Agenda

- Diversification progress
- Review process and outcome of Water Authority/MWD Non-Litigation Discussion Group
- Review status and what’s at stake in rate litigation
  - 2010 & 2012 rate litigation
  - 2014 and 2016 rate litigation
- Status of Local Resource Program applications at MWD
- What has changed since October 12, 2017 workshop
Our Diversification Story

1991
Our Diversification Story

2017
Our Diversification Story

2020
Our Diversification Story

2035
All–In QSA vs. MWD Untreated Supply

CA Water Fix at 65%: 50% on Transportation 50% on RTS
LA SAN w/ 40% on MWD Transportation, 60% on MWD Supply

- MWD Supply: Full Service Tier 1 + RTS + Capacity Charge
- QSA Supply: IID Transfer + Canal Lining + Socioeconomic & Environmental Mitigation + MWD Transportation
All-In QSA vs. MWD Untreated Supply

**CA Water Fix at 65%**: 50% on Transportation 50% on RTS

- MWD Supply
- QSA Supply
- IID Transfer + Canal Lining + Socioeconomic & Environmental Mitigation + MWD Transportation

- Full Service Tier 1 + RTS + Capacity Charge

- Without LA SAN
Water Authority and LADWP MWD Profiles

Data sources: MWD operations data, WINS Table A data, preferential rights tabulation, and assessed valuation tabulation

% of MWD Water Purchased  Preferential Rights as of June 30,  % of Assessed Valuation

1990

Los Angeles  Water Authority

2017

Los Angeles  Water Authority
MWD Non-Litigation Discussion Meetings
In the fall of 2017, Chair Muir reached out to Chair Record to invite a dialogue to
- Improve the relationship between the two agencies
- Address substantive issues that could resolve some or all of the litigation

Court of Appeal decision provided certainty and guidance on key issues in dispute:
- Preferential Rights
- Rate Structure Integrity
- Wheeling law applies to Exchange Agreement rates
- Proposition 26/cost-of-service apply to MWD
- Current State Water Project cost allocation valid
- Water Stewardship Rate on transportation invalid
Water Authority’s Threshold Issues

- Officers worked with MWD Litigation Task Force to develop “threshold issues” as measure of likelihood of success:
  - Request access to rate model to avoid need to continue Public Records Act litigation
  - Process Water Authority’s LRP applications as per Court of Appeal decision, without arguing waiver

- Also suggested mutual suspension of outreach campaigns
  - Water Authority unilaterally suspended its “Stop the Spending” campaign as gesture of good faith
  - MWD did not suspend, but rather expanded its outreach activities
MWD’s Actions

- Following September ruling, announced that it would accept LRP applications

- October 2017, informed Water Authority it was reinstating $803,000 for the current fiscal year’s Conservation Credits Program

- December 2017, MWD recalculated Preferential Rights in accordance with the final court decision, from 18.53% to 24.22%
First Meeting Nov. 6, 2017

- Water Authority representatives:
  - Chair Muir, Vice-Chair Madaffer and Directors Butkiewicz, Hogan and Steiner
- MWD representatives:
  - Chair Record, Vice-Chairs Ackerman, De Jesus and Gray
- Amicable meeting and discussion
- Water Authority presented threshold issues
- Water Authority had expected and prepared for litigation settlement discussion, but MWD wanted to form a separate group for those discussions
January 2018 email confirms:
- MWD remains unwilling to release a functional rate model to the public: *Judge will decide*
- MWD unwilling to forego a legal argument that Water Authority waives its objections to MWD’s rates by submitting LRP applications

Willing to continue discussions, but said its outreach in San Diego is appropriate and plans to continue
Actions on Outreach Programs

**Water Authority Actions**
- Suspended Stop the Spending Outreach program
- Suspended MWDfacts.com website
- Developed outreach program Guiding Principles based upon mutual respect and feedback from MWD’s team members

**MWD Actions**
- Expanded its San Diego outreach program
  - Added consultant Lani Lutar
  - Seeking additional San Diego-based media consultant
  - Continued Twitter attacks on Water Authority Board decisions
  - One-sentence response to Guiding Principles
Review Timeline of Activities

- Handout: timeline
- Remarks by Officers
Water Authority representatives
  - Chair Muir, Vice-Chair Madaffer, Directors Butkiewicz, Hogan and Steiner

MWD representatives
  - Chair Record, Vice-Chair De Jesus, Directors Murray and Gray

Amicable meeting

Water Authority presented policy issues separate and apart from litigation
  - Asked to work together on issues that could mutually benefit both parties
Policy Issues – Finance and Rates

1. Comprehensive cost-of-service study by independent firm, and cost-of-service based rates
2. Develop Long Range Finance Plan with member agencies, similar to 2004 Plan
3. Perform risk analysis for the 2.4 MAF of water supply “insurance” it is developing
4. Agreement on MWD spending going forward based on demand for MWD “insurance”
Policy Issues – Colorado River

1. Support Water Authority joining Colorado River Lower Basin Drought Contingency Plan discussions
2. Support Water Authority sub-account for Lake Mead storage
MWD’s Response on Policy Issues

- All policy issues have already been decided by MWD’s board of directors
- MWD’s focus:
  - MWD would like to discuss the Water Authority’s relationship with MWD and “why it wants to fundamentally change MWD’s policies while simultaneously pursuing water supply independence”...including “the manner in which [it] chooses to discuss items before the...Board, spending on negative outreach campaigns and how [it] responds to issues democratically decided by a majority of the MWD Board.”
Discussed draft Public Outreach Guiding Principles
  ◦ No progress and no proposed edits to draft
MWD questioned value of preferential rights
No agreement on any issues presented by the Water Authority
No issues for discussion presented by MWD
No recognition of the legitimacy of the Water Authority’s issues and concerns
Efforts have been ongoing for six months
Meetings and discussions have been amicable
MWD has declined to change its position on the threshold issues of rate model and LRP
MWD refused to discuss any of the financial or Colorado River policy issues presented by Water Authority
Water Authority unilaterally ceased outreach, while MWD has increased its outreach activities in San Diego County
MWD Non–Litigation Discussions

- Summary remarks from Water Authority’s team members:
  - Chair Muir
  - Vice Chair Madaffer
  - Secretary Croucher
  - Director Butkiewicz
  - Director Hogan
  - Director Steiner
MWD Litigation
Overview and Update
Rate Cases

- Update on 2010 & 2012 rate cases (the only ones tried to date)
- Status of 2014 & 2016 cases
- What happened in these cases, where they are now, and where they are going
## MWD Rate Litigation Outcome
### 2011–2014 Rates

<table>
<thead>
<tr>
<th>Issue</th>
<th>Water Authority Win</th>
<th>MWD Win</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. State Water Project costs</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>2. Water Stewardship Rate</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>3. Preferential Rights</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>4. MWD’s “Rate Structure Integrity” clause</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>5. Applicability of Prop. 26 to MWD’s rates</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>7. Validation and statute of limitations</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>8. Statutory interest rate (10% pre– and 7% post–judgment)</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>9. Attorneys’ fees</td>
<td></td>
<td>TBD</td>
</tr>
<tr>
<td>10. Offsetting benefits under the wheeling statute</td>
<td></td>
<td>TBD</td>
</tr>
</tbody>
</table>
Benefits already achieved – and those potentially yet to come
What do we have “in our pocket” right now, pending finalized judgment?
B. Preferential rights increase
C. LRP application processing and “equal rights” letter
D. Re-start of conservation funding
A. No WSR on Exchange Agreement
   ◦ MWD’s Board voted to suspend all WSR charges on Exchange Agreement for 2018–2020, inclusive
     • Results in reduced WSR payments for Water Authority, per MWD’s calculation, of $46,168,000 over these three years
### 2010–12 Rate Cases (Cont’d)

- **B. Preferential Rights**

<table>
<thead>
<tr>
<th>Preferential Right (as of 6/30/2016)</th>
<th>Preferential Right Based upon 1.75 MAF of Available MWD Supply</th>
<th>Annual Difference from MWD Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>As miscalculated by MWD: 18.53%</td>
<td>324,275/year</td>
<td></td>
</tr>
<tr>
<td>Based upon court decision: 24.22%</td>
<td>423,850/year</td>
<td>99,575/year</td>
</tr>
</tbody>
</table>
C. **LRP Processing Equal Treatment**

- MWD Chairman Record promised Water Authority and its member agencies fair treatment:

  - “I wanted to assure you that both the SDCWA and its member agencies have full access to our LRP funding just like all of Metropolitan’s members.” – March 22, 2018, letter from Randy Record
2010–12 Rate Cases (Cont’d)

D. Conservation Funding Re-Started
   ◦ MWD confirms in 10/13/17 e-mail:

“[W]ith the recent court decision Metropolitan will no longer include the Rate Structure Integrity provision in Local Resource Program and Conservation Credits Program project contracts. . . . So we are in the process of finalizing and sending out to all agencies Addendum 18C . . . which will include funding for SDCWA for the Member Agency Administered Program. The amount of that funding for SDCWA will be $803k for this current fiscal year.”
Benefits not yet received:
A. Refund of WSR payments on Exchange Agreement 2011–2014, plus interest
B. Offsetting benefits credits and interest
C. Attorneys’ fees
A. WSR Exchange Agreement Refunds And Interest:
   • Principal + interest = $44 million (estimate)

[NOTE: Prejudgment interest on monies MWD owes is at 10% per year; post-judgment at 7%]
B. Offsetting Benefits Credits

- “Fair Compensation” statute requires that MWD calculate “offsetting benefits”
- MWD has previously calculated, in 2018 dollars, between $295–$716/AF
- Billions of dollars are at stake
- No court has yet decided issue
2010-12 Rate Cases (Cont’d)

C. Attorney’s Fees

- $12.5 million in Water Authority fees to be decided by the trial court on remand
  - MWD says it will assert a fee request, too
2014 & 2016 Cases

- 2014 is similar to 2010–12, but adds WSR on supply
  - Pending before Judge Karnow
- 2016 similar to 2014, but challenges other rates on cost-of-service, non-payment of judgment, and amount of deposited damages
  - Pending before Judge Wiss
- 2014 & 2016 cases stayed by stipulation
  - 2016 CMC with Judge Wiss April 27
  - Parties agree 2014 and 2016 should remain stayed pending completion of 2010/2012 cases
Update & Status of Local Resource Program (LRP) Applications at MWD
## MWD LRP Applications

<table>
<thead>
<tr>
<th>Agency</th>
<th>Date Submitted</th>
<th>Project Type</th>
<th>Production (AFY)</th>
<th>Year On Line</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of San Diego</td>
<td>12/11/2017</td>
<td>Potable Reuse</td>
<td>33,600</td>
<td>2021</td>
</tr>
<tr>
<td>Padre Dam MWD</td>
<td>12/22/2017</td>
<td>Potable Reuse</td>
<td>3,920</td>
<td>2023</td>
</tr>
<tr>
<td>Water Authority</td>
<td>MWD Board Approved Nov. 2009; deferred June 2011</td>
<td>Seawater Desalination</td>
<td>56,000</td>
<td>2015</td>
</tr>
<tr>
<td></td>
<td>Updated: 12/22/2017</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fallbrook PUD</td>
<td>03/08/2018</td>
<td>Groundwater Desalination</td>
<td>3,100</td>
<td>2021</td>
</tr>
<tr>
<td>Carlsbad MWD</td>
<td>03/20/2018</td>
<td>Seawater Desalination</td>
<td>2,500</td>
<td>2015</td>
</tr>
<tr>
<td>Vallecitos WD</td>
<td>03/20/2018</td>
<td>Seawater Desalination</td>
<td>3,500</td>
<td>2015</td>
</tr>
</tbody>
</table>
MWD LRP Agreement Prerequisites

- Qualifying Facility
- Completed Application
- Complete CEQA and/or NEPA
- Obtain all required permits
- Complete applicable interagency agreements

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- Milestones after agreement execution
  - 2 years to start construction
  - 4 years to start operation
Retail agency submits application to Water Authority

Water Authority reviews and provides recommendations

Water Authority submits application to Metropolitan

Once agreement prerequisites are met, Metropolitan drafts agreement

Metropolitan meets with Water Authority and retail agency

Metropolitan Reviews Application

Retail agency and Water Authority Boards approve agreement

Metropolitan Board approves LRP Incentive

Parties Execute LRP Agreement
WSR Payments and Benefits Received
LRP Subsidies
Fiscal Years 2003-2017

Data sources: 7/20/2016 MWD data, WINS Table C and Table A Reports, MWD Operations Data
Calc. method: agencies’ received subsidies / WSR payments (includes funding from over-collected revenues)
WSR Payments and Benefits Received
Conservation Subsidies
Fiscal Years 2003-2017

Data sources: 7/20/2016 MWD data, WINS Table A Reports, 9/12/2017 MWD PPT, MWD Operations Data
Calc. method: agencies’ received subsidies / WSR payments (includes funding from over-collected revenues)
WSR Payments and Benefits Received
LRP & Conservation Subsidies
Fiscal Years 2003-2017

Data sources: 7/20/2016 MWD data, WINS Table C and Table A Reports, 9/12/2017 MWD PPT, MWD Operations Data
Calc. method: agencies’ received subsidies / WSR payments (includes funding from over-collected revenues)
Exercise

Directors and Member Agency Managers break into groups separately to discuss and answer the following questions:

- What has changed since the October 2017 Board Workshop that could influence the Water Authority’s future direction with MWD?
- Aside from completing the litigation, what alternatives are available to the Water Authority to achieve fair rates based upon cost-of-service?
- How can the Water Authority achieve a better balance between funding and benefits received from the MWD LRP program?
Group Exercise Report Out

- Board member groups report out
- Member agency managers groups report out