September 12, 2017

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

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:

The City of National City strongly supports review of the above-entitled case now before this Court as the Appellate Court’s decision poses far-reaching impacts on the future of National City’s residents, veterans, and small business owners. The City’s concern, interest, and support of the litigation against the Metropolitan Water District of Southern California (“MWD”) is reflected in National City Resolution No 2017-50, which was adopted on April 4, 2017. A certified copy of Resolution 2017-50 is attached hereto and by this reference incorporated herein.

This case is of particular importance to National City because of our long history, location, economic base, and the diversity of the people we serve.

- National City, which is the second oldest in the County, is located in the South Bay region of San Diego Metropolitan area, in southwestern San Diego County.
- The City is among the most diverse in San Diego County, with Latino communities comprising nearly 65% of the total population.
- The City is home to thousands of our nation’s military veterans.
- Over 20% of National City residents have incomes below the poverty level, which is higher than the California state average.
The National City Council has worked diligently to sustain and improve the City's economy, including the availability of a reliable, cost-effective supply of water.

Mayor Morrison as the Council’s representative is a member of the Board of Directors of the San Diego County Water Authority. In that capacity, he has strongly supported the agency’s efforts to improve local water supply reliability to support the residents and business owners of National City.

While having a reliable water supply is vitally important, National City residents cannot afford to pay for a State Water Project water supply they did not order and did not receive. And yet, that is the result of the Court of Appeal's decision. The decision is especially unfair to disadvantaged communities who are least able to protect themselves.

If not reversed, this seriously flawed decision will inflict serious harm on the economy, the environment, local governments, and the public, not only in San Diego County, but throughout the State of California. The decision will change the future direction of California water supply development and eviscerate the reasonable limits California voters have placed on unregulated utilities like MWD, with monopoly power, limits which require agencies to show that the rates they are charging do not exceed the reasonable costs incurred to provide utility service.

Furthermore, the Court of Appeal’s ruling against the Water Authority is flatly incompatible with California statutes, the common law, Proposition 26, and decisions of multiple other courts of appeal, all of which limit government agencies like MWD to rates that are based on the reasonable costs it has incurred for services it actually provides. The decision by the Court of Appeal essentially condones and allows a special tax to be collect in San Diego County to pay for the State Water Project outside the boundary of California state law and the State Constitution.

On behalf of the Mayor and City Council of National City I respectfully urge this Court to grant the Petition for Review.

Very truly yours,

Angi P. Morris-Jones
City Attorney

Enclosure
RESOLUTION NO. 2017 – 50

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY
SUPPORTING THE SAN DIEGO COUNTY WATER AUTHORITY’S
LONG TERM WATER SUPPLY PLAN AND LITIGATION AGAINST
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

WHEREAS, San Diego County’s $222 billion economy and 3.3 million people
depend on the San Diego County Water Authority (“Water Authority”) and its member agencies
to provide a reliable water supply at a reasonable cost; and

WHEREAS, the Water Authority is a member agency of the Los Angeles-based
Metropolitan Water District of Southern California (“MWD”) that has historically supplied the
Water Authority with water imported from the Colorado River and through the State Water
Project; and

WHEREAS, following a severe drought in which San Diego County experienced
31% cutbacks in 1991, and was threatened with 50% water supply cutbacks by MWD, a
Declaration of Water Independence and Reliability was declared on July 3, 1996, by San Diego
civic and business leaders; and

WHEREAS, over the past 20 years, the Water Authority and its member
agencies have successfully transformed the San Diego region from being 95% dependent on
MWD in 1990, to approximately 20% by 2020; and

WHEREAS, MWD has fought against the actions the Water Authority has taken
to reduce its MWD water purchases, including, among other things, establishing rates and
charges intended to penalize San Diego and its diversification efforts; and

WHEREAS, these overcharges could cumulatively total more than $7 billion by
2040; and

WHEREAS, the Water Authority has filed four separate lawsuits against MWD,
challenging these rates; and

WHEREAS, a San Francisco Superior Court judge has already ruled in the first
two cases that MWD’s rates are illegal, awarded the Water Authority more than $243 million in
damages, costs, pre-judgment interest and attorneys’ fees, and directed MWD by writ of
mandate to set lawful rates; and

WHEREAS, MWD has appealed the Court’s ruling, denies that it is required to
limit its rates to no more than the cost of the services it provides, and has not changed its rates
in response to the Court’s ruling; and

WHEREAS, MWD has engaged and is continuing to engage in a number of
highly questionable financial practices, including overcharging ratepayers $847 million from
2012-2015, of which $189 million was collected from ratepayers in San Diego County, with
$823,493 being overcharged to residents and business in National City; spending more than
$1.2 billion outside of its adopted budgets from 2013-2016; and making plans to spend billions
more without having any plan for how it will allocate these costs; and
WHEREAS, MWD's current financial practices present a grave risk to the people and economy of Southern California; and

WHEREAS, a reliable, cost-certain and diverse water supply is vital to the sustained prosperity of all San Diego County citizens and business enterprises.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of National City that the City of National City fully supports the Water Authority's rate litigation against MWD, which is necessary to recover illegal rates and charges that may be assessed by MWD, now and in the future.

BE IT FURTHER RESOLVED that the City of National City fully supports the programs of the San Diego County Water Authority and its member agencies, on behalf of San Diego County, as a free and independent community, to continue to diversify San Diego County's water supply, free of any program or influence by, or subordination to MWD.

PASSED and ADOPTED this 4th day of April, 2017.

ATTEST:

Ron Morrison, Mayor

Michael R. Dalla, City Clerk

APPROVED AS TO FORM:

George H. Eiser, III
Interim City Attorney
Passed and adopted by the Council of the City of National City, California, on April 4, 2017 by the following vote, to-wit:

Ayes: Councilmembers Cano, Mendivil, Morrison, Rios, Sotelo-Solis.
Nays: None.
Absent: None.
Abstain: None.

AUTHENTICATED BY: RON MORRISON
Mayor of the City of National City, California

City Clerk of the City of National City, California

By: Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of RESOLUTION NO. 2017-50 of the City of National City, California, passed and adopted by the Council of said City on April 4, 2017.

City Clerk of the City of National City, California

By: Deputy
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: 1243 National City Boulevard, National City, CA 91950-4397.

On September 12, 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:

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

Executed on September 12, 2017, at National City, California.

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

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Virginia Miller
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