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AUG 29 2017

GEN'L COUNSEL

Honorable Tani G. Cantil-Sakauye  
Chief Justice  
Supreme Court of California  
350 McAllister Street  
San Francisco, CA 94102  
Dear Chief Justice:

Re: *San Diego County Water Authority v. Metropolitan Water District Of Southern California*  
California Supreme Court No. S243500  
California Court of Appeal Nos. A146901, A148266

Letter of *Amicus Curiae* Supporting Petition for Review

Dear Chief Justice Cantil-Sakauye:

Granting review of the above-entitled case now before this Court is crucial for the broad legal and policy issues implicated therein and the need to secure uniformity of decision, as described in the Petition for Review. The Appellate Court's decision has long-term and serious implications for the sustainability and viability of San Diego's economy, and is of grave concern to the San Diego Regional Chamber of Commerce (Chamber). In fact, water sustainability is of such fundamental importance to the Chamber's 2,500 members representing an estimated 300,000 employees that it routinely ranks as our number one policy issue. Thus, the importance of this case to the San Diego economy cannot be overstated – as a region located at the end of the pipeline and in a dry climate, the ability to rely on the availability of competitively priced water is the most crucial component of not only our region's businesses, but of the large U.S. military presence in San Diego as well.

The U.S. Department of Defense has made the strategic decision that maintaining a large military presence in San Diego is crucial to our national defense. Thus, it continues to expand its footprint in the region, so that as of today the San Diego region has the second-largest military presence in the country, and it is still growing. This growth, however, depends on there being a cost-competitive and reliable water supply to support military operations.

San Diego has the 16<sup>th</sup> largest Gross Domestic Product (GDP) in the nation, comprised of a wide spectrum of businesses and industry with at least one thing in common – their dependence on a cost-competitive and reliable water supply. One of San Diego’s growing industries is in life sciences, which not only provides tens of thousands of jobs but generates more than \$33 billion in economic output while creating life-saving medicines and technology. It, too, depends on the CWA to ensure reliable water at competitive rates.

The Appellate Court’s ruling breaks from the long-standing precedent that holds that a water utility may not charge prices that exceed the costs of its services, as well as from precedents that explicitly reject efforts like those of the Metropolitan Water District (MWD) which are designed to impede water transfers in order to protect a utility’s supply customers. Instead, the decision that is the subject of the Petition for Review allows MWD to charge its transportation-only customers like San Diego a rate that includes charges for a supply of Project water these agencies have not sought and obtain no benefit from, thus running afoul of a long line of previous courts’ rulings prohibiting just that. Because MWD controls almost all of the facilities available to transport water within Southern California, if the Appellate Court’s ruling were allowed to stand, water suppliers will be severely impeded in their efforts to conserve and develop local water supplies in the region. That, in turn, will frustrate the Legislature’s aim of reducing the State’s dependence on the sensitive Bay Delta region and ecosystem.

The Legislature has mandated that the State reduce its reliance on the Delta to meet its water needs. But by charging rates far exceeding the true costs of transport to transport-only agencies like San Diego County Water Authority (CWA), MWD is discouraging those agencies from investing in any innovative new water source that requires transportation from MWD (which almost always is required). CWA has made a multi-billion-dollar investment in water conservation, allowing a commensurate reduction in the amount of imported Delta water it buys from MWD. Yet the Appellate Court approved rates that make it nearly twice as costly for the CWA to supply its customers with conserved water as to buy water—including State Water Project water from the Bay Delta—from MWD.

Allowing MWD to tax transport-only customers to subsidize full-service customers not only is unfair but also creates a disconnect between services and the costs of those services, serves as a disincentive for the agency to manage its costs and obscures the impact of waste and inefficiency, permitting a government agency to shift costs from a favored customer to a disfavored one.

San Diego experienced a major drought in 1991 which caused water rates to spike. As a result, the CWA began working hard to diversify San Diego’s water supply, both to minimize risk of costs increases in water supplies and to increase water reliability. The Chamber’s President and

Chief Justice

August 28, 2017

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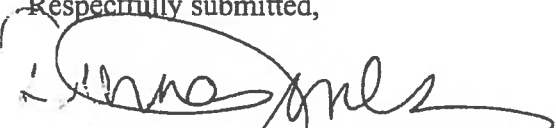
CEO, Jerry Sanders, was Mayor of San Diego during that time and in both of his role as Mayor and as Chamber President and CEO he has worked closely with the CWA on a water supply diversification strategy to ensure that San Diego can become more self-reliant and less dependent on water supplies imported via MWD. The Chamber co-chairs the Water Reliability Coalition has served on many other water-related task forces and committees, continues to work hard to support CWA's efforts to conserve and diversify our water supply, including by depending less on water from Northern California.

All that work could seem to be in vain, however, if San Diego is punished for its conservation and diversification efforts by being required to bear the costs that should be borne by other, more politically powerful cities. Should the Appellate Court's ruling be allowed to stand, CWA would be forced to pay 75% of the total cost of a water supply it does not want and does not even receive when it wheels water – as it is required to do – through MWD's Colorado River Aqueduct. This unfairness is exacerbated by the fact that the San Diego region already pays its fair share of the State Water Project costs through the CWA's purchases of MWD water. Unless the Appellate court's erroneous ruling is remedied, San Diego will be punished for what everyone agrees is "doing the right thing" – conserving water and diversifying its water resources.

For years the Chamber has supported and urged its members to support the CWA's rate increases, as a way of paying for local water supply investments and water supply reliability in our County. If the Appellate Court's decision is allowed to stand, the Chamber will be hard-pressed to make such arguments in the future. How can the Chamber argue that San Diego should work hard to conserve and diversify its water supply if San Diego businesses and our San Diego-based military are forced to pay 75% of the costs of imported water they do not even receive? The Appellate Court's decision would encourage them instead to just pay the remaining 25% and take the water, and let someone else worry about conservation and diversification. That is hardly the result the Legislature has sought, nor is it in the long-term best interests of the State.

Accordingly, the San Diego Regional Chamber of Commerce respectfully urges this Court to grant the Petition for Review.

Respectfully submitted,

  
General Counsel,  
San Diego Regional Chamber of Commerce

**PROOF OF SERVICE**

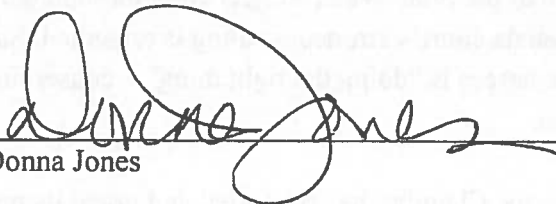
I, the undersigned, declare that: I am over the age of eighteen years and not a party to the case; I am employed in the County of San Diego, California, where the mailing occurs; and my business address is: 1220 Rosecrans, Suite 191, San Diego, CA 92106 .

On August 18, 2017, I served copies of the following document: **LETTER IN SUPPORT OF PETITION FOR REVIEW (Cal. R. Ct. 8.500(g))** upon the persons and entities listed on the attached service list, by delivering a true copy as follows:

**(by Mail)** I placed a copy thereof enclosed in a sealed envelope addressed as shown below. I am readily familiar with the practice of Law Offices of Donna Jones for collection and processing of correspondence for mailing. According to that practice, items are deposited with the United States Postal Service in San Diego, California on that same day with postage thereon fully prepaid.

Executed on August 28, 2017 at San Diego, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

  
\_\_\_\_\_  
Donna Jones

**SERVICE LIST**

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