	66,920	58,448	City of National City	
City of Oceanside	5.40%	58,289	679,372.27	593,361.07	5.745%	0.345%	City of Oceanside	722,736	631,235	City of Oceanside	12.40
Olivenhain MWD	4.20%	28,376	528,400.66	461,503.06	4.468%	0.268%	Olivenhain MWD	562,128	490,961	Olivenhain MWD	19.81
Otay WD	8.00%	60,715	1,006,477.44	879,053.44	8.511%	0.511%	Otay WD	1,070,721	935,163	Otay WD	17.64
Padre Dam MWD	2.80%	27,048	352,267.10	307,668.70	2.979%	0.179%	Padre Dam MWD	374,752	327,307	Padre Dam MWD	13.86
Camp Pendelton	0.00%		-	-	0.000%	0.000%	Camp Pendelton	-	-	Camp Pendelton	
City of Poway	2.20%	17,076	276,781.30	241,739.70	2.340%	0.140%	City of Poway	294,448	257,170	City of Poway	17.24
Rainbow MWD	3.90%	14,864	490,657.75	428,538.55	0.000%		Rainbow MWD	-		Rainbow MWD	-
Ramona MWD	1.30%	10,328	163,552.58	142,846.18	1.383%	0.083%	Ramona MWD	173,992	151,964	Ramona MWD	16.85
Rincon MWD	1.50%	10,418	188,714.52	164,822.52	1.596%	0.096%	Rincon MWD	200,760	175,343	Rincon MWD	19.27
City of San Diego	37.20%	395,266	4,680,120.10	4,087,598.50	39-574%	2.374%	City of San Diego	4,978,851	4,348,509	City of San Diego	12.60
San Dieguito WD	1.00%	15,371	125,809.68	109,881.68	1.064%	0.064%	San Dieguito WD	133,840	116,895	San Dieguito WD	8.71
Santa Fe ID	1.70%	10,560	213,876.46	186,798.86	1.809%	0.109%	Santa Fe ID	227,528	198,722	Santa Fe ID	21.55
Sweetwater	1.40%	43,303 *	176,133.55	153,834.35	1.489%	0.089%	South Bay ID	187,376	163,654	South Bay ID	4.33
Vallecitos WD	4.60%	27,461	578,724.53	505,455.73	4.894%	0.294%	Vallecitos WD	615,664	537,719	Vallecitos WD	22.42
Valley Center MWD	4.20%	14,690	528,400.66	461,503.06	4.468%	0.268%	Valley Center MWD	562,128	490,961	Valley Center MWD	38.27
Vista ID	2.60%	36,047	327,105.17	285,692.37	2.766%	0.166%	Vista ID	347,984	303,928	Vista ID	9.65
Yuima MWD	1.00%	596	125,809.68	109,881.68	1.064%	0.064%	Yuima MWD	133,840	116,895	Yuima MWD	224.56
Total:	100.00%	930,732	12,580,968	10,988,168	100.000%	6.000%	Totals per month average	12,580,968 \$ 1,048,414.00	10,988,168 \$ 915,680.67	Annual Averages per month average	\$ 26.41 \$ 2.20
Less FPUD and RMWD	Others	Comibined									
Years 1 to 10	94.00%	6.00%									

Years 11 +

94.00% 6.00%

# STEP SIX Monthly Ratepayer Impacts...

MICRO: Indivual Ratepayers (annual)

Years 11 +		Years 1 to 10	Years 11 +
10,988,168		12,580,968	10,988,168
15.34	Carlsbad MWD	1.46	1.28
13.99	City of Del Mar	1.34	1.17
9.52	City of Escondido	0.91	0.79
	Fallbrook PUD	-	-
9.99	Helix WD	0.95	0.83
11.41	Lakeside WD	1.09	0.95
	City of National City	-	-
10.83	City of Oceanside	1.03	0.90
17.30	Olivenhain MWD	1.65	1.44
15.40	Otay WD	1.47	1.28
12.10	Padre Dam MWD	1.15	1.01
	Camp Pendelton	-	-
15.06	City of Poway	1.44	1.26
	Rainbow MWD	-	-
14.71	Ramona MWD	1.40	1.23
16.83	Rincon MWD	1.61	1.40
11.00	City of San Diego	1.05	0.92
7.60	San Dieguito WD	0.73	0.63
18.82	Santa Fe ID	1.80	1.57
3.78	South Bay ID	0.36	0.31
19.58	Vallecitos WD	1.87	1.63
33.42	Valley Center MWD	3.19	2.79
8.43	Vista ID	0.80	0.70
196.13	Yuima MWD	18.71	16.34
\$ 23.06	Monthly Averages	\$ 2.20	\$ 1.92
\$ 1.92			

# Detachment

May 2023



The purpose of this item is to receive input from the OMWD Board and potential comments from OMWD to be submitted for the June 5, 2023 San Diego Local Agency Formation Commission's (SDLAFCO) Meeting

# Recommendation

The General Manager recommends that OMWD support Option Three in the attached report, which is to administratively hold consideration of the reorganization proposals until SDLAFCO completes the currently scheduled municipal service review (MSR) covering the SDCWA. This option would allow the comprehensive review of the SDCWA with respect to current and planned service levels, community needs, and financial standing before taking any potential actions on the detachments. This would effectively <u>leverage the pending detachments</u> to accelerate a complete MSR on the SDCWA.

# Comprehensively address the issues at SDCWA that are acknowledged major challenges going forward:

- <u>Declining water sale revenues as member agencies develop local supplies and roll off SDCWA</u>; if roll offs not happening, sales would rebound and detachment would not be the issue that it is.
- Elephant in the room is not detachment <u>If CWA does not leverage its fixed take or pay supplies; it will have more fixed take or pay supplies than it will have demand in the next ten years if its member agencies fully develop all of their local supply projects.</u> Detachment would further exacerbate this problem
- The combined financial impact of detachments and roll offs should be analyzed collectively, as they both result in a reduced demand on SDCWA that currently has fixed take or pay supplies that may soon exceed the demand of the region.
- While the <u>SDLAFCO staff report indicates that the financial impacts of detachment can be mitigated to a level of "less than significance" through the imposition of an exit fee, when combined with the financial impacts of roll offs and the current inflationary environment, they collectively accumulate to a level of both significance and concern.</u>

# **Other Options & Financial Impacts**

- 1. Approve both reorganization proposals as submitted (no modifications) with standard conditions. (Option One) No exit fees would apply given deference to the County Water Authority principal act and its silence on the topic. Approval is prefaced on prioritizing the standalone merits of the proposals and its local benefits including direct support to agriculture in North County. Approval includes exemption findings under CEQA and subject to confirmation by registered voters within the affected territory.
- 2. Approve with Exit Fees (Option Two) Approve the proposals with conditions that are marked with a total exit fee of \$62.905 million spread out over five consecutive year payments less the \$38.6 million most recently budgeted by the County Water Authority to construct the ESP North County Pump Station. The total adjusted exit fee with the discount is \$24.305 million and translates to an annual payment of \$4.861 million. This option is appropriate should it be the Commission's collective priority to address the stand-alone merits of the applicants' proposals with the explicit paring of a policy enhancement of supporting a viable agriculture economy in North County. This policy enhancement provides justification in balancing the financial impact of detachments on the County Water Authority in tandem with applying an exit fee to cover the estimated revenue loss over the first five years less the cost-avoidance associated with the ESP North County Pump Station. (LAFCO Staff recommendation) No estimated impact for 5 years and thereafter unknown due to roll offs.
- 3. Pause Consideration (Option Three) Administratively hold consideration of the reorganization proposals until the completion of the Commission's scheduled municipal service review covering the County Water Authority. This option would be appropriate should it be the Commission's collective priority to comprehensively assess the County Water Authority with respect to current and planned service levels, community needs, and financial standing before taking any potential actions to change baseline conditions such as the proposed detachments. The option notably ties to the analysis of the proposals to date and what appears as major structural challenges for the County Water Authority going forward in balancing declining water sale revenues (roll-offs, etc.) versus fixed and increasing costs. (No impact to OMWD at this time. Option Three allows for a deeper dive into the unknowns of the ratepayer impacts, not just of detachment, but also roll offs. By way of comparison, the projected annual potable reuse roll off in the region is anticipated to be 50,000 acre-feet by 2029 and does not include the future Encina One Water project, recycled water development or brackish development in the region. The projected loss of sales from the detachment from both agencies is approximately 22,000 acre feet.
- 4. Disapprove without Prejudice (Option Four) Disapprove the proposals without prejudice. This option would be appropriate should it be the Commission's collective priority to retain and reinforce the role of the County Water Authority as the most appropriate policy vehicle to singularly govern and plan regional wholesale water supplies for all of San Diego County. This option notably would recognize the applicants' proposals in-and-of-themselves have merit, but the external considerations and overall detrimental impacts on the region, including loss of voting power at MET, negate the specific benefits to the Fallbrook and Rainbow communities. This option could also be merged into a hybrid alternative involving the completion of a municipal service review on the County Water Authority. (No short term impact estimated, however long term impact as agriculture disappears and water use declines in the region similar to a smaller roll off.)
- 5. **Disapprove the reorganization proposals. (Option Five)** Disapproval is prefaced on weighing both the local and external disbenefits of the proposals. (No short term impact estimated, however long term impact as agriculture disappears and water use declines in the region similar to a smaller roll off.)

# Ranking of Options to OMWD

From most preferential to least preferential to OMWD in the long term:

- Option Three Do not process and take deep dive into SDCWA issues comprehensively
- Option Four Disapprove detachments without prejudice
- Option Five Disapprove detachments
- Option Two Approve with exit fees
- Option One Approve without exit fees

# **Proposed Comments**

An OMWD comment letter, if the board chose to support Option Three, could be formulated to state that "OMWD opposes any action by SDLAFCO that would increase its costs in either the near or far term and while detachment can be mitigated in the near term with an exit fee, the long term consequence of detachment when combined with the impending roll offs are of great concern and why an administrative hold (and deep dive) is the most prudent path forward for the entire region."

Other?

Agenda Item 18



# Memo

Date: May 17, 2023

To: Olivenhain Municipal Water District Board of Directors

From: Kimberly Thorner, General Manager

Subject: CONSIDER A RESOLUTION NOMINATING A CANDIDATE AS A MEMBER OF THE ASSOCIATION OF CALIFORNIA WATER AGENCIES REGION 10 BOARD OF DIRECTORS

# Purpose

This item is to nominate a candidate by which to fill a vacancy on the Association of California Water Agencies (ACWA) Region 10 Board of Directors for the remainder of the 2024-2025 term.

# Recommendation

Though staff would support any board member seeking nomination as a candidate to the ACWA Region 10 Board of Directors, staff does not recommend a specific candidate at this time. Board Members and General Managers are eligible to serve on the ACWA Region 10 Board.

# Alternative(s)

The board may choose against nominating a candidate to fill the vacant position on the ACWA Region 10 Board of Directors.

# Background

Each of ACWA's ten regional divisions features a board of directors comprised of a chair and vice chair—both of whom also serve on ACWA's statewide board of directors—and up to five board members. Members of the board hold staggered two-year terms. Any ACWA public member agency is eligible to designate a representative for candidacy for their respective region's board.

# **Fiscal Impact**

There are no costs associated with adopting a nomination resolution. Should an OMWD candidate be selected to serve on the Region 10 Board of Directors, the successful candidate is expected to attend board meetings that are held at least quarterly, including at the ACWA spring and fall conferences, for which OMWD is responsible for the cost of travel.

# Discussion

ACWA member districts that wish to nominate a candidate for the ACWA Region 10 Board of Directors must submit by June 16 a resolution of support with nomination documentation. Candidates will be invited to a Region 10 special board meeting to offer brief remarks and will be notified of the results shortly thereafter.

Attachments:

- Draft resolution
- Memorandum from ACWA Region 10 Nominating Committee to San Diego County agencies, dated April 17, 2023

# RESOLUTION NO. 2023-XX

# RESOLUTION OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT BOARD OF DIRECTORS PLACING IN NOMINATION (*NOMINEE*) AS A MEMBER OF THE ASSOCIATION OF CALIFORNIA WATER AGENCIES REGION 10 BOARD OF DIRECTORS

WHEREAS, Olivenhain Municipal Water District is a member district of the Association of California Water Agencies; and

WHEREAS, the Board of Directors of Olivenhain Municipal Water District encourages and supports the participation of its members in the affairs of the Association of California Water Agencies; and

WHEREAS, (*Nominee*) has indicated a desire to serve on the Association of California Water Agencies Region 10 Board of Directors.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Olivenhain Municipal Water District that this district places its full and unreserved support in the nomination of (*Nominee*) to the Association of California Water Agencies Region 10 Board of Directors; and

BE IT FURTHER RESOLVED that the Board of Directors hereby determines that the expenses attendant with the service of (*Nominee*) in Association of California Water Agencies Region 10 shall be borne by Olivenhain Municipal Water District.

PASSED, ADOPTED AND APPROVED at a regular meeting of the Board of Directors of Olivenhain Municipal Water District held on May 17, 2023.

Christy Guerin, President Board of Directors Olivenhain Municipal Water District

ATTEST:

Lawrence A. Watt, Secretary Board of Directors Olivenhain Municipal Water District



# MEMORANDUM

Date: April 17, 2023

**To:** ACWA Region 10 General Manager and Board Presidents *(sent via e-mail)* 

From: ACWA Region 10 Nominating Committee

- Amy Reeh, Yuima Municipal Water District
- David Drake, Rincon del Diablo Municipal Water District
- Duane Cave, Moulton Niguel Water District
- Greg Mills, Serrano Water District

Subject: Call for Candidates for Region Boards

The Region 10 Nominating Committee is looking for ACWA members who are interested in leading the direction of ACWA Region 10 for the 2024-'25 term. The Nominating Committee is currently seeking candidates for the Region 10 Board, which is comprised of Chair, Vice Chair and up to five Board Member positions. In a separate but concurrent process, ACWA's Election Committee has announced its call for candidates for ACWA President and Vice President. **More information about both processes is available at www.acwa.com/elections.**The leadership of ACWA's 10 geographical regions is integral to the leadership of ACWA. The Chair and Vice Chair of Region 10 serve on ACWA's statewide Board of Directors and recommend all committee appointments for Region 10 The members of the Region 10 Board determine the direction and focus of region issues and activities. Additionally, they support the fulfillment of ACWA's goals on behalf of members and serve as a key role in ACWA's grassroots outreach efforts.

If you, or someone within your agency, are interested in serving in a leadership role within ACWA by becoming a Region 10 Board Member, please familiarize yourself with the <u>role and responsibilities of</u> <u>the region boards</u> and the <u>Region 10 Rules and Regulations</u> and submit the following documents by <u>June 16</u>:

- A candidate nomination form
- A signed resolution of support from your agency's Board of Directors (A sample resolution is available online)

# <u>June 16</u>

In addition to the required documents, you may also send a short biography and a headshot photo to be included in the candidate section of ACWA's elections webpage; however, these are not required.

The election will begin on July 17 with electronic ballots emailed to General Managers and Board Presidents. The ballot will include the Nominating Committee's recommended slate and any additional candidates interested in the region board positions who meet the qualification criteria.



All region ballots must be submitted by Sept. 15. <u>One ballot per agency will be counted</u>. Election results announced Sept. 27 and the newly elected Region 10 Board Members will begin their two-year term of service on Jan. 1, 2024.

If you have any questions, please visit <u>www.acwa.com/elections</u> or contact Regional Affairs Representative Sarah Hodge at SarahH@acwa.com or 916-669-2384.



# 2023 ACWA Region Election Timeline 2024-2025 Term

February 28:	NOMINATING COMMITTEES APPOINTED
	• With concurrence of the region board, the region chairs appoint at least three region members to serve as the respective region's Nominating Committee
	<ul> <li>Those serving on nominating committees are ineligible to seek region offices</li> </ul>
	Nominating Committee members are posted online at <u>www.acwa.com</u>
March 1-31:	NOMINATING COMMITTEE TRAINING
	<ul> <li>Nominating Committee packets will be e-mailed out to each committee member</li> </ul>
	• ACWA staff will hold a training session via conference call with each nominating committee to educate them on their specific role and duties
	<ul> <li>Regions 1-10 Nominating Committees: via Zoom Meetings</li> </ul>
April 17:	CALL FOR CANDIDATES
	<ul> <li>The call for candidate nominations packet will be e-mailed to ACWA member agency Board Presidents and General Managers</li> </ul>
June 16:	DEADLINE FOR COMPLETED NOMINATION FORMS
	Deadline to submit all Nomination Forms and board resolutions     of support for candidacy for region positions
	• Nominating Committee members may need to solicit additional candidates in person to achieve a full complement of nominees for the slate
June 19:	CANDIDATE INFORMATION TO NOMINATING COMMITTEES
	<ul> <li>All information submitted by candidates will be forwarded from ACWA staff to the respective region Nominating Committee members with a cover memo explaining their task</li> </ul>



# June 20 – July 10: RECOMMENDED SLATES SELECTED

- Nominating Committees will meet to determine the recommended individuals for their region. The slate will be placed on the election ballot.
- Nominating Committee Chairs will inform their respective ACWA Regional Affairs Representative of their recommended slate by July 10
- Candidates will be notified of the recommended slate by July 14
- The Nominating Committee Chair will approve the official region ballot

# July 17: ELECTIONS BEGIN

- All 10 official electronic ballots identifying the recommended slate and any additional candidates for consideration for each region will be produced and e-mailed to ACWA member agencies only
- Only one ballot per agency will be counted

# September 15: ELECTION BALLOTS DUE

 Deadline for all region elections. All region ballots must be received by ACWA by September 15, 2023

# September 27: ANNOUNCEMENT OF ELECTION RESULTS

- Newly-elected members of the region boards will be contacted accordingly
- An ACWA Advisory will be distributed electronically to all members reporting the statewide region election results
- Results will be posted at acwa.com and will be published in the October issue of ACWA News



# Submit completed form by June 16, 2023 to regionelections@acwa.com

Name of Candidate:	Title:			
Agency:	Agency Phone:			
Direct Phone:	E-mail:			
Address:	ACWA Region: County:			

<b>Region Board Position Preference</b> If you are interested in more than one position, please	Agency Function(s) Check all that applyWholesaleUrban Water SupplyAg Water Supply		
indicate priority - 1st, 2nd and 3rd choice.			
Chair:			
Vice Chair:			
Board Member:	Sewage Treatment		
	Retailer		
If you are not chosen for the recommended slate,	Wastewater Reclamation		
would you like to be listed in the ballot's individual candidate section?	Flood Control		
If neither is selected, your name will <b>NOT</b> appear on the ballot.	Groundwater Management / Replenishment		
Yes No	Other:		

### Describe your ACWA-related activities that help qualify you for this office:

Write below or attach a half-page bio summarizing the experience and qualifications that make you a viable candidate for ACWA Region leadership. Please include the number of years you have served in your current agency position, the number of years you have been involved in water issues and in what capacity you have been involved in the water community. You may share a candidate photo along with your application. Candidate photos and bios will be shared on the ACWA region election webpage.

I acknowledge that the role of a region board member is to actively participate on the Region Board during my term, including attending region board and membership meetings, participating in region conference calls, participating in ACWA's Outreach Program, as well as other ACWA functions to set an example of commitment to the region and the association.

I hereby submit my name for consideration by the Nominating Committee.

Signature	Title	Date

# RESOLUTION NO.

# A RESOLUTION OF THE BOARD OF DIRECTORS OF THE (DISTRICT NAME) PLACING IN NOMINATION (NOMINEE NAME) AS A MEMBER OF THE ASSOCIATION OF CALIFORNIA WATER AGENCIES REGION \_\_\_\_ (POSITION)

# BE IT RESOLVED BY THE BOARD OF DIRECTORS OF (DISTRICT NAME) AS FOLLOWS:

# A. <u>Recitals</u>

(i) The Board of Directors (Board) of the (District Name) does encourage and support the participation of its members in the affairs of the Association of California Water Agencies (ACWA).

(ii) (Nominee Title), (Nominee Name) is currently serving as (Position) for ACWA Region \_\_\_\_\_

# and/or

(iii) (Nominee Name) has indicated a desire to serve as a (Position) of ACWA Region \_\_\_\_\_.

### B. <u>Resolves</u>

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF (DISTRICT NAME),

(i) Does place its full and unreserved support in the nomination of (Nominee Name) for the (Position) of ACWA Region \_\_\_\_\_.

(ii) Does hereby determine that the expenses attendant with the service of (Nominee Name) in ACWA Region \_\_\_\_\_ shall be borne by the (District Name).

Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_ (month) 2023.

(Nominee Name), (Title) (District Name)

(SEAL)

ATTEST:

(Secretary Name), Secretary

I, (SECRETARY NAME), Secretary to the Board of Directors of (District Name), hereby certify that the foregoing Resolution was introduced at a regular meeting of the Board of Directors of said District, held on the \_\_\_\_\_ day of \_\_\_\_\_ (month) 2023, and was adopted at that meeting by the following roll call vote:

AYES:

NOES:

ABSENT:

ATTEST:

(Secretary Name), Secretary to the Board of Directors of (District Name)

### ACWA Region 10 Rules & Regulations

Each region shall organize and adopt rules and regulations for the conduct of its meetings and affairs not inconsistent with the Articles of Incorporation or bylaws of the Association (ACWA Bylaw V, 6.).

### Officers

The chair and vice chair shall be from different counties.

At least one of the chair or vice chair positions must be an elected/appointed director from a member agency.

The region board members shall alternate every two years with three from one county and two from the other. The county from which the chair comes from shall have two region board members and the county from which the vice chair comes from shall have three region board members.

The chair will provide the region secretary.

### Meetings

The region will hold at least quarterly meetings, including the ACWA spring and fall conferences.

The region chair will determine when and if nonmembers are invited to regional activities or events.

### Attendance

If a region chair or vice chair is no longer allowed to serve on the Board of Directors due to his / her attendance, the region board shall appoint from the existing region board a new region officer. (ACWA Policy & Guideline Q, 1.)

If a region chair or vice chair misses three consecutive region board / membership meetings, the same process shall be used to backfill the region officer position. (ACWA Policy & Guideline Q, 1.)

If a region board member has three consecutive unexcused absences from a region board meeting or general membership business meeting, the region board will convene to discuss options for removal of the inactive board member. If the vacancy causes the board to fail to meet the minimum requirement of five board members, the region must fill the vacancy according to its rules and regulations. (ACWA Policy & Guideline Q, 3.)

### Elections

All nominations received for the region chair, vice chair and board positions must be accompanied by a resolution of support from each sponsoring member agency, signed by an authorized representative of the Board of Directors. Only one individual may be nominated from a given agency to run for election to a region board. Agencies with representatives serving on the nominating committees should strive not to submit nominations for the region board from their agency. (ACWA Policy & Guideline P, 2.)

Election ballots will be e-mailed to ACWA member agency general managers and presidents.

The nominating committee shall consist of four persons, two from each county.

The nominating committee shall pursue qualified members within the region to run for the region board and consider geographic diversity, agency size and focus in selecting a slate.

A member of the nominating committee cannot be nominated by the committee for an elected position.

See current region election timeline for specific dates.

### Endorsements

ACWA, as a statewide organization, may endorse potential nominees and nominees for appointment to local, regional, and statewide commissions and boards. ACWA's regions may submit a recommendation for consideration and action to the ACWA Board of Directors to endorse a potential nominee or nominee for appointment to a local, regional or statewide commission or board. (ACWA Policy & Guideline P, 3.)

### **Committee Recommendations & Representation**

All regions are given equal opportunity to recommend representatives of the region for appointment to a standing or regular committee of the Association. If a region fails to provide full representation on all ACWA committees, those committee slots will be left open for the remainder of the term or until such time as the region designates a representative to complete the remainder of the term. (ACWA Policy & Guideline P, 4. A.)

At the first region board / membership meeting of the term, regions shall designate a representative serving on each of the standing and regular committees to serve as the official reporter to and from the committee on behalf of the region to facilitate input and communication. (ACWA Policy & Guideline P, 4. B.)

The chair and vice chair will recommend an official alternate for excused committee members.

### Tours

ACWA may develop and conduct various tours for the regions. All tour attendees must sign a "release and waiver" to attend any and all region tours. Attendees agree to follow environmental guidelines and regulations in accordance with direction from ACWA staff; and will respect the rights and privacy of other attendees. (ACWA Policy & Guideline P, 6.)

### Finances

See "Financial Guidelines for ACWA Region Events" document.

# Amending the Region Rules & Regulations

ACWA policies and guidelines can be amended by approval of the ACWA Board of Directors.

The region 10 rules and regulations can be changed at any time with advanced written notice to member agencies.



# THE ROLE OF THE REGIONS

ACWA Regions provide the grassroots support to advance ACWA's legislative and regulatory agenda.

# Background

As a result of ACWA's 1993 strategic planning process, known as Vision 2000, ACWA modified its governance structure from one that was based on sections to a regionalbased configuration. Ten regions were established to provide geographic balance and to group agencies with similar interests.

# **Primary Charge of Regions**

- To provide a structure where agencies can come together and discuss / resolve issues of mutual concern and interest and based on that interaction, provide representative input to the ACWA board.
- To assist the Outreach Task Force in building local grassroots support for the ACWA Outreach Program in order to advance ACWA's legislative and regulatory priorities as determined by the ACWA Board and the State Legislative, Federal Affairs or other policy committees.
- To provide a forum to educate region members on ACWA's priorities and issues of local and statewide concern.
- To assist staff with association membership recruitment at the regional level.
- To recommend specific actions to the ACWA Board on local, regional, state and federal issues as well as to recommend endorsement for various government offices and positions.

Region chairs and vice chairs, with support from their region boards, provide the regional leadership to fulfill this charge.

Note: Individual region boards CANNOT take positions, action or disseminate communication on issues and endorsements without going through the ACWA Board structure.

# GENERAL DUTIES / RESPONSIBILITIES FOR REGION OFFICERS

# **Region Chair**

- Serves as a member of the ACWA Board of Directors at bimonthly meetings at such times and places as the Board may determine. The Chair will also call at least two Region membership meetings to be held at each of the ACWA Conferences and periodic Region Board meetings.
- Serves as a member of ACWA's Outreach Program, and encourages region involvement. Appoints Outreach Captain to help lead outreach effort within the region.
- Presides over all region activities and ensures that such activities promote and support accomplishment of ACWA's Goals.
- Makes joint recommendations to the ACWA President regarding regional appointments to all ACWA committees.
- Appoints representatives in concurrence of the region board, to serve on the region's nominating committee with the approval of the region board.
- Facilitates communication from the region board and the region membership to the ACWA board and staff.

### **Region Vice Chair**

- Serves as a member of the ACWA Board of Directors at bimonthly meetings at such times and places as the Board may determine. The Vice Chair will also participate in at least two Region membership meetings to be held at each of the ACWA Conferences and periodic Region Board meetings.
- Performs duties of the Region Chair in the absence of the chair.
- Serves as a member of ACWA's Outreach Program, and encourages region involvement.
- Makes joint recommendations to the ACWA president regarding regional appointments to all ACWA committees.

### **Region Board Member**

- Participate in at least two Region membership meetings to be held at each of the ACWA Conferences and periodic Region Board meetings.
- Supports program planning and activities for the region.
- Actively participates and encourages region involvement in ACWA's Outreach Program.
- May serve as alternate for the chair and/or vice chair in their absence (if appointed) to represent the region to the ACWA Board.

# **REGION MAP**



#### Alameda

Alameda County Water District City of Pleasanton Dublin San Ramon Services District East Bay Municipal Utility District Zone 7 Water Agency

#### Alpine Kirkwood Meadows PUD

Amador Amador Water Agency

Butte Butte Water District Ducor Community Services District Paradise Irrigation District Reclamation District #2047 Richvale Irrigation District South Feather Water and Powe Agency Thermalito Water & Sewer District Western Canal Water District

#### Calaveras

Calaveras County Water District Calaveras Public Utility District San Andreas Sanitary District Utica Water Power Authority

#### Colusa

Colusa County Water District Knights Landing Ridge Drainage District Princeton-Codora-Glenn Irrigation District Reclamation District #1004 Reclamation District #108 Sacramento River West Side Levee District Sites Project Joint Powers Authority

#### Contra Costa

Byron Bethany Irrigation District Contra Costa Water District Diablo Water District East Contra Costa Irrigation District

#### El Dorado

El Dorado County Water Agency El Dorado Irrigation District Georgetown Divide PUD South Tahoe Public Utilities District

Fresno City of Fresno Consolidated Irrigation District Dudley Ridge Water District Firebaugh Canal Water District Free Water County Water District Fresno Irrigation District Fresno Metropolitan Flood Control District Fresno Slough Water District Friant North Authority James Irrigation District Kings River Water District Laguna Irrigation District Laton Community Service District Malaga County Water District McMullin Area Groundwater Sustainability Agency Mid-Valley Water District Orange Cove Irrigation District Pacheco Water District Panoche Drainage District Panoche Water District Pinedale County Water District Raisin City Water District Reclamation District #1606 **Riverdale Irrigation District** Root Creek Water District Sierra Cedars Community Services District Tranquillity Irrigation District Westlands Water District

#### Glenn

Glenn-Colusa Irrigation District Glide Water District Kanawha Water District Orland-Artois Water District Provident Irrigation District Reclamation District #2047 Tehama Colusa Canal Authority

#### Humboldt

Humboldt Bay Harbor Rec. & CD Humboldt Bay Municipal WD Humboldt CSD McKinleyville CSD

#### Imperial

Bard Water District Imperial Irrigation District Invo

#### Wheeler Crest CSD Sierra Highlands CSD

Kerr Arvin-Edison Water Storage District Belridge Water Storage District Berrenda Mesa Water District

Boron Community Services District Buena Vista Water Storage District Cawelo Water District City of Tehachani Delano-Earlimart ID Groundwater Sustainability Delano-Earlimart Irrigation District Frazier Park Public Utilities District Golden Hills CSD Greenfield County Water District Groundwater Banking JPA Indian Wells Valley Water District Kern County Water Agency Kern Delta Water District Kern Tulare Water District Lost Hills Water District Mojave PUD North Kern WSD Rand Communities WD Rosamond CSD Rosedale-Rio Bravo WSD Semitropic WSD Shafter-Wasco ID Southern San Joaquin MUD South Valley Water Resources Authority Tehachapi-Cummings County WD West Kern WD Westside Water Authority

#### Kings

Angiola Water District Atwell Island Water District Corcoran Irrigation District Deer Creek Storm Water District El Rico GSA Empire West Side Irrigation District Green Valley Water District Kings County Water District Lakeside Irrigation Water District Tri-County Water Authority Tulare Lake Basin WSD W.H. Wilbur Rec. District #825

Wheeler Ridge-Maricopa WSD

#### Lake Clearlake Oaks County Water

District Hidden Valley Lake Community Services District

#### Los Angeles Antelope Valley State Wate

Contractors Antelope Valley-East Kern WA Azusa Light & Water Burbank Water & Power Central Basin MWD Cresenta Valley Water District City of Glendora-Water Division City of La Verne City of Long Beach Water Dept. Devils Den Water District Foothill Municipal Water District Glendale Water & Power Kinneloa Irrigation District La Canada Irrigation District La Puente Valley County WD Las Virgenes Municipal WD Littlerock Creek Irrigation District Los Angeles County Waterworks Districts Los Angeles Dept. of Water Power Main San Gabriel Basin Watermaster Metropolitan Water District of Southern California Orchard Dale Water District Palm Ranch Irrigation District Palmdale Water District Pasadena Water & Power Pico Water District Pomona-Walnut-Rowland JWLC Puente Basin Water Agency Quartz Hill Water Districts Rowland Water District San Gabriel Basin Water Quality Authority San Gabriel County Water District San Gabriel Valley Municipal Water District Santa Clarita Valley Water Agency Spadra Basin Groundwater . Sustainability Agency SCV Groundwater Sustainability Agency South Montebello Irrigation District Three Valleys Municipal WD Upper San Gabriel Valley MWD Upper Santa Clara Valley Joint Power Authority Valley County Water District Walnut Valley Water District Water Replenishment District of Southern California West Basin Municipal Water District

Chowchilla Water District Gravelly Ford Water District Le Grand-Athlone Water District Madera County Water and Natural Resources Madera Irrigation District Madera Water District

Bolinas Community PUD Marin Municipal Water District North Marin Water District Stinson Beach County Water

Brooktrails Township Community Services District Calpella County Water District Laytonville County Water District Mendocino County Russian River Flood Control & Water Millview County Water District Redwood Valley County WD Upper Russian River Water Agency Willow County Water District

Central California Irrigation District East Turlock Subbasin Groundwater Sustainability Agency Merced Integrated Regional Water San Luis & Delta-Mendota Wate San Luis Water District

#### Mono

Mammoth Community WD Monterev Aromas Water District Castroville Community Services District Marina Coast Water District Monterey One Water Monterey Peninsula Water Management District Pebble Beach Community Services District Napa

#### Circle Oaks County Water District Nevada

Nevada Irrigation District San Juan Ridge County WD Sierra Lakes County Water District Truckee Donner PUD

Orange City of Newport Beach City of Santa Ana East Orange County Water District El Toro Water District Irvine Ranch Water District La Habra Heights County Water District Laguna Beach County Water District Mesa Water District Moulton Niguel Water District MWD of Orange County Orange County Water District Santa Margarita Water District Santiago Aqueduct Commission Serrano Water District South Coast Water District Trabuco Canvon Water District West Orange County Water Board Yorha Linda Water District

#### Placer

City of Roseville Midway Heights County WD Placer County Water Agency San Juan Water District Tahoe City Public Utilities District

#### Riverside

Beaumont-Cherry Valley WD Benford-Coldwater Groundwater Sustainability Agency City of Corona Dept. of Water & Power Coachella Valley Water District Coachella Water Authority Desert Water Agency Eastern Municipal Water District

Elsinore Valley MWD Idvllwild Water District Indio Water Authority Juruna Community Services District Lake Hemet Municipal WD Mission Springs Water District Palo Verde Irrigation District Pinyon Pines County Water District Rancho California Water District Riverside County Flood Control & Water Conservation District Riverside Public Utilities Salton Sea Authority San Gorgonio Pass Water Agency Santa Ana Watershed Project Authority Santa Rosa Regional Resources Authority Western Municipal Water District

#### Sacramento

American River Flood Control District Carmichael Water District Citrus Heights Water District City of Folsom City of Sacramento - Dent of Utilities Del Paso Manor Water District Delta Conveyance Design and Construction Authority Elk Grove Water District, Dept. of

FRCD Fair Oaks Water District North Delta Water Agency Omochumne-Hartnell WD Reclamation District #744 Reclamation District #1000 Rio Linda/Elverta Community WD Sacramento County Water Agency Sacramento Suburban WD South Yuba Water District San Benito

#### City of San Juan Bautista San Benito County Water District Sunnyslope County Water District

San Bernardino Apple Valley Foothill County WD Apple Valley Heights County WD Bear Valley Basin Groundwate Sustainability Agency Big Bear City Community Services District Big Bear Municipal Water District Chino Basin Water Conservation District Chino Basin Watermaster City of Rialto/Rialto Utility Authority Crestline Village Water District Crestline-Lake Arrowhead WA Cucamonga Valley Water District East Valley Water District Hi-Desert Water District Inland Empire Utilities Agency Joshua Basin Water District Lake Arrowhead CSD Mariana Ranchos County WD Mojave Water Agency Monte Vista Water District San Bernardino Valley Municipa Water District San Bernardino Valley Water Conservation District Twentynine Palms Water District West Valley Water District

### San Diego

Borrego Water District Carlsbad Municipal Water District City of Escondido City of Oceanside-Water Utilities Dent City of San Diego Public Utilities Fallbrook Public Utility District Helix Water District Lakeside Water District Majestic Pines Community Services District Olivenhain Municipal Water District Otay Water District Padre Dam Municipal Water

District Rainbow Municipal Water District Ramona Municipal Water District Rincon del Diablo Municipal Water District San Diego County Water Authority San Dieguito Water District Santa Fe Irrigation District South Bay Irrigation District Sweetwater Authority Upper San Luis Rey RCD Vallecitos Water District Valley Center Municipal Water

District

Vista Irrigation District Wynola Water District Yuima Municipal Water District

#### San Francisco San Francisco Public Utility

Commission San Joaquin Banta-Carbona Irrigation District Central San Joaquin Water Conservation District Mountain House Community Services District North San Joaquin Water Conservation District Pescadero Reclamation District #2058 Reclamation District #2026 South San Joaquin Irrigation District Stockton East Water District The West Side Irrigation District Woodbridge Irrigation District San Mateo Bay Area Water Supply &

Conservation Agency Coastside County Water District Mid-Peninsula Water District Montara Water & Sanitary District North Coast County Water District San Francisquito Creek Joint Powers Authority San Mateo Flood and Sea Level Rise Resiliency District Westborough Water District

#### Santa Barbara

Cachuma Operation and Maintenance Board Carpinteria Valley Water District Central Coast Water Authority City of Buellton City of Santa Barbara Goleta Water District Los Alamos Community Services District Mission Hills Community Services District Montecito Sanitation District Montecito Water District Santa Ynez River Water Conservation District Improvement District No. 1 Vandenberg Village Community Services District Santa Clara

Purissima Hills Water District Valley Water Santa Cruz

Central Water District City of Santa Cruz Water Dept. City of Watsonville Water Department Paiaro Valley Water Management Agency Pajaro/Sunny Mesa Community Services District Scotts Valley Water District Soquel Creek Water District

Shasta

Anderson-Cottonwood ID Bella Vista Water District Centerville Community Services District City of Redding Water Utility City of Shasta Lake Clear Creek Community Services District Cottonwood Water District Fall River Valley Community Services District Mountain Gate Com Services District Rio Alto Water District Shasta County Water Agency

Sierra Sierra County WWD #1

#### Siskivou

Montague Water Conservation District Scott Valley Irrigation District Tulelake Irrigation District

City of Fairfield City of Vacaville, Utilities Department . City of Vallejo Maine Prairie Water District Reclamation District #2068 Rural North Vacaville Water District Solano County Water Agency Solano Irrigation District

Suisun-Solano Water Authority

#### Sonoma

Bodega Bay PUD City of Santa Rosa - Water Dept. Forestville Water District Sonoma Mountain County WD Sonoma Water Valley of the Moon Water District

#### Stanislaus

City of Modesto, Utilities Department Del Puerto Water District Lake Don Pedro Community Services District Modesto Irrigation District Oakdale Irrigation District Patterson Irrigation District Stanislaus Regional Water Authority Turlock Irrigation District West Stanislaus Irrigation District

#### Sutter

Brophy Water District Feather Water District Reclamation District #1500 South Sutter Water District Sutter Extension Water District Tehama

Corning Water District

Trinity Weaverville Community Services District

#### Tulare

Alpaugh Community Services District Alpaugh Irrigation District Alta Irrigation District County of Tulare, County Administration Office Deer Creek & Tule River Authority Exeter Irrigation District Friant Power Authority Friant Water Authority Ivanhoe Irrigation District Ivanhoe Public Utilities District Kaweah Delta Water Conservation District Kings River East Groundwate Sustainability Agency Kings River Water District Lindsay-Strathmore Irrigation District Lower Tule River Irrigation District Lower Tule River Irrigation District GSA Mid-Kaweah Groundwater Sustainability Agency Orosi Public Utilities District Pixley Irrigation District Pixley Irrigation District GSA Porterville Irrigation District Saucelito Irrigation District South Valley Water Association South Valley Water Banking Authority St Johns Water District Stone Corral Irrigation District Terra Bella Irrigation District Tri-Districts Water Authority Tri-Valley Water District

**Tulare Irrigation District** Tuolumne

Tri-Dam Project Tuolumne County Water Agency Tuolumne Utilities District

#### Ventura

Arrovo Santa Rosa GSA Calleguas Municipal Water District Camrosa Water District Casitas Municipal Water District Channel Islands Beach Community Services District County of Ventura Public Works Pleasant Valley County Water District Triunfo Water & Sanitation District United Water Conservation District Ventura County, Public Works Ventura River Water District Ventura Water, City of Ventura

#### Yolo

Dunnigan Water District Reclamation District #2035 Reclamation District #307 Reclamation District #999 Woodland Davis Clean Water Agency Yolo County Flood Control and Water Conservation District

#### Yuba

Browns Valley Irrigation District Camp Far West Irrigation District City of Yuba City North Yuba Water District Ramirez Water District Reclamation District 784 Yuba County Water Agency

# ACWA Public Water Agency Members by County

# Madera-Chowchilla Water and PA Marin

District Mariposa Mariposa Public Utilities District Mendocino

Merced

Delhi County Water District Eastside Water District Grassland Water District Henry Miller Rec. District #2131 Le Grand CSD Management Authority Merced Irrigation District Merced Irrigation-Urban GSA Planada Community Services District Authority

Agenda Item 19



# Memo

Subject:	DISCUSS RESULTS OF 2022 WATER CAPACITY FEES STUDY WITH RAFTELIS FINANCIAL CONSULTANTS AND CONSIDER AN OPTION FOR 2023 WATER CAPACITY FEES (WORKSHOP)
Via:	Kimberly Thorner, General Manager
	Rainy Selamat, Finance Manager
From:	Leo Mendez, Accounting Supervisor
То:	Olivenhain Municipal Water District Board of Directors
Date:	May 17, 2023

# Purpose

The purpose of this agenda item is to discuss the results of the 2022 Water Capacity Fee Study and implement one of the options for 2023 water capacity fees.

The capacity fee study results and proposed options for 2023 water capacity fees were presented and discussed with the Finance Committee (Director Meyers and Director Watt) at its quarterly meeting on May 8, 2023.

The proposed options would update the District's capacity fees to ensure that new users pay their fair share of the costs of the existing infrastructure required to serve them so that existing water users (rate payers) are not burdened with the costs of serving them and for the replacement and refurbishment of the District's water infrastructure.

# Recommendation

The Finance Committee (Director Meyers and Director Watt) recommended that the proposed water capacity fees for 2023 and options be brought forward to the full Board for discussion at the workshop. Staff recommends that the Board approve one of the options for 2023 water capacity fees. The approved option will be included in the final draft of the 2022 Capacity Fee Study report, which will be presented to the Board for consideration at the June Board meeting.

The options are included in the discussion section of this memo (below) and outlined in the attached presentation. The staff-preferred option is an increase to OMWD water capacity fees by zone of benefit with a 5-year phase-in program plus ENR-CCI adjustment (Option 3) for consistency with the prior study and to help lessen the burden on new users while remaining equitable.

# Alternatives

In addition to the options included in the discussion section of this memo, the Board may choose to:

- 1. Continue with Zones of Benefit Capacity Fee and adjust capacity fees only by the Engineering News Record Cost of Construction Index (ENR-CCI), which the District has done since 2012, or
- 2. Instruct staff to do otherwise.

The District's water capacity fees were last increased in October 2022 (by ENR-CCI) in accordance with the District's Administrative and Ethic Code.

# Background

A capacity fee is a one-time fee assessed by the District to new users to pay for their share of costs to construct required facilities to provide services to their respective area (zone of benefit). Revenues generated from capacity fees are used by the District to reimburse existing users (through lower rates and charges) for existing water infrastructure in the District and to pay for facilities included in the District's water capital improvement program included in its ten-year planned capital expenditures.

The District's last Capacity Fee Study was completed in 2012. The 2012 Study used a hybrid methodology to calculate capacity fees based on a share of existing infrastructure (buy-in) and the proposed (growth) facilities needed to provide services to their projects by zone of benefits included in the District's Water Master Plan. Under this method, capacity fees are collected to reimburse existing users (rate payers) for capital asset investments made to date and provide funds for the growth facilities needed to serve new users.

To keep up with cost increases since 2012, the District has increased its water capacity fees annually using the ENR-CCI (Engineering News Record Cost of Construction Index). Although the District's practice of increasing its fees by ENR-CCI is consistent with the District's Administrative and Ethics Code (Article 13 – Policy for District Facilities), Article 13 (H) states that in lieu of adjusting capacity fees utilizing a construction cost index, the District may have a specific study performed to evaluate the methodology which capacity fees are calculated.

The District engaged Raftelis Financial Consultants to complete an updated capacity fee study to: 1) ensure the District's current capacity fees are adequate in keeping up with rising cost increases in construction and 2) ensure that the District's capacity fees are equitable across all zones of benefit.

The results of the 2022 water capacity fees review by Raftelis are outlined in the attached presentation for review and discussion.

# **Fiscal Impact**

The District is currently estimated at 95% build-out with about 1,180 Equivalent Dwelling Units (EDUs) remaining until complete build-out in 2050. Not increasing the capacity fees as proposed via the 2022 Water Capacity Fee Study would result in a total estimated revenue loss of approximately \$2.9 million through 2050.

Delaying increases to the District's capacity fees will increase the burden on existing water users for capital costs of replacing and refurbishing the District's water infrastructure.

# Discussion

Mr. Sudhir Pardiwala with Raftelis Financial Consultants will be available at the meeting to discuss the 2022 Water Capacity Fee Study, methodology used, and the proposed options for consideration.

The three options, which will be presented in more detail via the attached presentation, are based on the capacity fee study results. The options are as follows:

- Increase the District's capacity fees by zone of benefit as proposed (Option 1). This option would result in the following adjustments to the existing capacity fees: Zone A – increase of 35%, Zone B – increase of 9%, Zone C – increase of 19%, Zone D – increase of 1%, Done E – increase of 22%. Increases to future years, until the next capacity fee study, would be based on ENR-CCI (Engineering News-Record Cost of Construction Index).
- Establish a uniform capacity fee for all zones to simplify the administration and future updates of the District's capacity fees (Option 2). This option is revenue neutral, meaning it would result in the same total capacity fee revenues collected as Option 1, and would result in the following capacity fee adjustments to the existing capacity fees: Zone A – increase of 5%, Zone B – increase of 46%, Zone C – increase of 44%, Zone D – decrease of 31%, and Zone E – increase of 42%.
- 3. Increase the District's capacity fees by zone of benefit with a 5-year phase-in and ENR-CCI adjustment **(Option 3)**. This option is the same as Option 1, but with a 5-year phase-in of the fees under Option 1. This option is also consistent with the last capacity fee study that was completed in 2012. This option would result in the following increases over the next 5 years:

	2023	2024	2025	2026	2027
Zone A	7.0%	7.0% + ENR Adj.			
Zone B	1.8%	1.8% + ENR Adj.			
Zone C	3.8%	3.8% + ENR Adj.			
Zone D	1.0%	ENR Adj.	ENR Adj.	ENR Adj.	ENR Adj.
Zone E	4.4%	4.4% + ENR Adj.			

Following direction from the Board, staff will work with Raftelis to finalize the draft 2022 water capacity fee report for the Board's approval in June when setting the date and time for the public hearing on 2023 water capacity fees. The public hearing will be tentatively scheduled for the Board meeting in July.

Staff and Mr. Sudhir Pardiwala, Executive Vice President at Raftelis Financial Consultants, will be present to answer any questions the Board may have.

Attachment: Capacity Fee Study Review Presentation

# Review of 2022 Capacity Fee Study and Options (OMWD Board workshop)

May 17, 2023



**Municipal Water District** 





# Agenda

- 1. Capacity Fees 101
- 2. Legal background and methodology
- 3. Results of the Water Capacity Fee Study
- 4. Three Options for Capacity fee increases
- 5. Address questions on study results or methodology

# Capacity Fees 101

# • What are Capacity Fees?

- One-time capital charges assessed against new development as a way to provide or cover a proportional share of the costs of capital facilities constructed or to be constructed for its use
  - Address equity concerns between current and future users
- Commonly known as connection fees, capacity fees, system development charges, impact fees, etc.

# **Capacity Fee Study**

- Olivenhain Municipal Water District requested Raftelis' assistance in developing justifiable capacity fees for water and wastewater
- Raftelis conducted workshops discussing different methodologies for capacity fees
  - Equity Buy-In approach seemed the most suitable

# Legal Environment

# • CAPACITY FEES MUST:

- Reflect the link between fees and benefits received by new customers
- Not exceed the proportional share of costs associated with providing service

per **Assembly Bill ("AB") 1600** (codified as California Government Code §66000 – 66008) as well as §66013, 66016, 66022, and 66023

# Methodology: Equity Buy-In

- Recognizes that existing users have developed and maintained a utility system that can accommodate growth
- Typical Approaches for System Value: Original Cost, Original Cost Less Depreciation, Replacement Cost, Replacement Cost Less Depreciation
- Consistent with prior study in 2012
- Since 2012, capacity fees have increased by ENR-CCI (Engineering News Record Cost of Construction Index)



\*UOC used by District = Equivalent Dwelling Units (EDUs)

# Build-out EDUs by Zone of Benefit (ZOB)

Zone of Benefit	Current EDUs	EDU Projections	Build-Out EDUs By Zone
Zone A	16,113	359	16,472
Zone B	4,834	515	5,349
Zone C	590	93	683
Zone D	4,838	126	4,964
Zone E	5,374	87	5,461
Total	31,749	1,180	32,929

# EDUs by Zone provided by Engineering Department

# Zones of Benefit (ZOB)

Total Existing EDUs: 31,749 <u>Total Projected EDUs: 1,180</u> Total Build-out EDUs: 32,929


### Methodology: Fee Calculation

Line No.	Description	Total System	Base	Zone of Benefit
1	Water System Value	\$185,966,836	\$175,376,519	\$10,590,317
2	Recycled water Assets Value	\$11,580,734	\$11,580,734	<b>\$</b> 0
3	Pipeline Costs	\$458,149,848	\$245,691,321	\$212,458,527
4	2023 CIP – Water & Recycled Water	\$17,031,000	\$17,031,000	\$O
5	Groundwater Project Costs Incurred	\$700,000	\$700,000	\$O
6	Less Debt Principal Outstanding	(\$36,450,820)	(\$36,450,820)	\$O
7	Net Asset Value	\$636,977,598	\$413,928,754	\$223,048,844

Asset Value excludes any contributed assets (assets contributed by developers)

Base Assets include assets benefitting all zones

### **Base Capacity for All Zones**

Base Capacity Fee Component	
Base Allocated Asset Costs	\$413,928,754
Distribution Cost Allocated to Zone B	\$o
Build-Out Edu's By Zone	32,929
Base Component Capacity Fee	\$12,570

### Capacity Fee by Zone of Benefit

Capacity Fee By Zone	Zone A	Zone B	Zone C	Zone D	Zone E
Base Component Capacity Fee	\$12,570	\$12,570	\$12,570	\$12,570	\$12,570
Zone of Benefit Component Capacity Fee per Equivalent Meters	\$9,130	<b>\$</b> 0	\$1,434	\$12,194	<b>\$2,</b> 041
Total Capacity Fee By Zone	\$21,700	\$12,570	\$14,004	\$24,764	\$14,612

## 2023 Proposed Fees – by ZOB (Option 1)

Comparison 3/4 inch	Current Proposed		Difference	Difference
		L	(\$)	(%)
Zone A	\$16,126	\$21,700	\$5,574	35%
Zone B	\$11,571	\$12,570	\$1,000	9%
Zone C	\$11,785	\$14,004	\$2,219	19%
Zone D	\$24,421	\$24,764	\$343	1%
Zone E	\$11,952	\$14,612	\$2,660	22%

- Increases are moderate due to the following assumptions used by the District:
  - 1. Pipeline value used of <u>\$67 in. diameter per lineal ft.</u> (District recent bids in <u>\$55-80 range per Engineering</u>)
  - 2. Cash reserves of \$72.5 million excluded in calculation of capacity fees
    - Raftelis recommended including but indicated we may exclude them to be consistent w/ prior study
    - Including reserves results in a <u>15-20% increase</u> on top of the changes above

## 2023 Proposed Fees – by ZOB By Meter Size (Option 1)

Proposed Capacity Fee	Zone A	Zone B	Zone C	Zone D	Zone E
3/4 inch	\$21,700	\$12,570	\$14,004	\$24,764	\$14,612
1 inch	\$41,231	\$23,884	\$26,608	\$47,052	\$27,762
1-1/2 inch	\$67,272	\$38,968	\$43,412	\$76,768	\$45,297
2 inch	\$108,502	\$62,852	\$70,020	\$123,820	\$73,059
3 inch	\$221,345	\$128,217	\$142,840	\$252,593	\$149,041
4 inch	\$371,078	\$214,953	\$239,468	\$423,465	\$249,862
6 inch	\$781,218	\$452,532	\$504,143	\$891,504	\$526,025
8 inch	\$1,410,532	\$817,072	\$910,257	\$1,609,661	\$949,768

## 2023 Proposed Fees – Uniform (Option 2)

### One fee for all zones

Comparison 3/4 inch	Current	Proposed	Difference (\$)	Difference (%)	Total System Wide Proposed Capacity Fee	Difference (\$)	Difference (%)
Zone A	\$16,126	\$21,700	\$5,574	35%	\$16,914	\$787	5%
Zone B	\$11,571	\$12,570	\$1,000	9%	\$16,914	\$5,343	46%
Zone C	\$11,785	\$14,004	\$2,219	19%	\$16,914	\$5,128	44%
Zone D	\$24,421	\$24,764	\$343	1%	\$16,914	(\$7,507)	-31%
Zone E	\$11,952	\$14,612	\$2,660	22%	\$16,914	\$4,962	42%

Pros – Simplicity of administration and ease of update in future Cons – Significant changes from existing connection fees in all zones except Zone A

## Revenue Impact of ZOB fees (Option 1) vs. Uniform fee (Option 2)

	By Zone of Benefit			Unifor		
Comparison 3/4 inch	Proposed	Remaining EDUs	Estimated Revenue	Proposed	Estimated Revenue	Difference in Revenue
Zone A	\$21,700	359	\$7,790,475	\$16,914	\$6,071,987	\$1,718,489
Zone B	\$12,570	515	\$6,473,726	\$16,914	\$8,710,511	-\$2,236,785
Zone C	\$14,004	93	\$1,302,368	\$16,914	\$1,572,966	-\$270,598
Zone D	\$24,764	126	\$3,120,265	\$16,914	\$2,131,115	\$989,150
Zone E	\$14,612	87	\$1,271,228	\$16,914	\$1,471,484	-\$200,256
Totals		1180	\$19,958,063		\$19,958,063	(\$o)

- Defensible given mostly built-out (95%) and less of a need to track assets separately for cap fees (Raftelis)
  - All assets are District assets Developers would pay into the District's overall system, not just assets in their respective ZOB
  - Simpler administration and future capacity fee studies
- Higher fees than ZOB approach for Zones B, C, and E; lower for A and D

## Proposed Fees – By ZOB with 5-year phase-in + ENR Adj. (Option 3)

- Same as Option 1 but with a 5-year phase-in + ENR-CCI (Engineering News Record Cost of Construction Index) adjustment
- Consistent with 2012 Capacity Fee Study

	2023	2024	2025	2026	2027
Zone A	7.0%	7.0% + ENR Adj.			
Zone B	1.8%	1.8% + ENR Adj.			
Zone C	3.8%	3.8% + ENR Adj.			
Zone D	1.0%	ENR Adj.	ENR Adj.	ENR Adj.	ENR Adj.
Zone E	4.4%	4.4% + ENR Adj.	4.4% + ENR Adj.	4.4% + ENR Adj.	4-4% + ENR Adj.

### Survey of member agencies

#### SURVEY OF SDCWA MEMBER AGENCY WATER CAPACITY FEES As of May 2023



### **Next Steps**

Board-recommended option?

- Option 1 By ZOB
- Option 2 Uniform (1 fee for all zones)
- Option 3 By ZOB w/ 5-year phase-in + ENR Adj.
- Raftelis to complete draft of 2022 capacity fee report for Board's review at the June Board Meeting (May)
- Set date and time for a capacity fee hearing at the June Board Meeting (tentative public hearing date: July 19)
- Notify Building Industry Association (BIA) on proposed cap fees for 2023 and public hearing date (in June)
- Notice of public hearing District Website and San Diego Union Tribune



Agenda Item 20



## Memo

Date: May 17, 2023

To: Olivenhain Municipal Water District Board of Directors

From: Teresa L. Chase, Administrative Analyst

Via: Kimberly A. Thorner, General Manager

Subject: CONSIDER A RESOLUTION CONSENTING TO ENTER THE JOINT PROTECTION PROGRAMS OF THE ASSOCIATION OF CALIFORNIA WATER AGENCIES JOINT POWERS INSURANCE AUTHORITY

#### Purpose

The purpose of this agenda item is to consider a resolution to enter the joint protection programs offered by the Association of California Water Agencies Joint Powers Insurance Authority (ACWA JPIA). Adoption of this resolution is required to enter ACWA JPIA's liability and property joint protection programs in Fiscal Year 2024 as approved by the board at its April 19, 2023 meeting.

#### Recommendation

Staff recommends approval of the resolution.

#### Alternative(s)

• The board may choose against the adoption of the resolution; however, this alternative could preclude the District from obtaining insurance coverage prior to the current policy expiration date of June 30, 2023.

• The board may direct staff as otherwise deemed appropriate.

#### Background

At its April 19, 2023 meeting, the board voted to enter the liability and property joint protection programs offered by ACWA JPIA beginning in Fiscal Year 2024.

#### **Fiscal Impact**

There are no costs associated with the adoption of this resolution.

The insurance coverages offered by ACWA JPIA for Fiscal Year 2024 will require a deposit premium of \$447,758, which was approved by the board on April 19. This amount is provided for in the General Manager's Recommended Biennial Operating & Capital Budget for Fiscal Years 2023 and 2024, which will be presented for the board's final review at the June 21, 2023 board meeting.

#### Discussion

Adoption of this resolution is required for the District to be eligible to enter ACWA JPIA's liability and property joint protection programs. While ACWA JPIA will also provide cybersecurity liability and excess crime coverage, these ancillary programs do not require board approval to enroll.

At the June 21, 2023 board meeting, staff and General Counsel will review proposed changes from ACWA JPIA to the District's Employee Handbook and employment practices.

Attachments:

- Draft resolution
- ACWA JPIA Coverage Proposal

#### **RESOLUTION NO. 2023-XX**

RESOLUTION OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT BOARD OF DIRECTORS CONSENTING TO ENTER THE JOINT PROTECTION PROGRAMS OF THE ASSOCIATION OF CALIFORNIA WATER AGENCIES JOINT POWERS INSURANCE AUTHORITY ("ACWA JPIA")

WHEREAS, pursuant to the provisions of Section 990, 990.4, 990.8, and 6500 of the Government Code, Olivenhain Municipal Water District (the District) wishes to participate in the joint protection programs offered by Association of California Water Agencies Joint Powers Insurance Authority (ACWA JPIA); and

WHEREAS, the District is eligible to enter said joint protection programs as it entered into an agreement with various other districts entitled "Joint Powers Agreement: Creating the Association of California Water Agencies Joint Powers Insurance Authority" on May 2, 2012, which since its formation has provided for and administered joint protection programs as more fully set forth in said agreement; and

WHEREAS, said joint protection programs offer liability protection, property protection, and additional services, and entering such programs, on the conditions hereinafter set forth, appears to be in the best interest of the District.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Olivenhain Municipal Water District:

Section 1. That the District consents pursuant to the above-mentioned Joint Powers Agreement, and the resolutions and policies enacted in implementation of such Agreement, to enter said joint protection programs.

Section 2. That the District hereby elects to join the liability and property programs sponsored by ACWA JPIA.

Section 3. That the District hereby selects \$50,000 as its Retrospective Allocation Point for the first partial year of participation under ACWA JPIA's cost allocation formula for liability exclusive of dam failure liability.

Section 4. That the District Assistant Treasurer is hereby authorized to pay to ACWA JPIA its first deposit premium.

BE IT FURTHER RESOLVED that the District Secretary is directed to certify a copy of this resolution and to forward the same resolution and the deposit premium payment promptly by mail to the Association of California Water Agencies Joint Powers Insurance Authority, PO Box 619082, Roseville, California, 95661, at which time coverage will commence the first day of July 2023.

PASSED, ADOPTED, AND APPROVED at a regular meeting of the Board of Directors of Olivenhain Municipal Water District held on May 17, 2023.

Christy Guerin, President Board of Directors Olivenhain Municipal Water District

ATTEST:

Lawrence A. Watt, Secretary Board of Directors Olivenhain Municipal Water District



### Coverage Proposal OLIVENHAIN MUNICIPAL WATER DISTRICT



MARCH 15, 2023

### **Introducing Your Best Protection**





#### **OUR MISSION**

ACWA JPIA is dedicated to consistently and cost effectively providing the broadest possible affordable insurance coverage and related services to its member agencies.

#### FORMED BY WATER AGENCIES FOR WATER AGENCIES

Water agencies have a unique set of risks not every provider can cover. In 1979, water agencies banded together to share their risks and associated insurance costs. They empowered ACWA JPIA to provide the best coverage for their needs ... and we delivered.

Today, we are the leader in providing California public water agencies with liability, property, and workers' compensation loss coverage programs as well as employee benefits. Serving only water agencies, our experience, expertise and knowledge are highly tuned to our members' unique requirements.

We are a strong, innovative organization. We continually evolve to serve our members' ever-changing demands with programs designed by them and for them. As your partner, we always battle for your agency's rights and best protection.

#### **ADVANTAGES AT A GLANCE**

- Strong, stable risk-sharing pool with over 360 members
- 100 percent member governed, member driven and member focused
- Complete protection programs tailored specifically to water agencies
- Programs with cost savings of 20 to 30 percent compared to commercial insurance
- Value-added services to help reduce claims, keep costs low and protect members
- Trustworthy, reliable and knowledgeable staff dedicated to each member
- Tools, technology and resources to support your agency's needs
- Resourceful, in-house staff with expertise in every service area

#### WATER AGENCIES HAVE A CHAMPION IN THE JPIA

Public entities created pools beginning in the early 1970s. In fact, ACWA JPIA evolved in 1979 after most commercial insurers abandoned the public entity market. As a result, public entities formed risk pools to reduce and stabilize long-term insurance costs and ensure access to coverage and service critical for local government functions such as the acquisition, treatment and delivery of water.

As a California special district, ACWA JPIA operates as a public entity. We are member owned, member governed and member driven. Our Board of Directors includes a representative from each member's board. Our Board elects an eight-member Executive Committee to work on its behalf with the JPIA management and staff.

Unlike the commercial insurance industry, which uses profits to measure success, ACWA JPIA provides services, coverage and risk management tools with the singular goal of servicing our members. We work closely with each of our members to provide customized programs, resources and services for their needs, no matter the agency size.

#### **HOW WE WORK**

Water Agencies must be a member of the Association of California Water Agencies to join the JPIA. Our Board and Executive Committee approve entry into the JPIA. Upon joining, members agree to share the cost of risk by contributing to pooled programs. This pool of funds pays for all member claims and, as a result, reduces the burden of long-term claim costs for all members. At the end of each program year, if claims costs are below anticipated levels, members may be eligible for refunds. ACWA JPIA is proud to be a partner with water agencies throughout California. Quite simply, ACWA JPIA is a proven source of innovation, expertise, education and financial stability.

PROTECTION - EXCLUSIVE TO MEMBERS	SERVICES - EXCLUSIVE TO MEMBERS
PROPERTY PROGRAM	RISK MANAGEMENT SERVICES
\$500 million limits	Certified safety professionals on staff
<ul> <li>Pooled retention to \$10,000,000 per loss</li> </ul>	On-site consultations and risk assessments
Includes boiler and machinery	Assistance with safety policies
EDDODE AND OMISSIONS LIADULITY COVEDACE	Cortified human resource prefessionale on staff
Lin to \$55 million limits	Certified number resource professionals on stall     Employment practices betting including free logal consultations
Pooled retention to \$5 million per occurrence	Regional HR group meetings and individual consultations
Funded for catastrophic events	Employee handbook/policy reviews
Excess premium returned to members	Model water district iob descriptions
Employment Practices Liability	
,	EMPLOYEE BENEFITS SERVICES
WORKERS' COMPENSATION	<ul> <li>Advocacy and claim support</li> </ul>
Over 6,000 employees covered	Legal compliance assistance
Statutory limits	Electronic enrollment system
Pooled retention \$2 million	·
No deductible	TRAINING RESOURCES
<ul> <li>In-house claims examiners ranked #1 in California</li> </ul>	<ul> <li>On-site, local and regional classes</li> </ul>
<ul> <li>Funded for catastrophic events</li> </ul>	Online courses
	<ul> <li>Professional development programs</li> </ul>
EMPLOYEE BENEFITS	
<ul> <li>HMO, PPO and consumer-driven medical plans</li> </ul>	CLAIMS SERVICES
Funded for catastrophic events  EMPLOYEE BENEFITS     HMO, PPO and consumer-driven medical plans  HMO and BPO dental plans	Online courses     Professional development programs     CLAIMS SERVICES     In house claims staff

- HMO and PPO dental plans
- Life insurance and disability plans
- Employee assistance and wellness programs

- In-house claims staff
- Specialized legal counsel
- · Investigation and defense



#### **EXCLUSIVE SERVICES TO MEMBERS**

ACWA JPIA's commitment to your agency's protection does not stop with our liability, property, workers' compensation and employee benefits programs. We provide additional services and consultations to serve as your trusted, long-term partner.

#### **HUMAN RESOURCES**

- Employment hotline
- Employee handbook reviews
- Employment training
- Member advocacy
- Benefits Enrollment support
- Consultation and guidance
- Employee assistance
- Model policies
- Sample forms
- Job description manual (ADA compliant; over 70 water district jobs)
- Regional HR group meetings and networking forums
- Pre-employment physical referrals

#### **TRAINING RESOURCES**

- On-site, local and regional classes; annual training conferences
- Online training resources, including live and recorded water-industry specific webinars
- Training library with over 600 DVDs
- Professional development program offering certifications in human resources, operations and supervisor basics
- In-depth, year-long senior leadership certificate program
- Staff development
- In-person training

#### ACWA JPIA partners with a leading provider

for customized web based training specific to water agencies, including courses that are eligible for continuing education credits.

#### EXCLUSIVE SERVICES TO MEMBERS (CONTINUED)

ACWA JPIA's risk management staff partners with member agencies to cost effectively control exposures to potential losses in all insured programs.

#### **RISK MANAGEMENT STAFF**

- Certified Safety Professionals (CSPs)
- Authorized to teach 10 and 30-hour OSHA and DOSH asbestos courses
- Staff certified in water distribution, treatment and wastewater
- On-staff electrical engineer
- On-staff certified disability management professional
- On-staff certified industrial hygenist
- On-staff certified ergonomic assessment specialists
- On-staff enterprise risk management PRIMA faculty trainer
- On-staff chartered industrial gas consultant
- On-staff property appraisers

#### **EMPLOYEE BENEFIT SERVICES**

- California licensed life and health agent
- Direct member advocacy for employees with questions or claim issues
- Assistance with legal compliance Affordable Care Act
- Electronic benefits enrollment system allows self-enrollment, district oversight and robust reporting

#### **CLAIMS SERVICES**

- Experienced in-house claims staff and state-certified examiners experienced with JPIA member agencies
- Statewide claims resources including investigators, adjusters and specialized legal counsel
- Aggressive investigation and defense of questionable claims
- Diligent pursuit of subrogation rights

### **Liability Coverage Quotation**



#### LIABILITY PROGRAM LIMIT ...... \$55,000,000 \*

#### SUB-LIMITS:

\$ 5,000,000 - Terrorism
\$10,000,000 - Communicable Disease
\$10,000,000 - Perfluoroalkyl and Polyfluoroalkyl
\$45,000,000 - Subsidence
\$45,000,000 - Lead
\$45,000,000 - Mold this is not an exhaustive list of all reinsurance/excess sublimits

#### INCLUDES:

Bodily Injury Errors & Omissions Public Officials Errors & Omissions Liability Accidental Pollution Liability Property Damage Employment Practices Liability Inverse Condemnation Automobile Liability

\*Coverage afforded for drones that follow FAA Rules and Regulations Part 107 of Title XIV

ESTIMATED	EXPERIENCE	RETROSPECTIVE	<b>2022-23 ESTIMATED</b>
ANNUAL PAYROLL	MODIFIER	ALLOCATION POINT (RAP)	<b>DEPOSIT PREMIUM</b>
\$8,289,798	1.09	\$50,000	\$287,626

#### Retrospective Allocation Point (RAP)

Member agencies pay a deposit premium based on their estimated annual payroll. This deposit premium is used to pay the Member's claims it sustains within the coverage period. For purposes of the retrospective premium adjustment, each member selects its own retrospective allocation point (RAP) level. This is the portion of each claim the Member is ultimately responsible for.

#### Retrospective Premium Adjustment

The first premium adjustment takes place approximately 4 years after the beginning of each coverage year. This process is called a Retrospective Premium Adjustment. The adjustment is determined by the following factors: actual payroll versus estimated payroll, losses within the member's RAP level, a share of losses above the selected RAP level, a share of general and administrative costs, and a share of interest earned on the funds held. Once these factors have been calculated, the final premium is compared with the deposit premium to determine if a refund is due to the Member. Refunds are issued when the balance exceeds 70% of their current unmodified deposit premium. An annual statement is provided to each Member.

### **Cyber Liability Coverage Quotation**



GROUP PURCHASE PROGRAM (Beazley)

#### 

INCLU	IDES:		
Α.	Liability Coverage		
1.	Data and Network Liability	\$2,000,000	Per Member
2.	Regulatory Defense and Penalties	\$2,000,000	Per Member
3.	Payment Card Liability and Costs	\$2,000,000	Per Member
4.	Media Liability	\$2,000,000	Per Member
В.	First Party Coverage		
Bu	siness Interruption		
1.	. Resulting from Security Breach	\$100,000	Per Member
2.	. Resulting from System Failure	\$100,000	Per Member
De	pendent Business Income Loss Coverage		
1.	Resulting from Dependent	\$1,000,000	Per Member
2.	Resulting from Dependent	\$1,000,000	Per Member
	System Failure		
Су	ber Extortion Loss	\$100,000	Per Member
Da	ta Recovery Costs	\$100,000	Per Member
C.	eCrime Coverage		
1.	Fraudulent Instruction	\$ 75,000	Per Member
2.	Funds Transfer Fraud	\$ 75,000	Per Member
3.	Telephone Fraud	\$ 75,000	Per Member
D.	Criminal Reward	\$ 25,000	Per Member
RETE	NTION SCHEDULE:	\$100,000	Each incident claim or loss

#### WAITING PERIOD

12 Hours for: Business Income Loss Coverage, Dependent Business Income Loss Coverage, System Failure Business Income Loss Coverage, System Failure Dependent Business Income Loss Coverage, Reputational Damage Coverage

#### 7/1/22 to 7/1/23 ESTIMATED ANNUAL PREMIUM......\$14,500 \*

\*Participation in Liability Program is required; subject to insurance carrier's review of completed application

### **Property Coverage Quotation**



### 

(higher limits available)

#### **PROGRAM SUB-LIMITS:**

Accidental Mechanical Breakdown	\$ 100,000,000
Extra Expense	\$ 50,000,000
Off Premises Service Interruption	\$ 25,000,000
Flood – Program Aggregate	\$ 25,000,000
Zones A or V	\$ 10,000,000
Earthquake – program aggregate	\$ 2,500,000

DESCRIPTION	INSURABLE VALUES	VALUATION BASIS	ANNUAL PREMIUM
Buildings, Fixed Equipment	\$87,715,795	Replacement	\$ 114,311
Contents	\$ 4,412,783	Replacement	\$ 5,751
Business Interruption	\$0	Actual Loss Sustained	Not Covered
Mobile Equipment	\$ 673,723	Actual Cash Value	\$ 1,496
Vehicles/Trailers	Per schedule	Actual Cash Value	\$ 22,874
		7/1/22 TO 7/1/23	\$ 144,432

TOTAL DEPOSIT PREMIUM

#### **DEDUCTIBLES:**

Buildings/Fixed Equipment/Contents	*\$10,000 per loss
Mobile Equipment Physical Damage	\$1,000 per loss
Auto Physical Damage	\$500 per loss
Accidental Mechanical Breakdown	
Turbine Units & associated Equipment,	
Electrical Generators, or Electrical Power Distribut	tion \$50,000
All other objects	\$25,000
Service Interruption	
Earthquake	.5%, subject to minimum \$75,000
Flood- All Zones	\$100,000

\*Deductible minimum for Insurable Values over \$50,000,000

### **Crime Coverage Quotation**



JPIA POOL COVERAGE Limit of Coverage	\$100,000
GROUP PURCHASE PROGRAM (National Union Fire Insurance Company)	
Excess Limit of Coverage	.\$1,000,000
COVERAGE INCLUDES Public Employee Dishonesty Forgery or Alteration Computer Fraud Faithful Performance of Duty Treasurer or Tax Collector as employees	
Designated Persons as employees – any Director	
DEDUCTIBLE PER LOSS	\$1,000

#### 7/1/22 TO 7/1/23 ESTIMATED ANNUAL PREMIUM ...... \$1,200 \*

\*Participation in Property Program is required; subject to insurance carrier's review of completed application

### **Premium Summary**



Program	Estimated Annual Premium	Estimated Annual Premium – 2 program participation
Liability Coverage	\$ 287,626	\$ 281,873
Cyber Liability Coverage (participation in the Liability Program required)	\$ 14,500	\$ 14,500
Property Coverage	\$ 144,432	\$ 141,543
Crime Coverage (participation in the Property Program required)	\$ 1,200	\$ 1,200

#### SUBJECTIVITIES:

- 1. Participation requires an initial three-year commitment;
- 2. Favorable risk assessment;
- 3. ACWA JPIA Executive Committee approval;
- 4. OMWD Board resolution to join JPIA programs.

# Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

PRESIDENT

Any report will be oral at the time of the Board meeting.

Α

# Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

GENERAL MANAGER

Any written report will be attached; any oral report will be provided at the time of the Board Meeting. Board of Directors Olivenhain Municipal Water District 1966 Olivenhain Road Encinitas, CA 92024

The following are brief highlights of the District's departmental operations for the month of **April 2023**:

Operations & Maintenance	April 2023	March 2023
David C. McCollom Water Treatment Plant (DCMWTP)	308.9 million gallons	239.8 million gallons
Total Production		
DCMWTP Average Daily Production	10.3 million gallons	7.7 million gallons
DCMWTP Peak Day Production	21.2 million gallons	15.2 million gallons
Source Water Blend (% State Project Water)	4	0
	210 acre feet	150.58 acre feet
Total Deliveries to Vallecitos Water District	68.42 million gallons	49.06 million gallons
4S and Rancho Cielo Sewer Systems Total Inflow	37.74 million gallons	44.32 million gallons
4S and Rancho Cielo Sewer Systems Average Daily Inflow	1,258,089 gallons	1,429,681 gallons
4S and Rancho Cielo Sewer Systems Peak Day Inflow	1,393,262 gallons	2,063,869 gallons
4S and Rancho Cielo Sewer Systems Low Day Inflow	1,142,457 gallons	1,274,551 gallons
4S Water Reclamation Facility (4SWRF) Average Daily	798,505 gallons	491,712 gallons
Production		
4SWRF Peak Day Production	1,393,115 gallons	1,177,267 gallons
4SWRF Total to Recycled Water Distribution System	23.95 million gallons	15.24 million gallons
4S Recycled Water Storage Pond Volume	342 acre feet	365 acre feet
Repaired Potable Water Main Leak(s)	1	0
Repaired Potable Water Service Lateral Assembly Leak(s)	4	2
Repaired Recycled Water Main Leak(s)	0	0
Repaired Recycled Water Service Lateral Leak(s)	0	0
Repaired Hit Fire Hydrant Lateral Assembly Leak(s)	1	2
Replaced Valve(s) Monthly Total	7	9
Replaced Valve(s) Calendar Year To Date	34	27
Recycled Water Use Site Inspections & Visits	26	15
Recycled Water Use Site Cross Connection Tests	3	1
Cross Connection Site Surveys	1	2
Backflow Inspections & Testing (New)	5	7
IT Help Requests	24	15
Customer Services	April 2023	March 2023
Customer Calls and Inquiries	1,795	2,225
Total Monthly Bills Issued	22,961	22,988
Service Orders	740	664
New Potable Meters	0	1
New Fire Meters	0	0
New Recycled Water Meters	4	0

Advanced Metering Infrastructure (AMI)	113	137
I roubleshooting investigations		
Customer Services - Continued	April 2023	March 2023
Automated Meter Reading (AMR) Troubleshooting	31	32
Stopped/Underperforming Meters Replaced	49	59
Meter Transceiver Units (MXU) Upgraded to AMI	298	234
Meter Accuracy Tests Performed	0	0
Water Use Evaluations	4	3
Water Use Violation Reports	0	0
Workshops, Events, and Tours	4	1
High-Efficiency Clothes Washer Rebate Applications	5	9
Weather-Based Irrigation Controller Rebate Applications	9	7
Hose Irrigation Controller Rebate Applications	0	0
High-Efficiency Rotating Nozzle Rebate Applications	1	0
High-Efficiency Toilet Rebate Applications	2	0
Rain Barrel Rebate Applications	0	4
Flow Monitor Device Rebate Applications	5	0
Turf Removal Project Rebate Applications	2	2
Social Media Posts	23	25
News Releases/Media Advisories	4	4
EFRR	April 2023	March 2023
Special Use/Event Permits	6	4
Parking Notices	113	51
Incident Reports	6	10
Vehicle Count	6,078	4,285
Trail Use Count	12,188	9 <i>,</i> 465
Days Closed Due to Rain/Red Flag/COVID-19	0	7.5
Days Interpretive Center (IC) Open	15	11
Number of IC Visitors	541	216
Volunteer Trail Patrol Shifts	3	4
Volunteer Docent Hours	82	65
Total Number of Docents	63	63
Finance	April 2023	March 2023
Infosend Payments (ACH and Credit Card)	11,809	12,348
OMWD Auto Debit Payments	1,994	1,991
California Bank & Trust Lockbox Payments	2,717	3,271
Over the Counter Payments	377	473
Check-free, Metavante and Chase	3,946	4,889
Finance Calls and Walk-ins	47	52
Service Orders Processed	18	18
Service Orders Closed Out	8	3
Purchase Orders	21	13
Inventory Items Received	2,865	892
Invoices Processed	465	434
Payroll Direct Deposits Processed	244	243
Accounts Payable Checks and Electronic Fund Transfers	334	388

#### **ENGINEERING DEPARTMENT**

#### Engineering Manager Lindsey Stephenson Highlights for April 2023:

4S Ranch Neighborhood 1 Sewer Pump Station Replacement Project continues to progress through construction, with anticipated bypass piping installations and excavations continuing. Coordination efforts continued with COSD on possible leak of storm drain adjacent to the project site. Engineering staff attended a ribbon cutting ceremony to celebrate the completion of its Manchester Avenue Recycled Water Pipeline Project. Staff is working on contracting the Asphalt and Concrete Maintenance Project that was awarded in March. Staff continued planning and design efforts on multiple CIP projects. Staff continues to handle developer requests, continues to assist other departments with engineering-related work, and continues to manage OMWD's right of ways.

#### **HUMAN RESOURCES DEPARTMENT**

#### Human Resources Manager Jennifer Joslin Highlights for April 2023:

Human Resources staff conducted the new hire and safety orientation for the new Field Services Technician I. Coordinated the recruitment for the two vacant Utility I positions. Distributed the employee pre-evaluation and goal setting forms, supervisor/manager confidential performance feedback survey, and created performance review forms for all staff in preparation for the annual review process. Prepared the required annual Voluntary Employees' Beneficiary Association (VEBA) discrimination testing documents. Co-hosted with the Employee Recreation Club (ERC) a breakfast event for all employees. Records staff processed multiple public records requests. Safety staff facilitated confined space entry training for necessary employees. Met with the San Diego County Water Authority (SDCWA) Right of Way Coordinator to discuss the water treatment plant mitigated property fuels management. Attended the Water Utility Safety Management Association (WUSMA) second quarter meeting. Held the second quarter staff Safety Sub-Committee meeting.

#### **OPERATIONS & MAINTENANCE**

#### **Operations Manager Geoff Fulks Highlights for April 2023:**

DCMWTP was taken offline between April 14 – 23, due to a SDCWA untreated water pipeline shutdown. Staff continues to manage and support multiple ongoing CIP projects including Membrane Replacements, Condition Assessment, 4<sup>th</sup> Stage Centrifuge, and Energy Recovery Turbine Refurbishments. A raw water equalization tank at the plant was taken out of service due to a leak which will soon be assessed by our consultant, Utility Services Group. State Division of Safety of Dams completed an annual inspection of the 4S Reservoir (Pond) with staff from the San Diego Regional Water Quality Control Board also in attendance. The inspection was successful and both agencies complimented the operation of the Pond. Four recycled water meters have been successfully installed at the Lakes, yielding an estimated annual savings of 9.4 million gallons of potable water. Sys Ops staff continued Potable and Recycled Hydraulic mapping and completed two reservoir washouts & inspections (4-G & Peay reservoirs). Staff supported numerous regulatory reporting efforts including the Electronic Annual Report, Consumer Confidence Report and Drought & Conservation Report. IT staff continues with Firewall server,

laptop and PC replacements. Construction staff assisted Engineering with SWPP improvements at the OMWD HQ rehabbing the stormwater basins and installing 150 feet of 4" French Drain. Construction staff also completed Bid Schedule A of the Valve Replacement Project and poured a 16x6 concrete pad for the backup generator at the 4S II Reservoir.

#### **CUSTOMER SERVICES DEPARTMENT**

#### Customer Services Manager John Carnegie Highlights for April 2023:

Published April issue of *Watching Water* newsletter; held joint WaterSmart Landscape Design Workshop with SDWD and SFID; participated in Carlsbad Chamber of Commerce Green Business Expo with an informational booth; hosted public facilities tour for eight guests; sent e-newsletter to subscribers; hosted collaborative meeting with SDCWA and California Landscape Contractors Association that included a tour of DCMWTP; submitted to CSDA San Diego Chapter for inclusion in its summer newsletter an article on the Manchester Avenue Recycled Water Pipeline Project; submitted letters of support for AB 30 and SB 411, as well as letters of opposition for AB 838 and AB 1637; notified by the Industrial Environmental Association that the Recycled Water Pipeline Extension 153A Project was selected for a 2023 Environmental Excellence Award; notified by American Public Works Association's San Diego and Imperial County Chapter that it has selected the Manchester Avenue Potable Pipeline Replacement Project as a 2023 Project of the Year and the Lone Jack Pressure Reducing Station Replacement Project for an Honor Award; and received notification that USBR will grant a \$500,000 Water and Energy Efficiency Research Program award to complete Phases 9 and 10 of the Advanced Metering Infrastructure Project.

At EFRR, held seven "Habitat" field trips for Escondido Unified School District students; repaired the upper creek crossing after winter floods, and added 40 yards of stabilized decomposed granite to damaged areas in the Staging Area and on the Creek Trail; in participation with I Love A Clean San Diego, hosted annual Creek-to-Bay cleanup event with 30 participants; hosted quarterly meeting and training for EFRR volunteers; and initiated weed abatement efforts throughout EFRR due to growth after heavy winter rain.

#### FINANCE DEPARTMENT

#### Finance Manager Rainy Selamat Highlights for April 2023:

Held midterm budget adjustment meetings with department managers and project managers; reviewed and completed preliminary midterm budget review process and presented budget amendments for discussion with GM Thorner; received and maintained AAA rating from Fitch; staff assisted operations department in preparing certain sections of the District's Electronic Annual Report (EAR); prepared sewer usage data for the District's annual (fiscal year 2023/24) sewer billing calculation; worked with Raftelis consultants to review and analyze the proposed 2023 water capacity fees and discussed with GM Thorner; discussed the proposed Community Facilities District (CFD) bond issuance an OMWD developer for the Pinnacle housing project; had team meetings with District Special Counsel and Financial Advisor to discuss the proposed CFD; completed and sent out Request for Proposal for auditing services to various auditing firms; staff worked on District grants administration; staff worked with billing to set-up special billing for Wet Weather Incentive Program; staff completed various public record requests; and staff responded to FEMA inquiries on COVID related expenses on claims previously submitted by the District.

#### **ASSISTANT GENERAL MANAGER:**

#### The Assistant General Manager reports the following for April 2023:

Attended Manchester Pipeline ribbon cutting ceremony; attended San Diego North Economic Development Council Board Meeting; participated in One Water North San Diego Coalition Meeting at Encina Wastewater Authority; worked and reviewed the State Water Resources Control Board Drought Report; provided information on mid-term budget update; attended Encinitas State of the City with Directors Watt and Meyers; meetings with consultants and continued project management efforts on San Dieguito Valley Brackish Groundwater Project, dedicated significant time to personnel matters, employee recruitment, and claims management.

#### **GENERAL MANAGER:**

#### The General Manager reports the following for April 2023:

General Manager Thorner attended the LAFCO Ad Hoc Committee Meeting on the Fallbrook/Rainbow detachments, met with the Nature Collective Executive Director, hosted the Manchester Avenue Recycled Water Pipeline Project ribbon cutting event at Mira Costa, met with the Carlsbad Municipal Water District General Manager, participated in the WateReuse California Executive Committee meeting, attended the SDCWA General Managers meeting, attended the Council of Water Utilities luncheon, attended the California Water Environmental Association's awards luncheon, participated in the One Water North San Diego Coalition meeting at Encina Wastewater, held a staff leadership meeting, held multiple meetings on the San Dieguito Valley Brackish Groundwater Project, attended the North County Work Group virtual meeting, dedicated significant time to the mid-year budget review, reviewing SDCWA's budget, meeting with the SDCWA representative, discussing the San Dieguito Valley Brackish Groundwater Project, meeting the San Dieguito Valley Brackish Groundwater Project, attended the San Dieguito Valley Brackish Groundwater Project, discussing the San Dieguito Valley Brackish Groundwater Project, meeting the San Dieguito Valley Brackish Groundwater Project, meeting discussing the San Dieguito Valley Brackish Groundwater Project, meeting discussing the San Dieguito Valley Brackish Groundwater Project, meeting with board members, personnel matters, public records requests, and legal issues.

# Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

CONSULTING ENGINEER

Any written report will be attached; any oral report will be provided at the time of the Board Meeting.



### **MEMORANDUM**

To:	Kimberly Thorner, Esq., Olivenhain MWD Board of Directors
From:	Don MacFarlane, Consulting Engineer
Subject:	Metropolitan Water District of Southern California (MWD) Committee Meetings
Date:	May 9, 2023

This is a report on the Engineering, Operations, and Technology Committee, and the One Water and Stewardship Committee meetings, held on May 8, 2023. It is also a report on the Finance, Audit, Insurance, and Real Property Committee meeting, held on May 9, 2023. This report is based on the Board reports and memorandums.

Finance, Audit, Insurance, and Real Property Committee -

- 1. <u>Standby Charge</u> The Committee adopted a resolution to continue the Standby Charge. The rate varies from \$1.65 to \$14.20 per parcel for parcels less than 1 acre in size and produces approximately \$43.9 million in revenue. The revenue is applied to the Readiness to Serve charge obligation.
- 2. Quarterly Financial Report Through March 2023
  - a. Water transactions were 91.4 TAF and \$80 million less than budget.
  - b. Water transactions were 110.5 and \$50 million less than 2022.
  - c. Revenues are projected to be \$167.2 million less than budget, while expenses are projected to be \$15.9 million less than budget, at the end of the fiscal year.
  - d. The net of revenues and expenses is projected to be \$239.1 million less than budget, and this will be offset by the Water Stabilization Fund.
  - e. The end-of-year Unrestricted Reserve Balance is projected to be \$518.4 million.

One Water and Stewardship Committee -

- 1. Water Surplus Drought Management Notes
  - a. The SWP Table A allocation has been increased to 100 percent.
  - b. The Northern California peak snowpack on April 9 was a near-record at 199 percent of normal. Runoff is forecast at 137 percent of normal.
  - c. Lake Oroville is expected to be full by the end of May. The SWP share of San Luis Reservoir is full.
  - d. The MWD share of SWP Article 21 deliveries is 134 TAF.

#### MEMORANDUM Metropolitan Water District of Southern California May 9, 2023 Committee Meetings Page 2 5/15/2023

- e. MWD is managing the storage of 1.43 MAF of water, the difference between expected supply and demand.
- f. The projected year-end dry-year storage balance is 3.3 MAF.
- g. The Upper Colorado River peak snowpack on April 7 was 163 percent of normal. Runoff is forecast at 149 percent of normal.
- h. The end-of-year water level forecast for Lake Mead is 1,068 feet, much improved over the previous forecasts. This level remains below the Level 1 Shortage Condition.
- i. The release from Lake Powell to Lake Mead in water year 2023 is planned at 9.5 MAF, the highest in 10 years.

Engineering, Operations, and Technology Committee -

- 1. <u>April 2023 Demands</u> 68 TAF while the April 2022 demands were 137 TAF. The 2023 demands were the lowest since 1983.
- 2. <u>SWP Water Delivered to Lake Skinner and the Skinner Water Treatment Plant</u> 15 percent and increasing.
- 3. <u>Diamond Valley Lake</u> Currently 65 percent full.
- 4. Constituents of Emerging Concern (CEC)
  - a. EPA expects to finalize the regulation for six types of PFAS by the end of 2023. Compliance is required within three years. These have not been detected in MWD treated water.
  - b. Four types of PFAS have been detected at trace levels in some MWD source waters.
  - c. Two types of PFAS have been detected in MWD treated water.
  - d. EPA is considering adding seven types of PFAS as hazardous substances. This has a potential impact on the disposal of water treatment residuals.
  - e. The water agencies are asking congress for an exemption for PFAS from the Comprehensive Environmental Responsibility Compensation and Liability Act (CERCLA)
  - f. MWD is gearing up to monitor microplastics in their water.
- CIP Capital Improvement Program CRA Colorado River Aqueduct
- CWA San Diego County Water Authority EIS Environmental Impact Statement
- DWR State of California Department of Water Resources
- MGD Million Gallons per Day MAF Million acre-feet
- MWD Metropolitan Water District of Southern California
- PFAS Per and Polyfluorinated Substances

SWP – State Water Project TAF – Thousand acre-feet

SWRCB – State Water Resources Control Board

USBR – United States Bureau of Reclamation

Don MacFarlane, P.E. 14220 Sandhill Rd, Poway, CA 92064 858-414-7801 dlmengineering@yahoo.com

# Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

**GENERAL COUNSEL** 

Any written report will be attached; any oral report will be provided at the time of the Board Meeting.

D


RE:	Attorney Report: Brown Act, CEQA, and Water Quality Update 150152-0005
DATE:	May 17, 2023
FROM:	Alfred Smith
TO:	Olivenhain Municipal Water District

#### I. INTRODUCTION.

This attorney report provides legal updates regarding the Brown Act, CEQA and proposed water quality regulation. First, in *G.I. Industries v. City of Thousand Oaks et al.*, the California Supreme Court depublished the Court of Appeal opinion requiring the placement of CEQA exemptions as agenda items for consideration during public meetings.

Second, the U.S. Environmental Protection Agency ("EPA") recently proposed new primary drinking water regulations for six of the most common per- and polyfluoroalkyl substances ("PFAS"). The EPA proposes a national PFAS maximum contaminant level ("MCL") of 4 parts per trillion ("ppt").

EPA's proposed regulation also requires water agencies to monitor for PFAS. If the samples contain PFAS above the proposed regulatory standards, the public will have to be notified and treatment will be required. Because of the widespread use of PFAS and the very low standard proposed by EPA, water industry groups have raised a number of questions regarding the cost and feasibility to comply with the proposed standards.

#### II. BROWN ACT AND CEQA.

#### A. Background.

The Brown Act requires local agencies to post an agenda containing a brief general description of each item of business to be discussed at the meeting. In *G.I. Industries v. City of Thousand Oaks et al.* ("G.I. Industries") (2022) (84 Cal.App.5th 814), a panel of the Court of Appeal found that an agency's failure to timely include on the agenda the fact that exemptions from the California Environmental Quality Act ("CEQA") would be considered invalidated the agency's approval of the project. However, the appellate court's decision has been ordered "depublished" and therefore has no precedential effect.

#### B. Discussion.

In the *G.I. Industries* case, the City of Thousand Oaks considered a decision to award a franchise agreement to a new waste collection company. The initial agenda circulated by the City did not state whether the Council would also consider a CEQA exemption, and it also did not refer to the City staff's recommendation that the agreement should be determined to be categorically exempt from CEQA.

The CEQA issue was raised by a competing waste hauler after the agenda was posted and, on the afternoon before the City Council meeting to consider the new agreement, the City added discussion of the categorical exemptions that applied to the agreement. The City Council then expressly found that an exemption applied and approved the new contract, directing staff to file a Notice of Exemption.

While the trial court agreed with the City that no hearing was required to find that a project is exempt from CEQA and that no Brown Act notice was needed, the Court of Appeal overruled the trial court.

The Court of Appeal held that, regardless of whether CEQA requires a hearing regarding an exemption, the Brown Act requires that any proposed finding or recommendation for approval of a project pursuant to an exemption should be included on the agenda and circulated no later than 72 hours before the meeting where the project will be considered. The decision relied upon *San Joaquin Raptor Center v. County of Merced* (2013) (216 Cal.App.4th 1167), which held that failure to mention on the meeting agenda the fact that a mitigated negative declaration was going to be adopted as part of an action that approved a subdivision was a violation of the Brown Act.

The Supreme Court rejected petitions to review the case, making the appellate court's decision binding upon the parties to the case. However, the Supreme Court also granted a request that the case be "depublished," meaning that it will not appear in the official reports and cannot be cited as precedent in future cases. Accordingly, although the opinion still applies to the City's dispute, depublication removes the opinion's precedential value and essentially renders it non-existent for purposes of other disputes.

Although the California Supreme Court's action makes it clear that for projects approved at a staff level, there is no requirement under CEQA to have the action appear on a public agenda, there may still be circumstances where including the item on the public meeting agenda is advisable. For example, listing the action on the agenda not only avoids a potential Brown Act challenge, it also protects against a potential CEQA challenge by triggering a need for any challenger to exhaust their administrative remedies.

In addition, the Court of Appeal's decision was an extension of precedent which did not alter Brown Act and CEQA requirements in other contexts such as where a mitigated negative declaration is involved. For example, the appellate court in *San Joaquin Raptor Rescue Center v. County of Merced, supra*, 216 Cal.App.4<sup>th</sup> 1167, is still good law holding that a planning commission's adoption of a CEQA mitigated negative declaration violated the Brown Act because the agenda did not mention that the agency would consider the MND's adoption. The *San Joaquin Raptor* case held that the MND had to be expressly disclosed on the agency's public meeting agenda as *an individual item of business*. For Brown Act purposes, it was not sufficient for the agenda merely to reference the project for which the MND had been prepared.

#### III. WATER QUALITY UPDATE.

#### A. Background.

PFAS are a set of man-made chemicals widely used in a variety of consumer and industrial products which persist in the environment once released and may be linked to health impacts. The proposed PFAS National Primary Drinking Water Regulation ("NPDWR") is a culmination of many years of scientific research and work by EPA in accordance with its PFAS Strategic Roadmap – a multi-year plan setting forth EPA's goals and priorities for addressing PFAS. The Roadmap, released in 2021, included plans for (1) advancing the science on PFAS impacts; (2) regulating PFAS at the beginning of its life cycle under the Toxic Substances Control Act; (3) establishing updated public health goals and drinking water standards for PFAS substances; and (4) designating PFAS as a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), which among other things sets forth the legal process by which local water agencies can obtain cost recovery from the industrial defendants responsible for contaminating the water supply.

According to EPA:

- "PFAS are widely used, long lasting chemicals, components of which break down very slowly over time.
- Because of their widespread use and their persistence in the environment, many PFAS are found in the blood of people and animals all over the world and are present at low levels in a variety of food products and in the environment.
- PFAS are found in water, air, fish, and soil at locations across the nation and the globe.

- Scientific studies have shown that exposure to some PFAS in the environment may be linked to harmful health effects in humans and animals.
- There are thousands of PFAS chemicals, and they are found in many different consumer, commercial, and industrial products. This makes it challenging to study and assess the potential human health and environmental risks." (<u>https://www.epa.gov/pfas/pfas-explained</u>)

The NPDWRs would be legally-enforceable standards applicable to public water systems intended to protect public health by limiting the levels of PFAS within drinking water. EPA's proposed nationwide limits are extremely low and have generated numerous questions by water industry groups regarding the cost and feasibility of compliance.

#### B. Proposed Regulations.

On March 14, 2023, the EPA announced the NPDWR for six per- and poly fluoroalkyl substances (collectively PFAS), including:

- perfluorooctanoic acid (PFOA);
- o perfluorooctane sulfonic acid (PFOS);
- o perfluorononanoic acid (PFNA);
- hexafluoropropylene oxide dimer acid (HFPO-DA, commonly known as GenX Chemicals);
- o perfluorohexane sulfonic acid (PFHxS); and
- o perfluorobutane sulfonic acid (PFBS).

If adopted, the proposed PFAS NPDWR would impose a new nationwide floor on the patchwork of various state regulations for such compounds. Compliance with the proposed regulatory standards could potentially present significant challenges for the water industry. These proposed nationwide limits are lower than any current limit set by any state throughout the country. For example, California set a PFOA response level limit of 10 ppt, and a PFOS response level limit of 40 ppt.

The NPDWR proposes an enforceable MCL of 4 ppt for PFOA and PFOS. The NPDWR also proposes a non-enforceable Maximum Contaminant Level Goal ("MCLG") for PFOA and PFOS. The MCLG is the level of a contaminant in drinking water at which no known or anticipated negative health effects occur and which allows an

adequate margin of safety. EPA proposes setting the MCLG limit for both PFOA and PFOS at zero.

The adoption of the proposed set of enforceable MCLs for these compounds would be a major step toward a national set of standards for the permissible level of PFAS in drinking water. Currently, the regulation of PFAS varies greatly from state-tostate, with states like California leading the effort by adopting notification and response levels for various PFAS compounds. If adopted, states will need to establish standards that are at least as strict as the federal rule.

EPA analyzed the costs and benefits of setting the MCLs for PFAS at 10 ppt, 5 ppt, and 4 ppt, before recommending the lowest level. EPA estimated that the proposed MCLs would impact 3,400 – 6,300 public water systems serving a population of 70 – 94 million people. EPA acknowledged that setting the MCLs at 10 ppt instead of 4 ppt would significantly decrease the number of water agencies that must take action to manage PFAS. EPA also stated, however, that an MCL of 10 ppt "would result in millions of Americans continuing to be exposed to levels that have the potential for harmful levels of PFOA and PFOS that can feasibly be removed through treatment." EPA estimated that the proposed rule would cost between \$721 million and \$1.2 billion annually, and provide benefits from \$908 million to \$1.23 billion annually.

The proposed rule would require public water systems nationally to (1) monitor for PFAS; (2) notify the public of the level of such PFAS; and (3) reduce the levels of these PFAS in drinking water if they exceed the proposed standards. This could include removing the chemicals through various types of treatment, or switching to an alternative water supply that meets the standard. For many public water systems, this could mean that major treatment infrastructure investments and/or abandonment of some sources of water supply will be required to comply with the new MCLs.

The proposed PFAS NPDWR does *not* require any actions until it is finalized. EPA anticipates finalizing the regulation by the end of 2023 and is currently requesting public comments. In addition to seeking written input, EPA is holding an online public hearing on May 4, 2023.

AES

# Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

SAN DIEGO COUNTY WATER AUTHORITY REPRESENTATIVE

Any report will be oral at the time of the Board meeting.



#### SUMMARY OF FORMAL BOARD OF DIRECTORS' MEETING APRIL 27, 2023

#### 1. Adopt positions on various bills.

- The Board adopted the following positions of Support:
  - Support on AB 246 (Papan), relating to Product Safety: PFAS in Menstrual Products.
  - Support on AB 727 (Weber), relating to Product Safety: PFAS in Cleaning Products.
  - Support on AB 1290 (Luz Rivas), relating to Product Safety: Substances in Plastic Packaging.
  - Support on AB 1423 (Schiavo), relating to Product Safety: PFAS in Artificial Turf or Synthetic Substances.
  - Support on AB 1594 (Garcia), relating to Medium- and Heavy-Duty Zero-Emissions Vehicles: Public Utilities.
  - Support on H.R. 1837 (Kustoff and Ruppersberger), relating to Investing in our Communities.
- 2. <u>Notice of Completion for the Mission Trails Flow Regulatory Structure II and Flow Control Facility</u> project.

The Board authorized the General Manager, or designee, to accept the Mission Trails Flow Regulatory Structure II and Flow Control Facility project as complete, record the Notice of Completion, and release funds held in retention to OHLA USA, Inc., in accordance with applicable law.

- 3. <u>Monthly Treasurer's Report on Investments and Cash Flow.</u> The Board noted and filed the Treasurer's report.
- 4. <u>General Manager's Final Draft Recommended Budget for Fiscal Years 2024 and 2025</u>. The Board accepted the General Manager's rate mitigation efforts presented and directed the General Manager to continue with rate mitigation options and present what was shared today at the May Budget Workshop.

#### 5. Approval of Minutes.

The Board approved the minutes of the Formal Board of Directors' meeting of March 23, 2023.

DRAFT PROPOSED LETTER TO SDCWA -Drafted by OMWD General Manager, Finance Manager and Director Meyers for submission to SDCWA based on meetings and information available as of 05/09/2023. Director Meyers desires to review this letter with the full OMWD Board at its May meeting for submission to SDCWA Board for their May 25<sup>th</sup> Board Meeting. Letter may be updated if new information released by SDCWA between publishing of the OMWD board packet and the OMWD Board Meeting.

May XX,2023

Board of Directors San Diego County Water Authority 4677 Overland Avenue San Diego, CA 92123

# Re: Olivenhain Municipal Water District's Objections to the Proposed 13% increase to Wholesale Cost of Untreated Water effective January 1, 2024

Dear Board of Directors:

Olivenhain Municipal Water District's (OMWD) Board of Directors would like to officially be entered into the public record of the San Diego County Water Authority (Water Authority) as objecting to the proposed 13% increase to Total Cost of Untreated Water effective January 1, 2024 presented by Water Authority's staff in April 2023 and included in the Water Authority's Fiscal Years 2024 and 2025 Draft Recommended Budget (Budget).

OMWD relies on the Water Authority to provide water supply to meet our customers' potable water demand. Rising wholesale water costs from Water Authority will create downstream impacts to all member agencies, and ultimately all ratepayers. While we appreciate Water Authority's staff efforts to minimize the cost burden on its member agencies and the public as mentioned in the Budget, such as actively pursuing state and federal grants to reduce regional water infrastructure costs, a 13% increase to total untreated water cost is considered a spike. Therefore, on behalf of the 86,000 ratepayers that we serve, OMWD is demanding that increases to the purchased water wholesale cost be kept at a single digit for affordability, especially in high inflation environment that we are all experiencing.

Based on our review of the Budget, we believe that the proposed spike in rates can be mitigated by:

(1) Additional utilization of Water Authority's existing reserve funds. While the Water Authority target debt coverage ratio is 1.6, the actual requirement is a 1.2 ratio. With new debt not anticipated for several years, a small temporary dip in the debt coverage ratio by utilizing

reserves can be recovered in subsequent years. Using reserves to smooth out spikes in rate increases is the entire reason that reserves and rate stabilization funds exist.

- (2) A re-prioritization of Water Authority's Capital Improvement Program (CIP) projects through a delay of non-critical CIP and/or reducing the assumed completion rate for CIP.
- (3) A reduction in the proposed additional 8.0 new positions included in the budget. If CIPs are delayed and/or the assumed completion rates are reduced, the staffing proposed can also be delayed.
- (4) Leverage the Water Authority's fixed take or pay supplies. This was requested by the Water Authority board with the last approved budget and should be a priority for completion this year to avoid future rate spikes. Further, the Water Authority should undertake a comprehensive study on the local supplies being developed by its member agencies and whether or not those local supplies could effectively be joined into a larger package that could also be leveraged for greater impact for the region as a whole.
- (5) Evaluate available capacity at all treated water facilities in the region and the current under-utilization of the Twin Oaks Water Treatment Plant which is causing an additional rate-spike.

#### (6) Update the 5 Year Financial Forecast based on the most recent information available.

We believe that it is critical that the Water Authority considers the perspectives and needs of its member agencies which are directly accountable to the public. A 13% increase in water wholesale costs would not only impact OMWD rate payers but also other member agencies' rate payers by providing to the public the impression that water industry has core problems with making decisions that affect basic service to so many people.

Finally, OMWD understands that the Water Authority is underway with a comprehensive review of its rate structure through a process with the General Managers, Finance Officers and the Finance Planning Working Group. We believe that this process is of vital importance to the sustainability of the Water Authority and look forward to options being brought to the full Water Authority board for consideration in the near future.

Respectfully submitted,

On Behalf of Olivenhain Municipal Water District Board of Directors

Generally General Manager or Board President that signs

Copy To: OMWD Board Members

# **Operating Fund and Total Cash Position**

#### **Operating Fund:**

- Hold 45 Days Cash Minimum
- All Cash Target is 150 Days Overall
- Operating Fund cash over 45 Days Minimum achieves Overall Policy



#### FY23 Operating Fund Balance in Millions & Days of Cash



Projected balance below 150 days cash on hand metric of \$323.5 million target places risk on the Water Authority for a downgrade.



# **Alternative 1:** Maintain Key Financial Metrics to Support Long-Term Generational Affordability

Lowest rate possible without dipping below Board Policy and Credit Agency parameters



RSF Balance Forecast (\$M)



# **Alternative 1: Effective Impact by Member Agency**

Average effect of 12.7%, varies based on historical and projected system demands



And Its 24 Member Agencies

### **Alternative 2: Draw RSF Beyond Policy to Provide Year 1 Rate Relief**

FY '24 RSF Forecasted to be \$15 million below Minimum RSF Target

RSF Balance Forecast (\$M)





# **Alternative 2: Effective Impact by Member Agency**

Relative change assuming CY 2024 rates and FY 2022 Demands; Effective Rate Impact 9.25%





### Alternative 3: Lower Rates in 2024 Mean Even Higher Rates in 2025 and 2026

RSF Targets are recalculated year-to-year based 2.5-to-3.5-year financial impact

\$140 \$120 \$101 \$96 \$100 \$79 **Ş76** \$80 \$54 \$60 \$51 \$40 Reserves fall (\$22M) below target and LRFP projections, \$20 and require aggressive increase to rebuild reserves by 2027. Does not include additional costs associated with risk to credit downgrade. \$-FYF 2022 FYE 2023 FYF 2024 FYF 2025 FYF 2026 FYF 2027 RSF Ending Balance RSF Minimum Target ——RSF Maximum Target — • 2021 LRFP Projection

RSF Balance Forecast (\$M)



# **Alternative 3: Effective Impact by Member Agency**

Relative change assuming CY 2024 rates and FY 2022 Demands





# **CY 2024 Alternatives Summary**

Staff analyzed rate alternative based on existing Board policies, as well as Board direction and feedback received during the April Workshops/Board meeting

#### Alternative 1: Maintain Existing Policy (12.7% Effective Increase)

- Based on existing Board policy to maintaining a AA+ or better credit rating
- Adopt rates at the necessary level to support Board Policy and key financial metrics to abate risk of credit downgrade and higher cost of capital
- Revisit rates/financials in September '23 for potential opportunities for rate mitigation
- Lower (0-2%) CY 2025/26 rate adjustments

#### Alternative 2: <u>Use of Reserves Beyond Board Policy Target</u> (9.25% Effective Increase)

- Based on Board direction to have "single-digit increase"
- Provides partial CY 2024 rate-relief at the cost of below policy reserves and financial metrics
- Increased risk of credit downgrade and higher costs
- Hinders future resilience and rate flexibility
- Higher rates in Year 2 & 3, than Alt 1

#### Alternative 3: Greater Use of Reserves, Beyond Board Policy (7.2% Effective Increase)

- Based on Board direction to don't just stop at "9%"
- Provides greatest CY 2024 rate-relief at the price of lower reserves and financial metrics
- Greater risk of credit downgrade and higher cost of capital
- Significantly reduces future resilience and rate flexibility
- Higher rates in Year 2 & 3, than both Alternative 1 and 2



# **Partnership Opportunities**

- 2020 UWMP and subsequent data show need for MWD supplies through at least 2045
- Staff plans to present recommended timing and tools in July for managing our take-or pay contracts should demand veer materially from UWMP
- MWD's 2020 IRP Needs Assessment shows potential gap of up to 1.2 MAF
- Before luck of rain this year, MWD was preparing to impose region-side service cuts already imposed supply reductions affecting 1/3 population
- Recent rain provides a "lifeline" to MWD; it has begun long term planning to determine how best to fill supply gap
- Significant challenges for many of MWD's potential supply investments costing in tens of billions of dollars range
- MWD is beginning review of business model, may provide opportunities for agencies to optimize local and regional resources at lower cost



# Memo

F

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

LEGISLATIVE REPORT

Any written report will be attached; any oral report will be provided at the time of the Board Meeting.



TO:	Olivenhain Municipal Water District (OMWD)
FROM:	Ashley Walker, Senior Policy Advisor, Nossaman LLP Jennifer Capitolo, Jennifer M. Capitolo and Associates LLC
DATE:	May 9, 2023
RE:	May 2023 Public Policy Report

#### State Legislative Update:

**Status of the Legislature:** The first house policy committee deadline is on April 28 and the first fiscal committee deadline is rapidly approaching on May 19. Many bills that have a cost impact to the state are on the "Suspense File" that will be taken up to see what bills move forward, and what bills will be 2-year bills.

The May Revise will be released on May 12 and Nossaman will update OMWD regarding any implications the Governor's proposals may have on issues we care about.

Looking further ahead, the Legislature will take a summer recess from July 14 – August 14 and the final day of session is September 14. The Governor has 30 days to take action on all bills passed to his desk.

**State Budget Request:** OMWD has requested our legislative delegation put forth a suite of water loss minimization projects to be funded in the FY 2023-24 State Budget. Initial feedback from the delegation is very supportive of these projects. The State Budget deficit will impact whether or not Member's projects will be funded or not. The Assembly and Senate requested that Members submit their project proposals for consideration of funding by the end of April.

**Legislation:** OMWD has taken several positions on legislation, as outlined below.

- AB 30 (Ward): Atmospheric Rivers: Research, Mitigation, and Climate Forecasting Program. This bill would update and expand the Atmospheric River Research and Forecast Improvement Program: Enabling Climate Adaptation Through Forercast-Informed Reservoir Operations (FIRO) and Hazard Resiliency Program (AR Program) within the Department of Water Resources (DWR). The AR Program will include forecast-informed reservoir operations (FIRO), and integrate FIRO into DWR water supply operations and flood and hazard risk mitigation efforts. <u>Current position: Support.</u>
- AB 755 (Papan): Water: public entity: cost-of-service analysis. This bill would require a public entity in a cost-of-service analysis, to identify the incremental costs incurred by major water users and the incremental costs avoided if the major water users met the State Water Resources Control Board's Urban Water Use Efficiency Standards. <u>Current position: Oppose</u>.
- AB 838 (Connolly): California Water Affordability and Infrastructure Transparency Act of 2023. This bill would place additional requirements to public water systems by having them provide

specified information and data related to the average water bill paid by customers at intervals determined by the State Water Board. <u>*Current position: Oppose.*</u>

- AB 1072 (Wicks): Water conservation and efficiency: low-income residential customers. Seeks to ensure local rebates are available to low-income and disadvantaged communities. Olivenhain MWD strongly supports access to rebates for water efficient fixtures and landscapes for these communities, but recognizes there are barriers to participation. The approach this bill takes to ensuring access to these programs, however, is not workable as it potentially violates Proposition 218 requirements and directs inappropriate state funding for these purposes. <u>Current positions:</u> <u>Oppose unless amended.</u>
- **AB 1572 (Friedman): Potable water: nonfunctional turf.** This bill would create a regulatory structure around a prohibition on the use of potable water for the irrigation of nonfunctional turf on properties other than single-family homes. We do not oppose banning irrigation of certain nonfunctional turf with potable water, but have concerns regarding the current definition of nonfunctional turf, scope, and compliance structure provided for in AB 1572. <u>Current positions:</u> <u>Oppose unless amended.</u>
- AB 1594 (Garcia): Medium- and heavy-duty zero-emission vehicles: public agency utilities. This bill would require that any state regulation applicable to essential public agency utility vehicles ensures that those vehicles can support a public agency utility's ability to maintain reliable water and electric service, respond to disasters in an emergency capacity, and provide mutual aid assistance statewide and nationwide. <u>Current position: Support.</u>
- **AB 1637 (Irwin): Local government: internet websites and email addresses.** This bill would require local governments to ensure that their public-facing internet websites and email addresses use a ".gov" or ".ca.gov" domain name, no later than January 1, 2026. <u>Current position: Comments on concerns.</u>
- SB 23 (Caballero): Water supply and flood risk reduction projects: expedited permitting. ACWA is sponsoring SB 23 which would streamline the regulatory permitting of water supply and flood risk reduction projects. *Current position: Support.*
- SB 366 (Caballero): The California Water Plan: long-term supply targets. CMUA is sponsoring this legislation intended to transform California's water planning efforts from a process where we are managing for scarcity to a future where there is enough water for all beneficial uses. <u>Current position: Support.</u>
- SB 411 (Portantino): Open meetings: teleconferences: bodies with appointed membership. This bill
  ensures alternate teleconferencing provisions indefinitely to boards, an advisory boards of a local
  agency and commissions. This measure will allow boards and commissions to continue to serve their
  constituents uninterrupted by extending appropriate COVID-19 pandemic provisions. <u>Current
  position: Support.</u>

**Governor's Actions and Executive Orders:** The following actions have been taken by the Governor since the last legislative report. This list is compiled from CalOES, California Health and Human Services, California

Department of Public Health, and FEMA. We are happy to provide the details of any item listed below, should OMWD desire.

- May 8 Governor Newsom announced nearly \$8 million in grants to be awarded to bolster physical and data security at 21 facilities that provide abortion-related care and reproductive health services.
- May 4 Governor Newsom announces the launch of a CA vs Hate, a new statewide hotline to report hate acts in California.
- May 2 Counties added to Individual Assistance as of May 2, 2023: Madera, Mendocino and Mono. Counties added to Public Assistance as of May 2, 2023: Amador, Butte, Del Norte, Glenn, Inyo, Madera, Modoc, Santa Cruz and San Francisco.

#### WATER QUALITY

SAFER Needs Assessment Update: Affordability – On May 2, 2023, the State Water Resources Control Board held a public webinar to discuss the results of the 2023 Drinking Water Needs Assessment, including the results of the new affordability assessment tool, Household Socioeconomic Burden. It is important to note that, as a larger water system, OMWD is not currently ranked on the Needs Assessment. We provide this information to you now, given the SWB's interested in applying these assessment tools to larger systems in the future. Below please find the three tools the SWB is using the calculate affordability:

- Percent Median Household Income: average residential customer charges for 6 hundred cubic feet (HCF) per month18 that meet or exceed 1.5%19 of the annual Median Household Income (MHI) within a water system's service area.
- Extreme Water Bill: customer charges that meet or exceed 150% and 200% of statewide average drinking water customer charges at the 6 HCF level.
- Household Socioeconomic Burden: measures the percent of households in a census tract that are both low income (making less than 80% of the Housing and Urban Development (HUD) Area Median Family Income) and severely burdened by housing costs (paying greater than 50% of their income to housing costs).

To see how water systems throughout the State rank on these affordability metrics, please visit the website link below. <a href="https://www.waterboards.ca.gov/drinking\_water/certlic/drinkingwater/afforddashboard.html">https://www.waterboards.ca.gov/drinking\_water/certlic/drinkingwater/afforddashboard.html</a>

#### WATER USE EFFICIENCY

#### HYDROLOGIC CONDITIONS UPDATE

The Department of Water Resources (DWR) May 1 snow survey confirmed that this last winter resulted in one of the greatest snowpacks on record. Statewide the snowpack is still 240% of average, even as the spring melt is now fully underway. Hot weather in last April accelerated the melting process, but a return to more moderate spring temperatures has been keeping river levels and valley flooding limited mostly to the San Joaquin Valley so far. At its May 2 meeting the State Water Resources Control Board (SWRCB) members were advised that all water right curtailments have been or were about to be lifted in all watersheds statewide. But it was noted that some reports of dry drinking water wells continue to be received and that additional groundwater recharge will be needed for years to come.

#### **STATE WATER BOARD**

**Long-term Water Conservation Standards Rulemaking** – The SWRCB staff is now evaluating comments they received during and after their March 22 workshop. Staff had indicated that they could release a proposed regulation and begin formal rulemaking by late May. The statewide water associations continue to discuss our concerns with the SWRCB's preliminary proposal, and on-going efforts to work in coalition on the rulemaking.

**Drought Water Conservation Reporting Order** –Despite concerns from the statewide water associations, the SWRCB staff have decided to proceed with the reporting order as issued and may be open to considering specific ways to streamline reporting after review of the first reports.



#### Olivenhain Legislative Report 2023-24 Report as of 5/4/2023

#### Support

<u>AB 30</u> (Ward D) Atmospheric Rivers: Research, Mitigation, and Climate Forecasting Program. Status: 4/26/2023-In committee: Set, first hearing. Referred to suspense file. Location: 4/26/2023-A. APPR. SUSPENSE FILE

> Summary: Current law establishes the Atmospheric Rivers: Research, Mitigation, and Climate Forecasting Program in the Department of Water Resources. Current law requires the department, upon an appropriation for purposes of the program, to research climate forecasting and the causes and impacts that climate change has on atmospheric rivers, to operate reservoirs in a manner that improves flood protection, and to reoperate flood control and water storage facilities to capture water generated by atmospheric rivers. This bill would rename that program the Atmospheric Rivers Research and Forecast Improvement Program: Enabling Climate Adaptation Through Forecast-Informed Reservoir Operations and Hazard Resiliency (AR/FIRO) Program. The bill would require the department to research, develop, and implement new observations, prediction models, novel forecasting methods, and tailored decision support systems to improve predictions of atmospheric rivers and their impacts on water supply, flooding, post-wildfire debris flows, and environmental conditions.

#### Position Support

Notes: ACWA recommends a support position as of 1.17.23.

<u>AB 1594</u> (<u>Garcia</u> D) Medium- and heavy-duty zero-emission vehicles: public agency utilities. Last Amend: 3/13/2023

Status: 4/25/2023-Coauthors revised. From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 15. Noes 0.) (April 24). Re-referred to Com. on APPR.

Location: 4/25/2023-A. APPR.

Summary: Current law establishes the Air Quality Improvement Program that is administered by the State Air Resources Board for purposes of funding projects related to, among other things, the reduction of criteria air pollutants and improvement of air quality, and establishes the Mediumand Heavy-Duty Zero-Emission Vehicle Fleet Purchasing Assistance Program within the Air Quality Improvement Program to make financing tools and nonfinancial supports available to operators of medium- and heavy-duty vehicle fleets to enable those operators to transition their fleets to zeroemission vehicles. This bill would require any state regulation that seeks to require, or otherwise compel, the procurement of medium- and heavy-duty zero-emission vehicles by a public agency **utility to ensure that those vehicles can support a public agency utility's ability to maintain reliable** water and electric services, respond to disasters in an emergency capacity, and provide mutual aid assistance statewide and nationwide, among other requirements.

#### Position Support

Notes: AB 1594 (E. Garcia) support letter from Olivenhain to author on 3.29.23.

<u>SB 23</u> (<u>Caballero</u> D) Water supply and flood risk reduction projects: expedited permitting. Last Amend: 5/1/2023

Status: 5/1/2023-Read second time and amended. Re-referred to Com. on APPR. Location: 4/26/2023-S. APPR.

Summary: Current law prohibits an entity from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, except under specified conditions, including requiring the entity to send written notification to the

Department of Fish and Wildlife regarding the activity in the manner prescribed by the department. This bill would require a project proponent, if already required to submit a notification to the department, to submit to the department the certified or adopted environmental review document, as applicable, for the activity in the notification. The bill would require the department, under prescribed circumstances, to take certain actions within specified timelines, or within a mutually agreed-to extension of time.

#### Position

#### Support

Notes: ACWA Sponsor Bill- this is a streamlining the permitting process for water supply and flood risk reduction projects as of 1.17.23. Olivenhain signed onto ACWA colaition support/ sponsored leg 3/2/23; ACWA contact richardf@acwa.com.

<u>SB 366</u> (<u>Caballero</u> D) The California Water Plan: long-term supply targets.

Last Amend: 4/27/2023

Status: 5/2/2023-Set for hearing May 8.

Location: 4/25/2023-S. APPR.

Calendar: 5/8/2023 10 a.m. - 1021 0 Street, Room

2200 SENATE APPROPRIATIONS, PORTANTINO, ANTHONY, Chair

Summary: Would revise and recast certain provisions regarding The California Water Plan to, among other things, require the Department of Water Resources to instead establish a stakeholder advisory committee and to expand the membership of the committee to include tribes, labor, and environmental justice interests. The bill would require the department, in coordination with the California Water Commission, the State Water Resources Control Board, other state and federal agencies as appropriate, and the stakeholder advisory committee to develop a comprehensive plan for addressing the state's water needs and meeting specified longterm water supply targets established by the bill for purposes of "The California Water Plan." The bill would require the plan to provide recommendations and strategies to ensure enough water supply for all beneficial uses. The bill would require the plan to include specified components, including a discussion of various strategies that may be pursued in order to meet the water supply targets and an economic analysis. The bill would require the Director of Water Resources to provide an oral and written report annually to the relevant committees in the Legislature regarding the progress made toward meeting the water supply targets established by the department, as specified. The bill would also require the department to conduct public workshops to give interested parties an opportunity to comment on the plan and to post the preliminary draft of the plan on the department's internet website.

Position

Support

Notes: OMWD has signed a support letter 2.15.23.

<u>SB 411</u> (<u>Portantino</u> D) Open meetings: teleconferences: neighborhood councils. Last Amend: 4/24/2023

Status: 5/3/2023-From committee: Do pass. (Ayes 9. Noes 1.) (May 2). Location: 4/19/2023-S. JUD.

Calendar: 5/4/2023 #2 SENATE SENATE BILLS - SECOND READING FILE

Summary: The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body, as defined, of a local agency be open and public and that all persons be permitted to attend and participate. The act generally requires for teleconferencing that the legislative body of a local agency that elects to use teleconferencing post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and have each teleconference location be accessible to the public. Current law also requires that, during the teleconference, at least a guorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. This bill, until January 1, 2028, would authorize an eligible legislative body to use alternate teleconferencing provisions related to notice, agenda, and public participation, as prescribed, if the city council has adopted an authorizing resolution and 2/3 of an eligible legislative body votes to use the alternate teleconferencing provisions. The bill would define "eligible legislative body" for this purpose to mean a neighborhood council that is an advisory body with the purpose to promote more citizen participation in government and make government more responsive to local needs that is established pursuant to the charter of a city with a population of more than 3,000,000 people that is subject to the act.

Position Support

#### Concerns

<u>AB 1713</u> (<u>Gipson</u> D) State and local agencies: federal funds: reports.

Last Amend: 4/25/2023

Status: 4/26/2023-Re-referred to Com. on APPR.

Location: 4/19/2023-A. APPR.

Summary: Current law generally imposes various reporting duties on entities that receive state and federal funds, including, among others, requiring each state agency, department, and entity to provide its employer identification number to the Treasurer. This bill would require a state or local agency that receives federal funds that are subject to an expiration date to submit a written **report to the Legislature or the local agency's legislative body, respectively, no later than one** year before the funding expiration date with a summary of how funds have been expended and a **plan for the remaining funds to be expended. The bill would require the local agency's legislative** body to include the report on the agenda of a public meeting.

> Position Concerns

> > Concerns/Amend

<u>AB 1637</u> (Irwin D) Local government: internet websites and email addresses. Last Amend: 4/27/2023

Status: 5/1/2023-Re-referred to Com. on APPR.

Location: 4/26/2023-A. APPR.

Summary: Would, no later than January 1, 2026, require a local agency, as defined, that maintains an internet website for use by the public to ensure that the internet website utilizes a ".gov" top-level domain or a ".ca.gov" second-level domain and would require a local agency that maintains an internet website that is noncompliant with that requirement to redirect that internet website to a domain name that does utilize a ".gov" or ".ca.gov" domain. This bill, no later than January 1, 2026, would also require a local agency that maintains public email addresses to ensure that each email address provided to its employees utilizes a ".gov" domain name or a ".ca.gov" domain name. By adding to the duties of local officials, the bill would impose a statemandated local program.

#### Position Concerns/Amend

Notes: Concern/ amend letter sent to ASM Appropriations and author 5/3/23.

#### Oppose

AB 755(Papan D) Water: public entity: cost-of-service analysis.<br/>Last Amend: 3/16/2023Status: 4/24/2023-From committee: Do pass and re-refer to Com. on APPR. (Ayes 11. Noes 4.)<br/>(April 24). Re-referred to Com. on APPR.<br/>Location: 4/24/2023-A. APPR.Summary: would require a public entity, as defined, that conducts a cost-of-service analysis, as<br/>defined, to identify the incremental costs incurred by the major water users, as described, in the<br/>single-family residential class and the incremental costs that would be avoided if major water

users met a specified efficiency goal. The bill would also require the incremental costs incurred by the major water users to be made publicly available by posting the information on the public **entity's internet website. By requiring a higher level of service of public entities, the bill would** impose a state-mandated local program.

#### Position Oppose

<u>AB 838</u>

(<u>Connolly</u> D) California Water Affordability and Infrastructure Transparency Act of 2023.

Last Amend: 3/21/2023

Status: 4/19/2023-In committee: Set, first hearing. Referred to suspense file.

Location: 4/19/2023-A. APPR. SUSPENSE FILE

Summary: The California Safe Drinking Water Act requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Current law declares it to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. The act prohibits a person from operating a public water system unless the person first submits an application to the state board and receives a permit to operate the system, as specified. The act requires a public water system to submit a technical report to the state board as a part of the permit application or when otherwise required by the state board, as specified, and to submit the report in the form and format and at intervals specified by the state board. This bill would require, beginning January 1, 2025, and thereafter at intervals determined by the state board, public water systems to provide specified information and data related to customer water bills and efforts to replace aging infrastructure to the state board.

Position Oppose

#### **Oppose Unless Amended**

<u>AB 1072</u> (<u>Wicks</u> D) Water conservation and efficiency: low-income residential customers. Last Amend: 4/25/2023

Status: 4/26/2023-Re-referred to Com. on APPR.

Location: 4/24/2023-A. APPR.

Summary: Would declare the policy of the state that all residents have access to water conservation and efficiency programs. The bill would also set forth related findings including that **reaching the state's environmental justice** goals and commitments requires designing climate adaptation programs so that all households may participate.

Position Oppose Unless Amended

<u>AB 1572</u> (Friedman D) Potable water: nonfunctional turf.

Last Amend: 4/20/2023

Status: 4/24/2023-Re-referred to Com. on APPR.

Location: 4/19/2023-A. APPR.

Summary: Would make legislative findings and declarations concerning water use, including that the use of potable water to irrigate nonfunctional turf is wasteful and incompatible with state policy relating to climate change, water conservation, and reduced reliance on the Sacramento-San Joaquin Delta ecosystem. The bill would direct all appropriate state agencies to encourage and support the elimination of irrigation of nonfunctional turf with potable water.

Position Oppose Unless Amended

Notes: ACWA close watch- define nonfunctional turf and create a program within the State Board for regulation of nonfunctional turf and prohibit the use of potable water for the irrigation of nonfunctional turf.

Close Watch

<u>AB 520</u> (<u>Santiago</u> D) Employment: public entities.

Last Amend: 4/18/2023

Status: 4/27/2023-From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 26). Re-referred to Com. on APPR.

Location: 4/26/2023-A. APPR.

Summary: Current law authorizes the Labor Commissioner to investigate employee complaints and to provide for a hearing in any action to recover wages, penalties, and other demands for compensation. Under current law, any individual or business entity that contracts for services in the property services or long-term care industries is jointly and severally liable for any unpaid wages, including interest, where the individual or business entity has been provided notice, by any party, of any proceeding or investigation by the Labor Commissioner in which the employer is found liable for those unpaid wages, to the extent the amounts are for services performed under that contract, as provided, and except as specified. This bill would additionally provide that any public entity, defined as the state, a city, county, city and county, district, public authority, public agency, and any other political subdivision or public corporation in the state, is jointly and severally liable for any unpaid wages, as provided in the above paragraph. This bill would, if property services labor is performed within a building a public entity owns or leases by any individual who is not an employee of the public entity, require the public entity to allow, and include as a stipulation in a contract for property services work, work awarded on or after January 1, 2024, representatives from a recognized or certified collective bargaining agent, as specified, to have access to the workers within that building during the workers' normal workday to conduct specified training.

> Position Close Watch

<u>AB 1573</u> (<u>Friedman</u> D) Water conservation: landscape design: model ordinance. Last Amend: 3/23/2023

Status: 5/3/2023-In committee: Set, first hearing. Referred to suspense file. Location: 5/3/2023-A. APPR. SUSPENSE FILE

Summary: The Water Conservation in Landscaping Act provides for a model water efficient landscape ordinance that is adopted and updated at least every 3 years by the Department of Water Resources, unless the department makes a specified finding. Current law requires a local agency to adopt the model ordinance or to adopt a water efficient landscape ordinance that is at least as effective in conserving water as the updated model ordinance, except as specified. Current law specifies the provisions of the updated model ordinance, as provided. Current law includes a related statement of legislative findings and declarations. This bill would require the updated model ordinance to include provisions that require that plants included in a landscape design plan be selected based on their adaptability to climatic, geological, and topographical conditions of the project site, as specified. The bill would also exempt landscaping that is part of ecological restoration projects that do not require a permanent irrigation system, mined-land reclamation projects that do not require a permanent irrigation system, and existing plant collections, as part of botanical gardens and arboretums open to the public, from the model ordinance.

Position

#### Close Watch

Notes: ACWA concerns- AB 1573 instead only defines nonfunctional turf.

Two Year Bill

Status: 2/3/2023-From printer. May be heard in committee March 5. Location: 2/2/2023-A. PRINT

Summary: Current law regulates the construction and operation of dams and exempts certain structures for these purposes. Current law requires the owner of such exempt structures to employ a registered civil engineer to supervise the structure, as prescribed. This bill would make nonsubstantive changes to the above provision.

#### Position Two Year Bill

<u>AB 967</u> (Flora R) California Safe Drinking Water Act: definitions.

Status: 2/15/2023-From printer. May be heard in committee March 17. Location: 2/14/2023-A. PRINT

Summary: The California Safe Drinking Water Act requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. The act defines various terms for its purposes. This bill would make nonsubstantive changes to those definitions.

#### Position

Two Year Bill

AB 1196 (Villapudua D) Water Quality, Supply, and Infrastructure Improvement Act of 2014. Status: 2/17/2023-From printer. May be heard in committee March 19.

Location: 2/16/2023-A. PRINT

Summary: The Water Quality, Supply, and Infrastructure Improvement Act of 2014, a bond act approved by the voters as Proposition 1 at the November 4, 2014, statewide general election, authorizes the issuance of general obligation bonds to finance a water quality, supply, and infrastructure improvement program, as specified. Under the bond act, \$520,000,000 is available, upon appropriation by the Legislature, for expenditures, grants, and loans for projects that improve water quality or help provide clean, safe, and reliable drinking water to all Californians. Current law requires projects eligible for this funding to help improve water quality for a beneficial use. This bill would make a nonsubstantive change to the latter provision.

Position Two Year Bill

<u>SB 737</u> (<u>Hurtado</u> D) Groundwater: recharge.

Status: 3/1/2023-Referred to Com. on RLS.

Location: 2/17/2023-S. RLS.

Summary: Would state the intent of the Legislature to enact subsequent legislation to capture floodwater to recharge groundwater basins and to require the Department of Water Resources and the State Water Resources Control Board to work together to expedite the regulatory steps necessary to store significant rainfall and excess water underground, while still ensuring protections for the environment and other water users as required by state law.

Position Two Year Bill

#### Watch

<u>AB 62</u> (<u>Mathis</u> R) Statewide water storage: expansion.

Last Amend: 4/20/2023

Status: 4/24/2023-Re-referred to Com. on APPR. Location: 4/19/2023-A. APPR.

Summary: Current law establishes within the Natural Resources Agency the State Water Resources Control Board and the California regional water quality control boards. Current law requires the work of the state board to be divided into at least 2 divisions, known as the Division of Water Rights and the Division of Water Quality. This bill would establish a statewide goal to increase above- and below-ground water storage capacity by a total of 3,700,000 acre-feet by the year 2030 and a total of 4,000,000 acre-feet by the year 2040. The bill would require the Department of Water Resources, in consultation with the state board, to take reasonable actions to promote or assist efforts to achieve the statewide goal, as provided. The bill would require the department, beginning July 1, 2027, and on or before July 1 every 2 years thereafter until January 1, 2043, in consultation with the state board, to prepare and submit a report to the Legislature on the progress made to achieve the statewide goal.

Position Watch

<u>AB 66</u> (<u>Mathis</u> R) Natural Resources Agency: water storage projects: permit approval. Last Amend: 3/29/2023

Status: 4/19/2023-In committee: Set, first hearing. Referred to suspense file.

Location: 4/19/2023-A. APPR. SUSPENSE FILE

Summary: Current law establishes the Natural Resources Agency, composed of departments, boards, conservancies, and commissions responsible for the restoration, protection, and **management of the state's natural and** cultural resources. Current law establishes in the agency the Department of Water Resources, which manages and undertakes planning with regard to water resources in the state. This bill would require the agency, and each department, board, conservancy, and commission within the agency, to take all reasonable steps to approve the necessary permits for specified projects that meet certain employment conditions within 180 days from receiving a complete permit application.

Position Watch

<u>AB 305</u> (Villapudua D) California Flood Protection Bond Act of 2024.

Last Amend: 4/25/2023

Status: 4/26/2023-Re-referred to Com. on APPR.

Location: 4/24/2023-A. APPR.

Summary: Would enact the California Flood Protection Bond Act of 2024 which, if approved by the voters, would authorize the issuance of bonds in the amount of \$4,500,000,000 pursuant to the State General Obligation Bond Law for flood protection projects, as specified. The bill would provide for the submission of these provisions to the voters at the November 5, 2024, statewide general election.

Position Watch

<u>AB 345</u> (<u>Wilson</u> D) Habitat restoration: flood control: advance payments.

Last Amend: 3/20/2023

Status: 5/3/2023-In committee: Set, first hearing. Referred to suspense file. Location: 5/3/2023-A. APPR. SUSPENSE FILE

Summary: Current law authorizes the Department of Water Resources to make examinations of lands subject to inundation and overflow by floodwaters and of the waters causing the inundation or overflow and to make plans and estimates of the cost of works to regulate and control the floodwaters. Current law also vests in the department charge of all expenditures unless otherwise provided by law for all public works relating to general river and harbor improvements, including reclamation and drainage of lands. Current law authorizes the department to cooperate and contract with any agency of the state or of the United States in order to carry out its powers and purposes. Current law establishes the Central Valley Flood Protection Board and authorizes the board to engage in various flood control activities along the Sacramento River, the San Joaquin River, their tributaries, and related areas. This bill would authorize the department or the board to provide advance payments, as defined, to local agencies for projects that restore habitat for threatened and endangered species under state or federal law or improve flood protection, as provided. The bill would prohibit the amount of funds advanced by the department or the board to the local agency at any one time from exceeding 25% of the entire amount authorized to be provided under the funding agreement.

Position

Watch

<u>AB 460</u> (<u>Bauer-Kahan</u> D) State Water Resources Control Board: water rights and usage: interim relief: procedures. Last Amend: 4/26/2023

Status: 4/27/2023-Re-referred to Com. on APPR. Location: 4/25/2023-A. APPR.

Summary: Current law authorizes the State Water Resources Control Board to investigate all streams, stream systems, lakes, or other bodies of water, take testimony relating to the rights to water or the use of water, and ascertain whether water filed upon or attempted to be appropriated is appropriated under the laws of the state. Current law requires the board to take appropriate actions to prevent waste or the unreasonable use of water. This bill would authorize the board, in conducting specified investigations or proceedings to inspect the property or facilities of a person or entity, as specified. The bill would authorize the board, if consent is denied for an inspection, to obtain an inspection warrant, as specified, or in the event of an emergency affecting public health and safety, to conduct an inspection without consent or a warrant.

> Position Watch

AB 541 (Wood D) California Safe Drinking Water Act: wildfire aftermath: benzene testing. Status: 4/27/2023-Read third time. Passed. Ordered to the Senate. In Senate. Read first time. To Com. on RLS. for assignment.

Location: 4/27/2023-S. RLS.

Summary: Would direct the State Water Resources Control Board, on or after January 1, 2024, to require a public water system, water corporation, or water district that has experienced a major wildfire event within their service territory to test their water source for the presence of benzene immediately following that major wildfire event.

> Position Watch

AB 560 (Bennett D) Sustainable Groundwater Management Act: groundwater adjudication. Last Amend: 4/12/2023

> Status: 5/3/2023-In committee: Set, first hearing. Referred to suspense file. Location: 5/3/2023-A. APPR. SUSPENSE FILE

Summary: Current law prohibits a court from approving entry of judgment in certain adjudication actions for a basin required to have a groundwater sustainability plan under the Sustainable Groundwater Management Act, unless the court finds that the judgment would not substantially impair the ability of a groundwater sustainability agency, the State Water Resources Control Board, or the Department of Water Resources to comply with the act and to achieve sustainable groundwater management. This bill would require the court to refer the proposed judgment to the board for a nonbinding advisory determination as to whether the proposed judgment will substantially impair the ability of a groundwater sustainability agency, the board, or the department to achieve sustainable groundwater management, as provided. The bill would require the board to consult with the department before making its determination.

> Position Watch

AB 590

(Hart D) State-funded assistance grants and contracts: advance payments.

Status: 4/19/2023-In committee: Set, first hearing. Referred to suspense file.

Location: 4/19/2023-A. APPR. SUSPENSE FILE

Summary: Would declare the intent of the Legislature to improve and expand the state's existing advance payment practices for state grants and contracts with nonprofits. The bill would authorize an administering state agency to advance a payment to a recipient entity, defined to mean a private, nonprofit organization gualified under federal law, subject to meeting specified requirements. The bill would require the administering state agency to prioritize recipient entities and projects serving disadvantaged, low-income, and under-resourced communities, and to ensure an advance payment to the recipient entity does not exceed 25% of the total grant or contract amount. The bill would require the recipient entity to satisfy certain minimum requirements, including providing an itemized budget and submitting documentation, as required by the administering state agency, to support the need for advance payment.

> Position Watch

AB 648 (Valencia D) Common interest developments: procedures: meetings by teleconference. Last Amend: 4/20/2023

Status: 4/24/2023-Read second time. Ordered to third reading. Location: 4/24/2023-A. THIRD READING

Calendar: 5/4/2023 #72 ASSEMBLY THIRD READING FILE - ASSEMBLY BILLS Summary: Current law, the Davis-Stirling Common Interest Development Act, governs the management and operation of common interest developments. Current law defines a board meeting as a congregation or a teleconference, as provided. Current law requires, among other things, a board meeting held by teleconference to identify at least one physical location so that members of the association may attend, except as provided. Current law also establishes alternative teleconferencing procedures for a board meeting or a meeting of the members if gathering in person is unsafe or impossible because the common interest development is in an area affected by a federal, state, or local emergency. This bill would authorize a board meeting or a meeting of the members to be conducted entirely by teleconference if specified conditions are satisfied.

> Position Watch

AB 664 (Lee D) California Safe Drinking Water Act: domestic wells.

Status: 5/3/2023-Referred to Com. on E.Q.

Location: 5/3/2023-S. E.Q.

Summary: Current law authorizes the State Water Resources Control Board to order consolidation where a disadvantaged community, in whole or in part, is substantially reliant on domestic wells that consistently fail to provide an adequate supply of safe drinking water, or are at-risk domestic wells. Current law provides that any domestic well owner within the consolidation or extended service area that does not provide written consent shall be ineligible, until the consent is provided, for any future water-related grant funding from the state other than funding to mitigate a well failure, disaster, or other emergency. Current law makes it a crime to knowingly commit several acts related to safe drinking water, including violating an order issued by the board pursuant to the act that has a substantial probability of presenting an imminent danger to the health of persons. This bill would require any domestic well owner within the consolidation or extended service area that does not provide written consent to ensure that tenants of rental properties served solely by that domestic well have access to safe drinking water until consent is provided.

#### Position Watch

AB 676 (Bennett D) Water: general state policy.

Last Amend: 3/13/2023

Status: 5/3/2023-From committee: Amend, and do pass as amended. (Ayes 10. Noes 4.) (May 2).

Location: 2/23/2023-A. W., P. & W.

Calendar: 5/4/2023 #43 ASSEMBLY SECOND READING FILE -- ASSEMBLY BILLS

Summary: Current law establishes various state water policies, including the policy that the use of water for domestic purposes is the highest use of water and that the next highest use is for irrigation. This bill would provide specific examples of the use of water for domestic purposes, including, but not limited to, sustenance of human beings and household conveniences. The bill would provide that all water rights remain subject to specified laws.

#### Position Watch

### AB 682 (Mathis R) State Water Resources Control Board: online search tool: funding applications.

Last Amend: 3/20/2023

Status: 4/27/2023-Read third time. Passed. Ordered to the Senate. In Senate. Read first time. To Com. on RLS. for assignment.

Location: 4/27/2023-S. RLS.

Summary: Current law establishes the State Water Resources Control Board (state board) to exercise the adjudicatory and regulatory functions of the state in the field of water resources. Current law establishes the Safe and Affordable Drinking Water Fund in the State Treasury to help water systems provide an adequate and affordable supply of safe drinking water in both the near and long terms. This bill would require, by January 1, 2025, the state board to update the state **board's online search tool for funding applications to include a description of the additional** 

information the state board needs from a water system to continue processing the water system's application and a description of the typical steps that must be completed before a funding agreement can be executed after receipt of a complete application, among other information, as specified.

#### Position Watch

<u>AB 753</u> (<u>Papan</u> D) State Water Pollution Cleanup and Abatement Account: annual proceed transfers.

Status: 4/19/2023-In committee: Set, first hearing. Referred to suspense file. Location: 4/19/2023-A. APPR. SUSPENSE FILE

Summary: Would create within the Waste Discharge Permit Fund the Waterway Recovery Account, and would annually transfer from the State Water Pollution Cleanup and Abatement Account, excluding administratively imposed civil liabilities that include a supplemental environmental project in connection with a monetary penalty, 50% of the annual proceeds to the Waterway Recovery Account. The bill would provide that moneys in the account created by the bill are continuously appropriated to the state board without regard to fiscal years to expend for the following purposes: for restoration projects that improve water quality standards, as specified; for the Clean Water Team Citizen Monitoring Program, to increase water quality monitoring; and to create and fund a community capacity program to increase disadvantaged and tribal community participation in state board and regional board outreach and regulatory processes, as specified.

> Position Watch

<u>AB 754</u> (Papan D) Water management planning: automatic conservation plan.

Last Amend: 4/25/2023

Status: 4/26/2023-Re-referred to Com. on APPR.

Location: 4/24/2023-A. APPR.

Summary: The Urban Water Management Planning Act requires every public and private urban water supplier that directly or indirectly provides water for municipal purposes to prepare and adopt an urban water management plan. This bill would require an urban water management plan, if a reservoir is identified as an existing or planned source of water available to the supplier, to include specified information related to water storage and conservation, including, among other things, a target water supply storage curve, calculated based on target carryover levels of water sufficient to satisfy water users and streamflow requirements, as specified, and an automatic conservation plan that would be implemented when the reservoir storage level falls below the target water supply storage curve. The bill would require the automatic conservation plan to contain specified information related to water storage, including, among other things, reservoir storage levels relative to a target water supply storage curve that will trigger shortage response actions.

Position Watch

#### AB 779 (Wilson D) Groundwater: adjudication.

Status: 5/3/2023-In committee: Set, first hearing. Referred to suspense file. Location: 5/3/2023-A. APPR. SUSPENSE FILE

Summary: Would require the court to invite a representative from the department or the State Water Resources Control Board to provide technical assistance or expert testimony on the amount of water in the basin subject to adjudication, equitable and sustainable pumping allocations for the basin, and sustainable groundwater management best practices and recommendations. The bill would require the court to take into account the needs of small farmers and disadvantaged communities, as those terms are defined, when entering a judgment. This bill contains other related provisions and other existing laws.

Position Watch

AB 805(ArambulaD)Drinking water consolidation: sewer service.Last Amend: 3/9/2023Status: 4/19/2023-In committee: Set, first hearing. Referred to suspense file.Location: 4/19/2023-A. APPR. SUSPENSE FILE

Summary: Would authorize the State Water Resources Control Board, if sufficient funds are available, to order consolidation of sewer service along with an order of consolidation of drinking water systems when both of the receiving and subsumed water systems provide sewer service and after the state board engages in certain activities, including, but not limited to, consulting with the relevant regional water board and the receiving water system and conducting outreach to ratepayers and residents served by the receiving and subsumed water systems, as provided.

#### Position Watch

<u>AB 830</u> (Soria D) Lake and streambed alteration agreements: exemptions.

Last Amend: 4/20/2023

Status: 4/24/2023-Re-referred to Com. on APPR.

Location: 4/19/2023-A. APPR.

Summary: Current law prohibits a person, a state or local governmental agency, or a public utility from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of, any river, stream, or lake, or depositing or disposing of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless prescribed requirements are met, including written notification to the Department of Fish and Wildlife regarding the activity. Current law requires the department to determine whether the activity may substantially adversely affect an existing fish and wildlife resource and, if so, to provide a draft lake or streambed alteration agreement to the person, agency, or utility. Current law prescribes various requirements for lake and streambed alteration agreements. Current law also establishes various exemptions from these provisions, including exemptions for specified emergency work. This bill would additionally exempt from these provisions the temporary operation of existing infrastructure or temporary pumps being used to divert flood stage and monitor stage flows, as identified by the California Nevada River Forecast Center or the State Water Resources Control Board, to beneficial groundwater recharge as long as certain conditions are met.

Position Watch

<u>AB 900</u>

(Bennett D) Aquifer recharge.

Last Amend: 4/12/2023

Status: 5/3/2023-In committee: Hearing postponed by committee.

Location: 4/19/2023-A. APPR.

Summary: Current law requires the Natural Resources Agency to update every 3 years the **state's climate adaptation strategy, known as the Safeguarding California Plan, and to coordinate** with other state agencies to identify vulnerabilities to climate change by sectors and priority actions needed to reduce the risks in those sectors. Current law requires, to address the vulnerabilities identified in the plan, state agencies to maximize specified objectives, including promoting the use of the plan to inform planning decisions and ensure that state investments consider climate change impacts, as well as promote the use of natural systems and natural infrastructure, when developing physical infrastructure to address adaptation. This bill would add aquifers as part of the meaning of natural infrastructure.

#### Position Watch

AB 939 (Pellerin D) Santa Clara Valley Water District.

Last Amend: 4/13/2023

Status: 5/3/2023-From committee: Do pass. (Ayes 8. Noes 0.) (May 3). Location: 3/2/2023-A. L. GOV.

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Calendar: 5/4/2023 #47 ASSEMBLY SECOND READING FILE -- ASSEMBLY BILLS

Summary: The Santa Clara Valley Water District Act creates the Santa Clara Valley Water District and authorizes the district to levy ad valorem taxes or assessments in the district to pay the **general administrative costs and expenses of the district, to carry out the act's objects or** purposes, and to pay the costs and expenses of constructing or extending works within the district. The act additionally authorizes the district to levy taxes or assessments upon all property or all real property within a portion of the district for specified purposes. The act authorizes the district to issue bonds for specified purposes, and requires that the bonds be paid by revenue derived from those tax levies and assessments, except the ad valorem taxes or assessments. This bill would additionally authorize the district to use the revenues from the ad valorem taxes or assessments to pay for the bonds.

Position Watch

<u>AB 1024</u> (<u>Aquiar-Curry</u> D) Water rights: small irrigation use: lake or streambed alteration agreements.

Last Amend: 3/2/2023

Status: 5/3/2023-In committee: Hearing postponed by committee.

Location: 4/19/2023-A. APPR.

Summary: The Water Rights Permitting Reform Act of 1988 requires the registration of water use to be made upon a form prescribed by the State Water Resources Control Board that requires, among other things, a certification that the registrant has contacted a representative of the Department of Fish and Wildlife and has agreed to comply with conditions set forth by the department. The act requires the board to establish reasonable general conditions to which all appropriations made pursuant to the act are required to be subject, including, among other things, that all conditions lawfully required by the department are conditions upon the appropriations. The act provides that the board is not required to adopt general conditions for small irrigation use until the board determines that funds are available for that purpose, and that a registration for small irrigation use pursuant to the act is not authorized until the board establishes general conditions for small irrigation use to protect instream beneficial uses, as specified. This bill would require the board to give priority to adopting, on or before June 30, 2027, except as provided, general conditions that permit a registrant to store water for small irrigation use during times of high streamflow in exchange for the registrant reducing diversions during periods of low streamflow, as specified. The bill would require that the actions of the board under these provisions be deemed an action taken for the protection of the environment for purposes of specified California Environmental Quality Act guidelines, if those actions do not result in the relaxation of streamflow standards.

> Position Watch

<u>AB 1205</u> (<u>Bauer-Kahan</u> D) Water rights: sale, transfer, or lease: agricultural lands.

Last Amend: 3/23/2023

Status: 5/2/2023-VOTE: Do pass as amended. (PASS)

Location: 3/23/2023-A. W., P. & W.

Summary: Would declare that the sale, transfer, or lease of an interest in any water right for profit, on or below agricultural lands within the state by an investment fund, shall not be considered a reasonable or beneficial use of water.

Position Watch

AB 1211 (Mathis R) Safe Drinking Water State Revolving Fund: internet website information: updates.

Status: 4/27/2023-Read third time. Passed. Ordered to the Senate. In Senate. Read first time. To Com. on RLS. for assignment.

Location: 4/27/2023-S. RLS.

Summary: The Safe Drinking Water State Revolving Fund Law of 1997, administered by the State Water Resources Control Board, establishes the Safe Drinking Water State Revolving Fund to provide grants or revolving fund loans for the design and construction of projects for public water systems that will enable those systems to meet safe drinking water standards. Current law requires the board, at least once every 2 years, to post information on its internet website regarding implementation of the Safe Drinking Water State Revolving Fund Law and expenditures from the Safe Drinking Water State Revolving Fund, as specified This bill would require the board to post the information at least annually.

Position Watch

<u>AB 1216</u> (<u>Muratsuchi</u> D) Wastewater treatment plants: monitoring of air pollutants. Last Amend: 4/26/2023 Status: 4/27/2023-Re-referred to Com. on APPR. Location: 4/25/2023-A. APPR.

Summary: Would require, on or before January 1, 2025, the owner or operator of a wastewater treatment facility that is located within 1,500 feet of a residential area and has an original design capacity of 425,000,000 gallons or more per day to develop, install, operate, and maintain a wastewater treatment-related fence-line monitoring system in accordance with guidance developed by the appropriate air quality management district. The bill would require the wastewater treatment-related fence-line monitoring system to include equipment capable of measuring pollutants of concern, including hydrogen sulfide, nitrogen oxides, and volatile organic compounds emitted to the atmosphere from wastewater treatment or reclamation processes that the appropriate district deems appropriate for monitoring. The bill would also require the owner or operator of a wastewater treatment facility to collect real-time data from the wastewater treatment-related fence-line monitoring system, to maintain records of that data, and to transmit **the data to the appropriate air quality management district in accordance with the district's** guidance. In addition, the bill would require, to the extent feasible, the data generated by these systems to be provided to the public as quickly as possible in a publicly accessible format.

Position Watch

AB 1272 (Wood D) State Water Resources Control Board: drought planning.

Status: 5/3/2023-In committee: Set, first hearing. Referred to suspense file.

Location: 5/3/2023-A. APPR. SUSPENSE FILE

Summary: Would require the State Water Resources Control Board to establish a program, in consultation with the Department of Fish and Wildlife, to adopt principles and guidelines for diversion and use of water in coastal watersheds, as specified, during times of water shortage for drought preparedness and climate resiliency. The bill would require that the principles and guidelines provide for the development of watershed-level plans to support public trust uses, public health and safety, and the human right to water in times of water shortage, among other things. The bill also would require the state board, prior to adopting those principles and guidelines, to allow for public comment and hearing, as provided.

#### Position Watch

<u>AB 1337</u> (<u>Wicks</u> D) State Water Resources Control Board: water diversion curtailment. Last Amend: 4/20/2023

Status: 4/24/2023-Re-referred to Com. on JUD. Re-referred to Com. on APPR. pursuant to Assembly Rule 96.

Location: 4/24/2023-A. APPR.

Summary: Under current law, the diversion or use of water other than as authorized by specified provisions of law is a trespass, subject to specified civil liability. This bill would expand the instances when the diversion or use of water is considered a trespass.

Position Watch

<u>AB 1567</u> (<u>Garcia</u> D) Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2024. Last Amend: 4/26/2023

Status: 4/27/2023-Re-referred to Com. on APPR.

Location: 4/25/2023-A. APPR.

Summary: Would enact the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2024, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$15,105,000,000 pursuant to the State General Obligation Bond Law to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat mitigation, and workforce development programs.

Position Watch

<u>AB 1597</u> (<u>Alvarez</u> D) Water quality: California-Mexico cross-border rivers. Status: 4/25/2023-From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 11. Noes 0.) (April 25). Re-referred to Com. on APPR.
#### Location: 4/25/2023-A. APPR.

Summary: Current law establishes the California Border Environmental and Public Health Protection Fund in the State Treasury to receive funds appropriated in the annual Budget Act, including, but not limited to, proceeds of bonds sold as specified, and other sources, such as from the North American Development Bank (NADBank), and makes money in the fund available, upon appropriation, to the California-Mexico Border Relations Council, a state entity. Money in the fund is used to assist local governments in implementation of projects to identify and resolve environmental and public health problems that directly threaten the health or environmental quality of California residents or sensitive natural resources of the California border region, among other purposes. This bill would make \$50,000,000 available from the General Fund, upon appropriation by the Legislature in the annual Budget Act or another statute, to the NADBank for loans, grants, and direct expenditures to address water quality problems arising in the California-Mexico cross-border rivers. The bill would require the funding to be available for specified purposes, as provided, including water quality projects for the Tijuana River, and would make 10% of the funding available for the administrative costs of implementing these provisions.

#### Position Watch

<u>AB 1631</u> (<u>Schiavo</u> D) Water resources: permit to appropriate: application procedure: mining use.

Status: 5/3/2023-In committee: Hearing postponed by committee.

Location: 4/19/2023-A. APPR.

Summary: Under existing law, the State Water Resources Control Board administers a water rights program pursuant to which the board grants permits and licenses to appropriate water. Existing law requires an application for a permit to appropriate water to include, among other things, sufficient information to demonstrate a reasonable likelihood that unappropriated water is available for the proposed appropriation. Existing law requires the board to issue and deliver a notice of an application as soon as practicable after the receipt of an application for a permit to appropriate water that conforms to the law. Existing law allows interested persons to file a written protest with regard to an application. Existing law declares that no hearing is necessary to issue a permit in connection with an unprotested application, or if the undisputed facts support the issuance of the permit and there is no disputed issue of material fact, unless the board elects to hold a hearing. This bill, if the board has not rendered a final determination on an application for a permit to appropriate water for a beneficial use or uses that include mining use within 30 years from the date the application was filed, would require the board to issue a new notice and provide an opportunity for protests before rendering a final determination, with specified exceptions.

Position Watch

<u>AB 1684</u> (<u>Maienschein</u> D) Local ordinances: fines and penalties: cannabis.

Last Amend: 3/9/2023

Status: 5/3/2023-From committee: Do pass. (Ayes 8. Noes 0.) (May 3). Location: 3/9/2023-A. L. GOV.

Calendar: 5/4/2023 #50 ASSEMBLY SECOND READING FILE -- ASSEMBLY BILLS Summary: Current law authorizes the legislative body of a local agency, as defined, to make, by ordinance, any violation of an ordinance subject to an administrative fine or penalty, as specified. Current law requires the ordinance adopted by the local agency to provide for a reasonable period of time, as specified in the ordinance, for a person responsible for a continuing violation to correct or otherwise remedy the violation prior to the imposition of administrative fines or penalties, when the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues that do not create an immediate danger to health or safety. Current law authorizes the ordinance to provide for the immediate imposition of administrative fines or penalties for the violation of building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements if the violation exists as a result of, or to facilitate, the illegal cultivation of cannabis, except as specified. This bill would expand the authorization for an ordinance providing for the immediate imposition of administrative fines or penalties to include all unlicensed commercial cannabis activity, including cultivation, manufacturing, processing, distribution, or retail sale and would authorize the ordinance to declare unlicensed commercial cannabis activity a public nuisance.

Position

Watch

<u>ACA 2</u> (<u>Alanis</u> R) Public resources: Water and Wildfire Resiliency Act of 2023.

Status: 4/20/2023-Referred to Coms. on W., P., & W. and NAT. RES.

Location: 4/20/2023-A. W., P. & W.

Summary: Would establish the Water and Wildfire Resiliency Fund within the State Treasury, and would require the Treasurer to annually transfer an amount equal to 3% of all state revenues that may be appropriated as described from the General Fund to the Water and Wildfire Resiliency Fund. The measure would require the moneys in the fund to be appropriated by the Legislature and would require that 50% of the moneys in the fund be used for water projects, as specified, and that the other 50% of the moneys in the fund be used for forest maintenance and health projects, as specified.

Position Watch

<u>SB 3</u> (<u>Dodd</u> D) Discontinuation of residential water service: community water system. Last Amend: 3/9/2023

Status: 4/17/2023-April 17 hearing: Placed on APPR suspense file.

Location: 4/17/2023-S. APPR. SUSPENSE FILE

Summary: The Water Shutoff Protection Act prohibits an urban and community water system, defined as a public water system that supplies water to more than 200 service connections, from discontinuing residential service for nonpayment, as specified, and requires specified procedures before it can discontinue residential service for nonpayment. Current law defines a community water system as a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system. Current law requires an urban and community water system to have a written policy on discontinuation of residential service for nonpayment available in English, the specified languages in the Civil Code, and any other language spoken by at least 10% of the people residing in its service area. This bill would expand the scope of the Water Shutoff Protection Act by requiring that it instead apply to a community water system that supplies water to 200 service connections or fewer to comply with the act's provisions on and after August 1, 2024.

Position Watch

<u>SB 231</u> (<u>Hurtado</u> D) Water measurement.

Last Amend: 4/20/2023

Status: 5/1/2023-May 1 hearing: Placed on APPR suspense file.

Location: 5/1/2023-S. APPR. SUSPENSE FILE

Summary: Current law requires the Department of Water Resources, the State Water Resources Control Board, and the State Department of Public Health to coordinate the collection,

management, and use of agricultural and urban water measurement information provided to each agency. Current law requires the board, in collaboration with the Department of Water Resources, the California Bay-Delta Authority or its successor agency, and the State Department of Public Health, to prepare and submit a report to the Legislature by January 1, 2009, evaluating the feasibility, estimated costs, and potential means of financing a coordinated water measurement database. This bill would require the board, in collaboration with the Department of Water Resources and the Delta Stewardship Council or its successor agency, to prepare and submit an update to the report to the Legislature by January 1, 2025, evaluating the feasibility, estimated costs, and potential means of financing a coordinated water measurement database, as specified.

Position Watch

<u>SB 315</u> (<u>Hurtado</u> D) Groundwater: groundwater sustainability agencies: probationary basins. Last Amend: 4/20/2023

Status: 5/1/2023-May 1 hearing: Placed on APPR suspense file.

Location: 5/1/2023-S. APPR. SUSPENSE FILE

Summary: The Sustainable Groundwater Management Act authorizes the State Water Resources Control Board to designate specified basins as probationary basins if certain conditions are met, including, but not limited to, that the Department of Water Resources, in consultation with the board, determines that a groundwater sustainability plan is inadequate or that the groundwater sustainability program is not being implemented in a manner that will likely achieve the sustainability goal. Current law requires the board, if it designates a basin as a probationary basin pursuant to specified conditions, to identify the specific deficiencies and potential remedies. Current law authorizes the board to request the department, within 90 days of the designation, to provide technical recommendations to local agencies to remedy the deficiencies and to develop an interim plan for the probationary basin one year after the designation, as specified. This bill would require any groundwater sustainability agency that hires a third-party consulting firm to ensure that the integrity of the science being used to develop a groundwater sustainability plan is protected and the data is not sold. The bill would delete the authorizations for the board to request technical recommendations from the department. The bill would additionally place various requirements on the board in working with a groundwater sustainability agency, including, among other things, requiring the board to provide clear benchmarks and guidance for groundwater sustainability agencies to improve their groundwater management plans.

Position

Watch

<u>SB 361</u> (<u>Dodd</u> D) Water resources: stream gages.

Last Amend: 3/29/2023

Status: 4/17/2023-April 17 hearing: Placed on APPR suspense file.

Location: 4/17/2023-S. APPR. SUSPENSE FILE

Summary: Current law requires the Department of Water Resources and the State Water Resources Control Board, in consultation with the Department of Fish and Wildlife, the Department of Conservation, the Central Valley Flood Protection Board, interested stakeholders, and, to the extent they wish to consult, local agencies, to develop the plan to address significant gaps in information necessary for water management and the conservation of freshwater species. This bill would require the Department of Water Resources and the board, upon appropriation of funds by the Legislature, to reactivate, upgrade, and install new stream gages, as provided. The bill would require the department and board to use the recommendations and data provided in the California Stream Gaging Prioritization Plan 2022 to complete specified actions by 2030. The bill would require the department to report to the Legislature, on or before January 1, 2026, and every 2 years thereafter, on progress made in completing those specified actions. The bill would require the data from all stream gages operating with any public money to be published as provisional data within 10 days of collection and made publicly available on the state's open water data platforms. The bill would require the department and board to develop and adopt a set of standards and processes for assessing, tracking, and reporting the accuracy of stream gages, evapotranspiration data, water meters, and other critical data inputs for water management, as provided. The bill would require the department and the board to consult with interested stakeholders to develop a plan to identify the gaps in the network of automated weather stations and eddy covariance towers to ensure accurate and comprehensive data collection.

> Position Watch

 (Allen D) State Water Resources Control Board: determination of water right. Last Amend: 4/27/2023
Status: 5/2/2023-Set for hearing May 8. Location: 4/25/2023-S. APPR.
Calendar: 5/8/2023 10 a.m. - 1021 O Street, Room 2200 SENATE APPROPRIATIONS, PORTANTINO, ANTHONY, Chair
Summary: Would, upon specified findings, authorize the State Water Resources Control Board to investigate the diversion and use of water from a stream system to determine whether the diversion and use are based upon appropriation, riparian right, or other basis of right, as specified.

> Position Watch

<u>SB 537</u> (Becker D) Open meetings: multijurisdictional, cross-county agencies: teleconferences.
Last Amend: 4/24/2023
Status: 5/3/2023-From committee: Do pass. (Ayes 9. Noes 2.) (May 2).
Location: 4/19/2023-S. JUD.
Calendar: 5/4/2023 #3 SENATE SENATE BILLS - SECOND READING FILE

Summary: Current law, under the Ralph M. Brown Act, requires that, during a teleconference, at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. Current law, until January 1, 2024, authorizes the legislative body of a local agency to use alternate teleconferencing provisions during a proclaimed state of emergency or in other situations related to public health that exempt a legislative body from the general requirements (emergency provisions) and impose different requirements for notice, agenda, and public participation, as prescribed. The emergency provisions specify that they do not require a legislative body to provide a physical location from which the public may attend or comment. Current law, until January 1, 2026, authorizes the legislative body of a local agency to use alternative teleconferencing in certain circumstances related to the particular member if at least a quorum of its members participate from a singular physical location that is open to the public and situated within the agency's jurisdiction and other requirements are met, including restrictions on remote participation by a member of the legislative body. These circumstances include if a member shows "just cause," including for a childcare or caregiving need of a relative that requires the member to participate remotely. This bill would expand the circumstances of "just cause" to apply to the situation in which an immunocompromised child, parent, grandparent, or other specified relative requires the member to participate remotely.

Position

Watch

<u>SB 550</u> (<u>Grove</u> R) Water markets.

Last Amend: 3/20/2023

Status: 4/10/2023-April 10 hearing: Placed on APPR suspense file.

Location: 4/10/2023-S. APPR. SUSPENSE FILE

Summary: Would require, on or before January 1, 2025, the Legislative Analyst, in collaboration with the Department of Water Resources, the State Water Resources Control Board, and other state agencies, as described, to prepare and submit to the Legislature a report analyzing the water market, including background information regarding the sale of water and water rights, trends in the water market, barriers to entering the water market or effectively trading in the market, and proposals for improving the regulatory framework to make the water market more market friendly and to encourage growth.

Position Watch

<u>SB 597</u> (<u>Glazer</u> D) Building standards: rainwater catchment systems.

Last Amend: 3/21/2023

Status: 5/1/2023-May 1 hearing: Placed on APPR suspense file.

Location: 5/1/2023-S. APPR. SUSPENSE FILE

Summary: The California Building Standards Law requires a state agency that adopts or proposes adoption of a building standard to submit the building standard to the California Building Standards Commission for approval and adoption. Current law makes the commission responsible for the publication of an updated edition of the California Building Standards Code every 3 years. Current law requires the Department of Housing and Community Development to propose to the commission the adoption, amendment, or repeal of building standards for, among other things, the installation of recycled water systems for newly constructed single-family residential and multifamily residential buildings, as specified. This bill would require the department to conduct research, as specified, to assist in the development of mandatory building standards for the installation of rainwater catchment systems in newly constructed residential dwellings. The bill would require the department to submit those mandatory building standards to the commission for adoption and for consideration during the next regularly scheduled triennial code adoption cycle.

Position

Watch

<u>SB 867</u> (<u>Allen</u> D) Drought, Flood, and Water Resilience, Wildfire and Forest Resilience, Coastal Resilience, Extreme Heat Mitigation, Biodiversity and Nature-Based Climate Solutions, Climate Smart Agriculture, Park Creation and Outdoor Access, and Clean Energy Bond Act of 2024.
Last Amend: 4/19/2023

Status: 5/1/2023-Set for hearing May 8. Location: 4/27/2023-S. APPR. Calendar: 5/8/2023 10 a.m. - 1021 O Street, Room 2200 SENATE APPROPRIATIONS, PORTANTINO, ANTHONY, Chair

Summary: Would enact the Drought, Flood, and Water Resilience, Wildfire and Forest Resilience, Coastal Resilience, Extreme Heat Mitigation, Biodiversity and Nature-Based Climate Solutions, Climate Smart Agriculture, Park Creation and Outdoor Access, and Clean Energy Bond Act of 2024, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$15,500,000,000 pursuant to the State General Obligation Bond Law to finance projects for drought, flood, and water resilience, wildfire and forest resilience, coastal resilience, extreme heat mitigation, biodiversity and nature-based climate solutions, climate smart agriculture, park creation and outdoor access, and clean energy programs.

Position

Watch

Total Measures: 56 Total Tracking Forms: 56

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

TWELVE MONTH CALENDAR / OTHER MEETINGS /

**REPORTS / BOARD COMMENTS** 

Any report will be oral at the time of the Board meeting. Please refer to the TWELVE MONTH Calendar (attached) for meetings attended.

#### TWELVE MONTH CALENDAR OF EVENTS (AS OF 5/9/23)

			Member(s)	etc.)
APRIL 2023				
20-Apr Conference Call with the General Manager			Watt	
22-Apr Creek to Bay Clean Up	9:00 AM - 12:00 PM	Elfin Forest Recreational Reserve	Hahn, Meyers	
26-Apr Document Signing and Board Meeting Debrief	11:00 AM		Guerin	
27-Apr Encinitas State of the City	5:30-8:00 PM	Encinitas Community Center	Meyers, Watt	
<u>MAY 2023</u>				
4-May Conference Call with the General Maanger RE: Detachm	ent and SDCWA		Meyers	
4-May Debrief with the General Manager RE: Council Member	Ehlers Meeting		Watt	
6-May EFRR Volunteer Appreciation BBQ	2:00 - 4:00 PM		Hahn, Meyers	
8-May Finance Committee Meeting	9:00 AM	Boardroom	Meyers, Watt	
May 8-9 ACWA JPIA Meeting		Monterey, CA	San Antonio	
May 9-11 ACWA Spring Conference		Monterey, CA	Guerin	
11-May SDNEDC Economic Summit	7:00 -10:00 AM	CSUSM		
11-May APWA Awards Luncheon		Hilton Mission Valley	Watt	

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

CORRESPONDENCE

Any correspondence is attached.

Board of Directors Christy Guerin, President Matthew R. Hahn, Vice President Neal Meyers, Treasurer Lawrence A. Watt, Secretary Marco San Antonio, Director



General Manager Kimberly A. Thorner, Esq. General Counsel Alfred Smith, Esq.

April 19, 2023

The Honorable Anthony Portantino California State Senate State Capitol, Suite 7630 Sacramento, CA 95814

Re: SB 411 (Portantino) Open Meetings: Teleconferences: Bodies with Appointed Membership-SUPPORT

Dear Senator Portantino:

On behalf of Olivenhain Municipal Water District, I am writing in support of your measure Senate Bill 411. This bill ensures alternate teleconferencing provisions indefinitely to boards and advisory boards of local agencies and commissions. This measure will allow boards and commissions to continue to serve their constituents uninterrupted by extending appropriate COVID-19 pandemic provisions. OMWD provides 87,000 customers in northern San Diego County with water, wastewater, recycled water, hydroelectric, and recreational services.

Virtual public meetings (allowed by Governor Newsom's Executive Order during the Covid-19 pandemic) permitted local governments to remain operational during the pandemic via virtual teleconference. This allowed the government to remain productive and responsive to constituent needs, improved public involvement, increased the pool of individuals able to serve on governmental bodies, and protected the health and safety of civil servants and the public.

Governor Newsom's Executive Order has ended and local governments are now only able to use virtual meetings temporarily during emergencies. This has the effect of reducing public participation and reducing the pool of applicants who have the desire and ability to serve.

Virtual meetings have allowed much easier access to appointed or elected bodies of local agencies with far more members of the public participating in each meeting. This has created greater equity in the process and fostered the health of our democracy. SB 411 will ensure access to virtual teleconference meetings.



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For the reasons stated above, OMWD supports your measure SB 411. If you or your staff should need any additional details, please do not hesitate to contact me at 760-753-6466 or <a href="https://kthorner@olivenhain.com">kthorner@olivenhain.com</a>.

Regards,

Anomer

Kimberly A. Thorner General Manager

CC: Senator Toni Atkins Senator Catherine Blakespear Senator Brian Jones Senate Governance and Finance Committee, Members Colin Grinnell, Chief Consultant, Governance and Finance Committee Ryan Eisberg, Consultant, Senate Republican Caucus Ashley Walker, Nossaman, LLP (awalker@nossaman.com) Board of Directors Christy Guerin, President Matthew R. Hahn, Vice President Neal Meyers, Treasurer Lawrence A. Watt, Secretary Marco San Antonio, Director



General Manager Kimberly A. Thorner, Esq. General Counsel Alfred Smith, Esq.

April 19, 2023

The Honorable Damon Connolly California State Assembly State Capitol, Room 5240 Sacramento, CA 95814

### Re: AB 838 (Connolly) California Water Affordability and Infrastructure Transparency Act- OPPOSE

Dear Assemblymember Connolly:

On behalf of Olivenhain Municipal Water District, I am writing in opposition to your measure Assembly Bill 838. This bill would place additional requirements on public water systems by having them provide specified information and data related to the average water bill paid by customers at intervals determined by the State Water Resources Control Board. OMWD provides 87,000 customers in northern San Diego County with water, wastewater, recycled water, hydroelectric, and recreational services.

Currently, the State Water Resources Control Board requires the submittal of information from public water systems through the Electronic Annual Report. Section 116530 of the Health and Safety Code gives SWRCB broad authority to ask for data through this process for a variety of purposes that they feel are appropriate. The EAR already requires a robust amount of information, including details related to customer charges and financial data. Further, the current regulatory language already provides SWRCB the authority to ask for data related to infrastructure and affordability. Carving out specific data requirements in statute is not only redundant, but also opens the door to SWRCB having to adjust the statute every year for changes in the EAR.

The additional reporting requirements of this bill are resource-intensive and require dedicating further public water system resources for compliance. As an unintended consequence, unnecessarily increasing reporting requirements will exert upward pressure on water rates and ultimately have the opposite effect of the original intention of this bill.

Customer water bills are directly influenced by the distinct characteristics of each water system (including the source of supply(s), level of treatment required to meet and maintain regulatory requirements, elevational differences in the service area, miles of distribution per customer, and the age of the system). As such, blanket comparison of the average customer bill paid annually is not an accurate data comparison point across all water utilities in the state.





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Spending on new infrastructure in anticipation of population growth as well as expenditures on infrastructure (i.e. drinking water and wastewater treatment facilities) to comply with new regulations also is important. This legislation would not address either of the latter expenditures.

For the reasons stated above, OMWD opposes your measure AB 838. If you or your staff should need any additional details, please do not hesitate to contact me at 760-753-6466 or <a href="https://www.kthorner@olivenhain.com">kthorner@olivenhain.com</a>.

Regards,

not Succuse

Kimberly A. Thorner General Manager



Assemblymember Tasha Boerner Horvath Assemblymember Brian Maienschein Ashley Walker, Nossaman, LLP (awalker@nossaman.com) Board of Directors Christy Guerin, President Matthew R. Hahn, Vice President Neal Meyers, Treasurer Lawrence A. Watt, Secretary Marco San Antonio, Director



General Manager Kimberly A. Thorner, Esq. General Counsel Alfred Smith, Esq.

May 4, 2023

The Honorable Jesse Gabriel Chair, Assembly Committee on Privacy and Consumer Protection 1020 N Steet, Room 162 Sacramento, CA 95814

#### Re: Comment Letter – AB 1637 (Irwin) Websites: Domain Names

Dear Chair Gabriel,

On behalf of Olivenhain Municipal Water District, thank you for the opportunity to provide input on Assembly Bill 1637 (Irwin). This measure would require local agencies to secure and utilize their website through a new .gov or ca.gov domain no later than January 1, 2025. OMWD provides 87,000 customers in northern San Diego County with water, wastewater, recycled water, hydroelectric, and recreational services.

While we appreciate the intended goal of this measure and the perceived benefits that some believe utilizing a new domain may provide, we remain deeply concerned about the added costs associated with migrating to a new domain and corresponding email addresses; confusion that will be created by forcing a new website to be utilized; and the absence of any resources to better assist local agencies with this proposed migration.

To secure and register a .gov domain, an authorization letter must be submitted to the Cybersecurity and Infrastructure Security Agency (CISA). Competing domain names are not processed on a first come, first served basis, but rather by a review process to determine which agency most closely related will receive it. As a result, this process can take long periods of time with some applicants citing weeks, if not months, to have CISA process and approve a domain. CISA's registrar manages .gov domain hosts and by requiring thousands of California-based local governments (cities, counties, special districts, water authorities, parks, fire, police, sheriff, county hospitals, school districts/students, etc.) to migrate to a .gov domain, it will cause interruptions to support lines, thus creating interruptions and confusion for constituents trying to access critical information on a local government website.

Also, it should be noted that not all federal governments use the .gov domains. Some US government-related websites use non-.gov domain names, including the United States Postal Service (e.g., usps.com) and various recruiting websites for armed services (e.g., goarmy.com), as well as the United States Department of Defense and its subsidiary organizations which typically use the .mil top-level domain.

While the .gov domain is seen as more "secure" than other domains, several .gov websites have been compromised. As recently as 2019, someone impersonating the mayor of Exeter, Rhode Island successfully gained control of "exeterri.gov" domain name. Furthermore, many .gov websites have been victims of hacking and malware. BART.gov, OaklandCA.gov, USMarshals.gov, FBI.gov, and even closer to home, the California Department of Finance's website, were recently hacked and/or victims of serious ransomware attacks crippling their websites and how constituents accessed information on those websites. This bill will do nothing to improve cybersecurity for local agencies.





1966 Olivenhain Road • Encinitas, CA 92024 • 760-753-6466 • www.olivenhain.com A Public Agency Providing Water Wastewater Services Recycled Water Hydroelectricity Elfin Forest Recreational Reserve While applying for and obtaining a .gov domain has no fees, there are significant costs that an agency must budget for to recode, establish corresponding e-mail, and network login changes, single sign on/ multi-factor authentication, encryption keys, revising and redesign website/url links, updating social media and external entities. All of these costs are increased two-fold to co-exist both the previous and newly acquired domains.

Initial sampling of impacted local governments has identified considerable costs and programmatic impacts. Extrapolated to all local agencies throughout the state, cumulative costs to local agencies are likely to be hundreds of millions of dollars, which will be borne on the backs of ratepayers and taxpayers. For example, one large local government that recently went through the process of migrating to a .gov domain required 15 full-time information technology professionals and over 14 months to complete the project. This included changing all websites, web applications, emails, and active directory accounts for over 12,000 employees and contractors - a considerable endeavor and exactly what is required should AB 1637 be enacted as currently drafted. One suburban local government ran preliminary estimates that suggested that the costs for migration to .gov could range from \$750,000 to \$1 million. Another large urban local government itemized costs of about \$6.3 million and anticipates that most of the work that would be required would have to be completed by contract labor due to the large number of high-priority projects that information technology staff are currently completing. Additionally, smaller and rural local governments would also experience considerable costs and not just for matters directly related to migration .gov domains, given that information technology staff would likely have to be pulled off critical information technology infrastructure projects and life and safety projects, such as mapping wildfires via GIS, to complete the .gov migration.

Finally, local authorities and service districts provide critical information to communities every day. Requiring the change in domain names will require staff to expend effort that could take away from critical services at a time when these entities are already providing emergency services on behalf of the state and while dealing with wildfires, snowstorms, and severe flooding. Pulling staff off critical IT projects to work on a domain change could potentially put communities at risk. Especially in rural areas under the threat of wildfire, these communities are often the smallest and do not have sufficient resources to redirect staff. Unfortunately, AB 1637 proposes an aggressive compliance date of January 2025, which will cause significant confusion for vulnerable populations who have relied on using these websites for decades.

For these reasons, we propose that AB 1637 narrow its scope to permissively encourage local governments to acquire .gov domains and provide state resources to match available federal grants, as well as establish technical assistance resources for applicants seeking to utilize the .gov domain. Furthermore, we recommend that Cal OES and the California Cybersecurity Integration Center utilize a series of surveys and information requests administered through newly established working groups composed of representatives of local agencies to collect data on the cybersecurity needs around the State and to provide a report summarizing those needs to the governor and the legislature.

OMWD promotes safe, recognizable, and trustworthy online services; however, AB 1637 goes too far, too soon, and contains no resources to help local authorities comply with the unnecessary mandate. If you or your staff should need any additional details pertaining to this assessment, please do not hesitate to contact me at 760-753-6466 or kthorner@olivenhain.com.

Regards,

Horne

Kimberly A. Thorner General Manager

CC:

Assemblymember Brian Maienschein Assemblymember Tasha Boerner Horvath Ashley Walker, Nossaman, LLP (awalker@nossaman.com) California Special Districts Association Board of Directors Christy Guerin, President Matthew R. Hahn, Vice President Neal Meyers, Treasurer Lawrence A. Watt, Secretary Marco San Antonio, Director



General Manager Kimberly A. Thorner, Esq. General Counsel Alfred Smith, Esq.

April 19, 2023

The Honorable Chris Ward California State Assembly State Capitol, Room 8320 Sacramento, CA 95814

Re: AB 30 (Ward) Atmospheric Rivers: Research, Mitigation, and Climate Forecasting Program-SUPPORT

Dear Assemblymember Ward:

On behalf of Olivenhain Municipal Water District, I am writing in support of your measure Assembly Bill 30. This bill would update and expand the Atmospheric River Research and Forecast Improvement Program: Enabling climate adaptation through Forecast-Informed Reservoir Operations (FIRO) and the Hazard Resiliency Program (AR Program) within the Department of Water Resources (DWR). The AR Program will integrate FIRO into DWR water supply operations, flood, and hazard risk mitigation efforts. OMWD provides 87,000 customers in northern San Diego County with water, wastewater, recycled water, hydroelectric, and recreational services.

Atmospheric rivers produce up to 50% of the annual precipitation over parts of California and cause over 90% of insured flood losses in the state. The unpredictability of atmospheric rivers can lead to devastating outcomes that result in extreme flooding, post-wildfire debris flow, mudslides, and loss of water for agricultural, residential, and hydroelectric use.

Extreme atmospheric rivers are projected to become more frequent. Over the past 15 years, a growing body of research has identified the benefits and risks of atmospheric rivers and led to increased skill in forecasting these events. Funding from the existing AR Program has supported much of this research and innovation. Enhanced predictive capability improves public safety and the development of tools supporting water supply management, groundwater recharge, and hydroelectricity production. The deployment of innovative approaches such as FIRO will improve forecast times and help us to better understand the environmental implications of atmospheric river systems.

It is necessary to update the existing program in order to align investments in atmospheric river forecast development, support FIRO implementation, and enhance California's ability to leverage federal agency support and funding. AB 30 will update and broaden the AR Program to include research, development, and implementation of new observations, prediction models, and novel forecasting methods to continue improving atmospheric river prediction capabilities.





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For the reasons stated above, OMWD supports your measure AB 30. If you or your staff should need any additional details, please do not hesitate to contact me at 760-753-6466 or kthorner@olivenhain.com.

Regards,

Kimberly A. Thorner General Marco

**General Manager** 



Assemblymember Tasha Boerner Horvath Assemblymember Brian Maienschein Ashley Walker, Nossaman, LLP (awalker@nossaman.com) Board of Directors Christy Guerin, President Matthew R. Hahn, Vice President Neal Meyers, Treasurer Lawrence A. Watt, Secretary Marco San Antonio, Director



General Manager Kimberly A. Thorner, Esq. General Counsel Alfred Smith, Esq.

May 9, 2023

The Honorable Diane Papan California State Assembly State Capitol, Room 4220 Sacramento, CA 95814

#### Re: AB 755 (Papan) Water: cost-of-service analysis- OPPOSE

Dear Assemblymember Papan:

On behalf of Olivenhain Municipal Water District, I am writing to respectfully oppose your measure Assembly Bill 755, which would require a public entity to conduct a cost-of-service analysis to identify the incremental costs incurred by major water users and the incremental costs avoided if the major water users met the State Water Resource Control Board's Urban Water Use Efficiency Standards. OMWD provides 87,000 customers in northern San Diego County with water, wastewater, recycled water, hydroelectric, and recreational services.

Water rates reflect the overall cost-of-service incurred by a water agency to deliver water to customers, including the operation, upgrade, and maintenance of the water delivery system, treatment plants, and other water infrastructure. The process of developing water rates and fees requires a detailed independent study of the actual cost of supply and service. This approach helps ensure that rates are fair, equitable, and tied to the demand customers place on the water system. In addition, the cost of water reflects a combination of fixed costs and how much water is used, measured through water meters. OMWD performs a cost-of-service analysis every five years as part of the Proposition 218 process. A third-party independent contractor completed the analysis in 2019 for \$76,879, which in light of current inflation, will be even more costly in the current market.

The requirements in AB 755 would impose significant challenges for water agencies to determine the direct impact of major water users on a wide range of costs necessary to provide water service, including capital costs and operation and maintenance costs. The bill would also require agencies to determine the incremental costs that would be avoided if major water users met the urban water use objective. These evaluations would force agencies to incorporate hypotheticals into their cost-of-service analysis. Water agencies' cost-of-service analysis directly informs their rate-making process, and the inherent uncertainty of this analysis could expose agencies to liability.

The hypotheticals would also be based on the premise that "major water users" cause water systems to incur costs that far exceed what they are paying. AB 755 does not account for how agencies ensure that customers pay their fair share. Developing rates and fees requires a detailed independent study of the actual cost of supply and service. This approach helps ensure that rates are fair, equitable, and tied





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to the demand customers place on the water system. The cost of water is based on a combination of fixed costs and how much water is actually used. Water meters determine how much water is being used so that water rates reflect usage. The bill assumes that customers with large properties are inherently inefficient with their water usage. Water agencies, however, have the ability to address water waste through usage patterns and data in a timely fashion, and do not just assume waste based on the size of the property.

In addition, AB 755 intends to provide a mechanism of accountability for excessive water use that is already addressed through SB 814 (2016). SB 814 was also introduced in light of prolonged drought conditions, and states "Each urban retail water supplier shall establish a method to identify and discourage excessive water use." The law encourages retailers to discourage excessive water use and requires that retailers create a "rate structure that includes block tiers, water budgets, or rate surcharges over and above base rates for excessive water use by residential customers." If a customer violates this regulation, urban retail water suppliers have the authority to penalize the violation as an "infraction or administrative civil penalty." OMWD's block tier rate structure accomplishes this accountability by charging a higher rate per unit of water based on volume consumed.

For the reasons stated above, OMWD has an oppose position on AB 755. If you or your staff should need any additional details, please do not hesitate to contact me at 760-753-6466 or <a href="https://kthorner@olivenhain.com">kthorner@olivenhain.com</a>.

Regards,

imberly A. Thorner

General Manager

CC: Assemblymember Tasha Boerner Assemblymember Brian Maienschein Ashley Walker, Nossaman, LLP (awalker@nossaman.com) Board of Directors Christy Guerin, President Matthew R. Hahn, Vice President Neal Meyers, Treasurer Lawrence A. Watt, Secretary Marco San Antonio, Director



General Manager Kimberly A. Thorner, Esq. General Counsel Alfred Smith, Esq.

May 9, 2023

The Honorable Buffy Wicks California State Assembly State Capitol, Room 4240 Sacramento, CA 95814

Re: AB 1072 (Wicks) Water conservation efficiency: low-income residential customers- OPPOSE Unless Amended

Dear Assemblymember Wicks:

On behalf of Olivenhain Municipal Water District, I am writing to respectfully oppose unless amended your measure Assembly Bill 1072, which seeks to ensure local rebates are available to low-income and disadvantaged communities. OMWD provides 87,000 customers in northern San Diego County with water, wastewater, recycled water, hydroelectric, and recreational services. OMWD strongly supports access to rebates for water-efficient fixtures and landscapes for these communities but recognizes there are barriers to participation. The approach this bill takes to ensuring access to these programs, however, is not viable as it potentially violates Proposition 218 requirements and directs inappropriate state funding for these purposes.

AB 1072 authorizes technical assistance and financial incentives to be provided as part of a residential water conservation and efficiency program; however, the bill stipulates that suppliers must allocate a minimum of 40 percent of program funds to low-income households and disadvantaged communities within their service areas. Requiring a specific portion of rebate funding to be allocated to one portion of a water agency's ratepayer base will expose agencies to legal challenges. Under Proposition 218, agencies need to be very thoughtful about how they direct funding, being careful not to benefit certain portions of the population more than others.

OMWD is concerned with the additional administrative function with regard to executing the suggested partnership opportunities between agencies and community-based organizations. As written, the suggested partnership opportunities of; a) direct installation of water-saving devices, b) neighborhood shade tree planting and maintenance, and c) low or no-cost turf removal and landscape transformation will likely impose costly administrative requirements on water agencies, which will cause upward pressure on future water rates, and exacerbate problems with the water affordability this measure is intended to address.

While it is important for all households to work toward water efficiency goals, local agencies are challenged with trying to make the biggest impact possible with their limited funds. While it is important for all households to work toward water efficiency goals, promoting these goals specifically





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for low-income households can be challenging and may not always be the most efficient or costeffective way to achieve additional water savings. This is especially true when an agency can make an investment in a different type of resilience that would provide significantly greater and broader benefits to an entire region, like investment in recycled water or groundwater recharge projects.

OMWD is also concerned that AB 1072 enumerates various state funding sources that are intended to fund other priorities in the water sector that are also meritorious and that dedicating these broad funding categories for this one purpose is inappropriate.

For the reasons stated above, OMWD has an oppose unless amended position on AB 1072. If you or your staff should need any additional details, please do not hesitate to contact me at 760-753-6466 or <a href="https://kthorner@olivenhain.com">kthorner@olivenhain.com</a>.

Regards,

ly A. Home

Kimberly A. Thorner General Manager

> CC: Assembly Water Parks and Wildlife Committee, Members Pablo Garza, Chief Consultant, Assembly Water Parks and Wildlife Committee Brent Finkel, Consultant, Assembly Republican Caucus Assemblymember Tasha Boerner Assemblymember Brian Maienschein Ashley Walker, Nossaman, LLP (awalker@nossaman.com)

Board of Directors Christy Guerin, President Matthew R. Hahn, Vice President Neal Meyers, Treasurer Lawrence A. Watt, Secretary Marco San Antonio, Director



General Manager Kimberly A. Thorner, Esq. General Counsel Alfred Smith, Esq.

May 9, 2023

The Honorable Laura Friedman California State Assembly State Capitol, Room 5740 Sacramento, CA 95814

### Re: AB 1572 (Friedman) Potable water nonfunctional turf- OPPOSE Unless Amended

Dear Assemblymember Friedman:

On behalf of Olivenhain Municipal Water District, I am writing to respectfully oppose unless amended your measure Assembly Bill 1572, which would create regulatory structure around a prohibition on the use of potable water for the irrigation of nonfunctional turf on properties other than single-family homes. OMWD provides 87,000 customers in northern San Diego County with water, wastewater, recycled water, hydroelectric, and recreational services. OMWD does not oppose banning irrigation of certain nonfunctional turf with potable water, but is concerned about the current definition of nonfunctional turf, scope, and compliance structure provided for in AB 1572.

During the current drought, Governor Newsom has issued a number of executive orders, calling on state and local agencies to implement various changes for drought response. On March 28, 2022, the governor issued Executive Order N-7-22 calling on the State Water Resources Control Board to implement emergency regulations by May 25, 2022 that, among other things, prohibited the use of potable water for the irrigation of nonfunctional turf. Many municipal water districts supported these regulations while asking for specific consideration for disadvantaged communities and recognition of the importance of tree health. These emergency regulations will remain in effect until June 10, 2023, unless the SWRCB extends the effective date.

The proposed ban in AB 1572 would encompass all urban outdoor landscapes other than single-family homes. OMWD believes the exclusion of single-family homes is appropriate. Further, OMWD appreciates that the bill limits the prohibition of irrigation to potable water, which recognizes local efforts to implement recycling programs that will help mitigate some of the impacts of drought on our landscapes. However, OMWD is concerned about the inclusion of multifamily housing in the prohibition. Urban retail water suppliers do not uniformly categorize multifamily housing as either residential or as part of the commercial, industrial, and institutional sectors. Further, under the urban water use objective, which urban retail water suppliers have been working toward implementing, multifamily housing is considered residential as established in AB 1668 and SB 606. By combining multifamily housing with the commercial, industrial, and institutional sectors in this bill, different parts of the law would be treating these properties differently, leading to confusion.





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OMWD is concerned about the potential impact on disadvantaged communities if multifamily housing is included. AB 1572 prohibits irrigation of nonfunctional turf but does not require that nonfunctional turf be replaced with other climate-appropriate landscaping. Many commercial and institutional properties will have strong incentives to replace their nonfunctional turf with an alternative landscape because these are public interfacing spaces. Many multifamily residential building owners will not have such strong incentives, especially in lower-income neighborhoods. By simply eliminating the irrigation of nonfunctional turf, these disadvantaged communities will face increased tree mortality and heat island impacts with nonfunctional turf simply being left to die with no appropriate replacement.

For the reasons stated above, OMWD has an oppose unless amended position on AB 1572. If you or your staff should need any additional details, please do not hesitate to contact me at 760-753-6466 or <a href="https://kthorner@olivenhain.com">kthorner@olivenhain.com</a>.

Regards,

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Ķimberly A. Thorner General Manager

CC: Assemblymember Tasha Boerner Assemblymember Brian Maienschein Ashley Walker, Nossaman, LLP (awalker@nossaman.com)

#### **Teresa Chase**

From:	Michael Madewell < Michael. Madewell@hunterindustries.com >
Sent:	Wednesday, April 19, 2023 1:58 PM
То:	Teresa Chase
Cc:	Marybeth MacNaughton; Bronwyn Miller; Debby Dunn; Joni German
Subject:	CLCA visit today

CAUTION: EXTERNAL EMAIL. Do not click any links or open attachments unless you recognize the sender, verified their email address, and know the content is safe.

#### Teresa,

On behalf of CLCA San Diego chapter, thank you very much for hosting our group today, your facility was amazing and well received by everyone in attendance. Please forward via text to my cell phone any photos that you took to use on our CLCA social media.

Overall the contractors in attendance were able to get their questions answered about the various programs and that will go a long way in increasing their participation. Let me know if we can assist in anything in the future.

Thank You,

Sent from my iPhone

Mike Madewell Sales Manager 1-760-583-4479 Cell 1-800-733-2823 Technical Support michael.madewell@hunterindustries.com

### JOIN US WEDNESDAY, APRIL 19, FOR A TWO-PART EDUCATIONAL EVENT!



in partnership with San Diego County Water Authority And Its 24 Member Agencies

presents this unique educational opportunity!

### PART ONE Round Table Discussion with SDCWA on Their Various Incentive Programs Olivenhain Municipal Water District, 9 a.m.-10:30 a.m. 1966 Olivenhain Rd, Encinitas, CA 92024

LANDSCAPE CONTRACTORS: This is your chance to give input on existing programs and provide suggestions for making the programs better for all participants in the county!

Attend this meeting on Wednesday, April 19, to:

- Discuss the current incentive programs and give input on what parts are effective and areas for improvement. The evolution of non-functional turf programs will also be discussed.
- Get information on classes offered by the SDCWA to disseminate to your property managers and landscape committees.

Light breakfast will be provided at the start of this FREE event.

### PART TWO - LIMITED SPACE!

Tour of the David C. McCollom Water Treatment Plant, 11 a.m.-Noon 19090 Via Ambiente, Escondido CA 92029

THIS IS A SHORT DRIVE FROM THE WATER DISTRICT. It is the ultrafiltration-membrane potable water treatment plant below San Diego County Water Authority's Olivenhain Dam.

Space is limited to the first 25 who register. Be sure to add it on when registering, if interested.

Note: The tour requires some walking and stair climbing. It is recommended that you wear comfortable, closed-toe shoes, and loose clothing.

### Participation in part two is not required for participation in part one.

### **REGISTER YOUR ATTENDANCE AT WWW.CLCASANDIEGO.ORG**

To: Olivenhain Municipal Water District Board of Directors

Subject: AUTHORIZATION TO ATTEND UPCOMING MEETINGS / CONFERENCES / SEMINARS

The Board may desire to attend a meeting that requires Board approval.

To: Olivenhain Municipal Water District Board of Directors

Subject: FUTURE AGENDA ITEMS

The Board may have items to be considered at a Future Board meeting.

To: Olivenhain Municipal Water District Board of Directors

Subject: CONSIDER PUBLIC COMMENTS

There may be public comments before the Board meeting is adjourned.

To: Olivenhain Municipal Water District Board of Directors

Subject: CLOSED SESSION

It may be necessary to go into Closed Session.

To: Olivenhain Municipal Water District Board of Directors

Subject: ADJOURNMENT

We are adjourned.

fox5sandiego.com /news/local-news/recycled-water-pipeline-completed-in-north-county/

### Recycled Water Pipeline Completed in North County

Amber Coakley :: 4/16/2023 by: Amber Coakley

Posted: Apr 16, 2023 / 01:12 PM PDT

Updated: Apr 16, 2023 / 01:12 PM PDT

ENCINITIAS, Calif. — A new recycled water pipeline has been completed in North County, according to the Olivenhain Municipal Water District (OMWD).

Officials say the 1.4-mile pipeline will be used to deliver recycled water to schools, businesses and other customers along the Manchester Avenue corridor.

OMWD described the addition as a "drought-resilient water source" that will be used for irrigation.

"Every drop of recycled water used on our landscapes replaces a drop of imported drinking water," said OMWD board president Christy Guerin. "With the ongoing challenges we're facing on the Colorado River, expanding our recycled water distribution system to convert more customer irrigation systems to sustainable, local supplies is of paramount importance."

On top of that, officials say the recycled water pipeline will offset the demand of imported drinking water by more than 27 million gallons per year.

A ribbon-cutting ceremony was held at MiraCosta College in Cardiff on Tuesday to celebrate the finished project with guests in attendance including congressman Mike Levin, along with Senator Catherine Blakespear and Assemblymember Tasha Boerner Horvath.

Levin spoke on the project, stating, "Creating a water system that is not dependent on imported supplies is vital for the long-term sustainability of the region. Every project that expands the use of recycled water lessens our dependance on imported supplies and improves our resiliency to future droughts."

Senator Blakespear also gave remarks. She said, "Recycled water projects are becoming a critical tool in the fight against drought. "This project is a great example of how water agencies can work together to lessen our dependance on imported water supplies and create a more sustainable water supply portfolio."

According to OMWD, the new pipeline is part of the larger North County's Regional Recycled Water Project.

"This project further expands the reach of our local recycled water system and makes drought-proof water for irrigation available for Encinitas' schools, churches, and greenbelts," said Encinitas Mayor Tony Kranz. "And it's a great example of local agencies working together to develop cost-effective solutions for our residents."

The project was funded by California's Department of Water Resources, along with grants awarded from the US Bureau of Reclamation's Title XVI Water Reclamation and Reuse Program, according to OMWD.

### Suggest a Correction

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### Olivenhain Municipal Water District accepting WaterSmart Landscape Contest entries

**EA** encinitasadvocate.com/lifestyle/story/2023-04-21/olivenhain-municipal-water-district-accepting-watersmart-landscapecontest-entries

April 21, 2023 4:58 PM PT

Olivenhain Municipal Water District invites residents with water-efficient gardens to enter the 2023 WaterSmart Landscape Contest for a chance to win a \$250 prize. An online application is available at www.landscapecontest.com, and the submission deadline is May 12.

According to the US Environmental Protection Agency, 60 percent of household water consumption is used outdoors. Additionally, as much as 50 percent of water used for irrigation is wasted due to evaporation, wind, or runoff. Upgrading to a water-efficient landscape can be one of the most effective ways to reduce one's water use. The contest aims to inspire landscape transformations by showcasing the beauty, variety, and functionality of water-wise landscapes, according to a news release.

"Replacing traditional turf lawn with a sustainable garden can make a significant difference in your home's water use, and we offer turf removal rebates to help do that," said OMWD Board Treasurer Neal Meyers in the news release. "We hope this contest encourages customers to

take advantage of these rebates to design a low-water landscape, and consider other watersaving options like graywater and hydroponic systems."

Landscaping for water efficiency has benefits that go beyond reducing water bills. WaterSmart gardens can improve a home's curb appeal and they often require less maintenance than their water-thirsty counterparts. Additionally, many native plants are fireresistant and provide habitat for wildlife.

Contest entries will be judged on attractiveness, appropriate plant selection, functionality, and efficient irrigation methods. In addition to a \$250 prize, the 2023 winner of the WaterSmart Landscape Contest will be recognized at an OMWD Board of Directors meeting and featured in OMWD publications.

Several San Diego County water agencies are participating in this annual landscape contest. Visit www.landscapecontest.com for additional information and to view previous years' winning landscapes.

### Who's News: 4/28/23

staff :: 4/24/2023

### **CITY TAX CHANGES**

District tax changes approved by California voters in the November 2022 election went into effect this month. The tax rate changes apply only within the indicated city or county limits. The new tax rates, tax codes and expiration dates are available to view and download as a spreadsheet at cdtfa.ca.gov/taxes-and-fees/sales-use-tax-rates.htm. New rates are Solana Beach – 8.750%, Encinitas – 7.750%, Del Mar – 8.750%, Carlsbad – 7.750%, San Marcos – 7.750%, Oceanside – 8.250% and Vista – 8.250%. For questions, call (800) 400-7115 Monday through Friday, 7:30 a.m. to 5 p.m.

### **OUTSTANDING STUDENTS**

• AnnMarie Walker, a pianist and student from Oceanside, performed in the Student Solo Recital April 21 at McDaniel College in Westminster, Maryland.

• Cassidy Matwiyoff of San Diego was elected to serve on the College of Arts and Sciences Student Government Association at the University of Alabama.

### **NEW DIVISION CHIEF**

Rady Children's Hospital-San Diego, and the University of California, San Diego announced that Encinitas resident Benjamin Maxwell, MD, has been appointed as Division Chief of Child & Adolescent Psychiatry and The Una Davis Family Chair in Behavioral Health. Maxwell will oversee the clinical divisional structure and lead efforts to improve access to mental health care for children and families, especially those from underserved communities.

### **OMWD AWARDS**

Olivenhain Municipal Water District's 4S Ranch Water Reclamation Facility was awarded California Water Environment Association's statewide 2022 Plant of the Year Award. In addition to the honors as California's plant of the year, the facility received the same designation at the local level earlier this year from CWEA's San Diego Section. The award acknowledges the facility's accomplishments to increase water supply reliability by reducing imported water demand and plant operations.

### MORE WATER

April 20, the California Department of Water Resources (DWR) announced that public water agencies will now receive 100% of contracted water supplies from the State Water Project (SWP) this year. This increased

allocation is up from DWR's 75% allocation announcement in March, following the series of heavy storms from earlier in the year and DWR's prudent water management decisions.

### **GRANT EARNED**

Cal State San Marcos physics professor Justin Perron led a California State University-wide effort that has resulted in a grant of more than \$2.5 million from the U.S. Department of Energy that will help develop a workforce capable of thriving in a quantum landscape. Perron is the principal investigator for a three-year, \$2,534,399 grant titled "QIST in the CSU: Expanding Access to Quantum Information Science and Technology."

### **RECYCLE FOR ANIMALS**

Rancho Coastal Humane Society and the RCHS Thrift Shop had already been "recycling" for more than 10 years. Dogs, cats, rabbits, and pet supplies at the shelter. Clothing, furniture, appliances, jewelry, sporting goods, and more at the Thrift Shop. You can "reduce your carbon paw print" by making environmentally friendly choices for pets and by making donations or shopping at the RCHS Thrift, 120 Aberdeen Drive, Cardiff by the Sea.

### **NEW PECHANGA PRO**

Pechanga Resort Casino has partnered with professional golfer Gabriella Then to act as its Ambassador to the Ladies Professional Golf Association. The partnership serves to support Then's tour and her efforts as she promotes the sport to young girls and women everywhere.

### **GREEN LEGISLATION**

Legislation by Sen. Catherine Blakespear, D-Encinitas, to ensure cities and counties have the information they need to combat global warming and make reductions in greenhouse gas emissions passed the Senate Environmental Quality Committee on Wednesday. SB 511 would direct the California Air Resources Board (CARB) to prepare inventories of greenhouse gas (GHG) emissions for cities and counties to use in their preparation of Climate Action Plans and efforts to reduce GHG emissions in local communities.

### **NEW PALOMAR BOARD**

The Palomar Community College District Governing Board elected new officers, including Roberto Rodriguez as president of the board, Judy Patacsil as vice president and Michelle Rains as board secretary.

### **Related Articles:**

- Election 2022: Municipal Races Preview October 7, 2022
- Election 2020: North County's School Board Candidates October 23, 2020
- Election 2022: School Board Races October 13, 2022
- Election 2020: North County's City Council and County Board... October 16, 2020
- Weekly Crime Reports: Encinitas, Del Mar, Solana Beach August 15, 2022

• Weekly Crime Reports: Encinitas, Del Mar, Solana Beach March 31, 2022

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# OMWD Continues to Convert More Customer Meters to Recycled Water

& waternewsnetwork.com/omwd-continues-to-convert-more-customer-meters-to-recycled-water/

#### Ed Joyce

May 1, 2023



The Olivenhain Municipal Water District continues to reduce demand for imported drinking water by converting additional customer meters within The Lakes Above Rancho Santa Fe community to recycled water for irrigation.

The Lakes is a community in Rancho Santa Fe that will include 387 homes, large outdoor natural spaces, and several lakes, when fully developed.

#### New water meters

This phase included the installation of four new water meters that will measure an anticipated savings of over nine million gallons of imported drinking water each year. As the entire state continues to face water supply challenges, converting customers to recycled water for irrigation strengthens the local water supply portfolio, reduces treated wastewater flows to the ocean, and reduces the region's overall demand for imported water.

#### Reducing reliance on imported water

"OMWD has been proactive about converting customers to recycled water for irrigation for decades," said OMWD board director Marco San Antonio. "Every customer converted supports the goal of reducing our reliance on imported water, and this conversion is yet

another step towards fulfilling that goal."

OMWD has successfully converted four additional meters within The Lakes community to recycled water for irrigation. By converting the meters to recycled water, OMWD will save over nine million gallons of imported drinking water each year. <u>https://t.co/Jb2nPi3j0F pic.twitter.com/WG1PGKUXpn</u>

— Olivenhain MWD (@OMWD) May 1, 2023

#### 4S Ranch Water Reclamation Facility

OMWD produces up to two million gallons of recycled water everyday at its <u>4S</u> Ranch Water Reclamation Facility. Additionally, OMWD is the <u>lead agency</u> of the <u>North San Diego Water</u> <u>Reuse Coalition</u>, a group of nine North County agencies that coordinate across jurisdictional boundaries to share resources and expand the reach of the recycled water distribution system. As a result of their proactive approach, OMWD now serves up to 15 percent of its overall demand from recycled water and continues to identify additional ways to make recycled water available to eligible customers.

(Editor's Note: Olivenhain Municipal Water District is a public agency providing water, wastewater services, recycled water, hydroelectricity, and operation of Elfin Forest Recreational Reserve. Organized in 1959, OMWD currently serves approximately 87,000 customers over 48 square miles in northern San Diego County, and is one of the San Diego County Water Authority's <u>24 member agencies</u>). DAILY DIGEST, 5/2: DWR conducts May 1 snow survey; Slow-moving storm to bring month's worth of rain, unusually low temps; Killing fish to save frogs; In a changing climate, what does a "normal" year of wildfires look like?; and more ...

mavensnotebook.com/2023/05/02/daily-digest-5-2-tuesday/

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May 2, 2023



IN THIS POST ...

• On the calendar today ...

channeling stormwater via a constructed trench through a marsh area running directly along El Camino Real at the west end of the property that leads to the river. ... " <u>Read more from the Coast Newsgroup</u>.

## Olivenhain Municipal Water District continues to convert more customer meters to recycled water

"The Olivenhain Municipal Water District continues to reduce demand for imported drinking water by converting additional customer meters within The Lakes Above Rancho Santa Fe community to recycled water for irrigation. The Lakes is a community in Rancho Santa Fe that will include 387 homes, large outdoor natural spaces, and several lakes, when fully developed. This phase included the installation of four new water meters that will measure an anticipated savings of over nine million gallons of imported drinking water each year. ... "Read more from the Water News Network.

#### Pure Water: City rethinks sewage recycling, eyes Lake Murray

"With phase one of San Diego's Pure Water sewage recycling system nearly half built, city officials are making major adjustments to plans for constructing the rest of the system in order to avoid delays and potentially shrink overall costs. To cope with severe flooding at the Morena Boulevard pump station that threatens to delay the start of operations by more than a year, city officials now plan to temporarily recycle only 40 percent as much sewage so they can start on time in mid-2025. Slashing the daily capacity from 30 million gallons to 12 million gallons will allow the city to cut the Morena Boulevard pump station out of the recycling system until it can be activated in late 2026 — at least a year behind schedule. ... " Read more from the San Diego Union-Tribune.

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### Along the Colorado River ...

## As Arizona looks to desalination as a drought solution, questions mount over its feasibility for the state

"While Arizona received more rain and snow in recent months, a wet winter will not save the state from the decades-long mega-drought that is gripping the region. Water officials have worked on finding unique solutions, including desalination. Desalination has been seen by some, including Former Governor Doug Ducey, as an answer to Arizona's ongoing water crisis. "Instead of just talking about desalination – the technology that made Israel the world's water superpower – how about we pave the way to make it actually happen?" said Former Gov. Ducey, during his final State of the State Address in 2022. ... " Read more from Fox 10.

# Demonstration Garden is Inspiration for Olivenhain MWD Customers

& waternewsnetwork.com/demonstration-garden-is-inspiration-for-olivenhain-mwd-customers/

#### Gayle Falkenthal

May 5, 2023



Using water efficiently is a way of life and an important responsibility in the San Diego region. Water users have learned how to make the most of every drop and avoid wasteful or careless habits. Homeowners are replacing impractical thirsty lawns with beautiful low-wateruse landscaping.

Over the past decade, residents have adopted habits that not only save money, but also create vibrant yards, reduce energy use, protect natural resources, and reduce landscape maintenance.



Customers can visit the California-friendly demonstration garden and hydroponic gardening tower at OMWD's headquarters free any day of the year. Photo: Olivenhain Municipal Water District

The sustainable landscape demonstration garden at Olivenhain Municipal Water District's <u>headquarters</u> provides customers with examples of water-efficient landscaping techniques that can <u>save water</u> and money. Techniques include rain harvesting, and the garden features a rain barrel, a larger cistern, and a dry stream bed to capture water for later use.

Sustainable landscape demonstration gardens can help inspire homeowners to create and maintain their own beautiful, low-water-use landscapes at home. Since half of the water used in California's urban areas goes toward landscape <u>irrigation</u>, any reduction contributes to successful <u>conservation</u> efforts.

#### New hydroponic gardening system



A hydroponic growing system called a Tower Garden is the newest addition to the Olivenhain Municipal Water District's demonstration garden. Photo: Olivenhain Municipal Water District

OMWD has added a hydroponic gardening unit to its demonstration garden. It was provided through a donation by <u>Tower Garden</u>. The Tower Garden unit displays a water-efficient form of growing produce in a compact and vertical system. It is of particular interest to people who are looking for more water-wise methods of growing produce than traditional growing practices.

"OMWD encourages ratepayers to continue to make conservation a way of life and explore the many innovative and water-use efficient products that are available on the market," said OMWD Board Treasurer Neal Meyers. "A great place to start is outdoors. We hope customers take advantage of free resources and rebates to design a water-efficient landscape, and consider other water-saving options like graywater and hydroponic systems."

#### Save water, money and go hydroponic

Hydroponic systems grow plants in a water-based nutrient solution rather than soil. Hydroponic systems use less water than traditional soil-based growing systems. In commercial agricultural settings and farms, hydroponic systems can produce faster growth and higher yields of crops. The <u>systems</u> can also be used in home gardens. Some units can use up to 90% less water than traditional produce gardens.

The demo garden hydroponic unit is operational and will be maintained by BCK Programs. Local scout troops in the district will help maintain the unit under supervision. The scouts earn conservation patches for their volunteer work. Crops harvested will be donated to scout volunteers, or donated to a local community food bank. A second system donated by Tower Garden will be used by BCK Programs to provide hydroponic gardening lessons in local schools.

Customers can <u>visit</u> the California-friendly demonstration garden and hydroponic gardening tower at OMWD's headquarters free any day of the year. It is also <u>viewable online</u>. The garden highlights four key principles of sustainable landscaping. Visitors can learn about healthy soils, rainwater as a resource, climate-appropriate plants, and low-water-use irrigation.

### Demonstration gardens inspire water savings



Demonstration gardens can provide inspiration to homeowners to achieve water savings through landscape makeover projects. Photo: Olivenhain Municipal Water District

In a 2007 survey published in The Journal of the American Association of Botanical Gardens and Arboreta, half of those surveyed during a visit to the <u>Water Conservation Garden</u> at Cuyamaca College, found that making a change to their landscape was due to their visit to the water conservation demonstration garden. The results illustrate the value of demonstration gardens to the community.

The demonstration garden at Olivenhain's headquarters received financial support from the Hans & Margaret Doe Charitable Trust at San Diego Foundation, Hunter Industries, Grangetto's Farm & Garden Supply, and Bushman USA.

(Editor's note: The Olivenhain Municipal Water District is one of the San Diego County Water Authority's <u>24 member agencies</u> that deliver water across the San Diego County region.)