

Frequently Asked Questions

MWD Water Rate Challenge



DIVERSIFICATION

Enhancing Water Supply Reliability

Q **Why is the San Diego County Water Authority suing the Metropolitan Water District of Southern California?**

A The San Diego County Water Authority is suing the Metropolitan Water District of Southern California to stop illegal water rate overcharges and retaliatory business practices that unlawfully target and discriminate against the Water Authority and its ratepayers. The lawsuit, filed in 2010, asserts that MWD overcharges the Water Authority for transporting water through MWD facilities, using that money to subsidize the cost of water MWD sells to its other 25 member agencies. It also claims that MWD violated the terms of a 2003 contract where it agreed to charge lawful rates to the Water Authority for transportation. Two additional claims challenge MWD's calculations of the Water Authority's rights to buy MWD water and ask the judge to throw out a punitive contract clause that MWD developed to try to prevent the Water Authority from challenging its rates in court or the California Legislature.

Q **Why does the Water Authority believe MWD's rates are unlawful?**

A The Water Authority retained independent legal and public finance experts to analyze MWD's costs and proposed 2011 and 2012 rates. These experts determined that MWD is improperly classifying hundreds of millions of dollars in water supply costs as transportation costs, including the cost of water it buys under its water supply contract with the State of California's Department of Water Resources. (The experts' reports are available at www.sdcwa.org/mwdrate-challenge.) The experts concluded that this rate structure discriminates against the Water Authority and forces its ratepayers to pay an artificially and disproportionately high cost to transport the Water Authority's independent Colorado River supplies through MWD's facilities. This practice also creates a corresponding subsidy to the

other 25 MWD member agencies for the water they purchase from MWD.

Q **What effect does this misallocation and these discriminatory practices have on San Diego County ratepayers?**

A MWD's current rate structure forces the Water Authority and its ratepayers to pay more than MWD's actual, reasonable and proportionate cost for the water transportation services MWD provides to the Water Authority. This will have a significant and escalating financial impact in coming years. Under MWD's rate structure, MWD overcharged the Water Authority's ratepayers approximately \$31 million in 2011. This number will grow to \$40 million in 2012. If left unchallenged, the overcharges will rise to as much as \$217 million annually by the time deliveries of the Water Authority's Colorado River supplies are fully implemented in 2021.

Q **Did the Water Authority try to solve this problem with MWD before filing a lawsuit?**

A Yes. The Water Authority used all available forums at MWD to try to resolve these issues without the need for litigation. The Water Authority submitted written correspondence and public testimony to MWD and participated fully in the processes established by MWD for considering the proposed rates.

Q **Why is the Water Authority the only MWD member agency suing MWD about this issue?**

A The Water Authority is the only MWD member agency that has invested in its own imported water supplies independent of its purchases of MWD water. The Water Authority has invested millions of dollars in water conservation in Imperial Valley under its water conservation and transfer agreement with the Imperial Irrigation District and in lining the All-American and Coachella Canals. The amount of this highly reliable water received through these agreements will increase 280,000 acre-feet annually by 2021.

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Further, the other 25 MWD member agencies benefit directly from MWD's overcharges to the Water Authority for the use of MWD's water transportation facilities and therefore have no incentive to change MWD's rate structure.

Q **Are there other parties involved in the lawsuit?**

A The San Diego-based Utility Consumers' Action Network (UCAN) and the Imperial Irrigation District joined the lawsuit on the Water Authority's side in the litigation. Eight of MWD's member agencies joined the case on MWD's side.

Q **Is the existing rate structure really in the best interest of MWD, its other member agencies and the public?**

A No. First, by making the cost of imported water supply appear artificially low, MWD discourages investments in water conservation programs and local supply development projects, which can be, over the long term, more reliable and cost-effective than buying imported water. Further, because MWD's illegal rate structure keeps the cost of developing local supplies artificially higher than the price of imported water, MWD continues to justify its subsidies to member agency water conservation and local water supply development projects as necessary to encourage their development.

Second, by artificially increasing the cost of transporting water using MWD facilities, MWD is frustrating the development of a robust water transfer market in California. California law and state policy encourage water transfers as an important water management tool. By improperly inflating the cost of using MWD's facilities, MWD effectively puts a stranglehold on access to water transfers among Southern California water agencies and cities.

Q **Will local water bills go down if the Water Authority wins this lawsuit?**

A As part of an earlier agreement, MWD is required to set aside the annual overcharges to the Water Authority in an escrow account. MWD must hold these funds in escrow until the lawsuit is settled. The fund could have as much as \$200 million in it by the time the litigation is concluded. These revenues will be returned to the region in the event of a successful outcome in the case.

A **What will happen if the Water Authority loses in court?**

Q Either side could choose to appeal a lower court decision, so final outcome of the litigation may be two to three years away. Once a final decision is reached, however, the Water Authority Board of Directors will evaluate the region's options, in light of the outcome of the case, and continue to secure a reliable supply of water, pursuing the most cost-effective plans and programs. ■



Water conserved by the All-American Canal Lining Project is an important part of the Water Authority's Colorado River water transfer supplies.



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**Copies of the legal documents filed in the case are available at
www.sdcwa.org/mwdrates-challenge**