Proposed Staff Recommendation Consent Calendar for May 28, 2015

ADMINISTRATIVE AND FINANCE COMMITTEE

9-1. Treasurer’s Report.

Note and file the monthly Treasurer’s report.

9-2. Professional services contract with Alliant Insurance Services, Inc., to provide Health Insurance Broker Services.

Authorize the General Manager to award a Professional Services contract to Alliant Insurance Services, Inc. to provide Health Insurance Broker Services for a three-year term, beginning July 1, 2015 through June 30, 2018, at a cost of $55,000 per year, for a total not-to-exceed amount of $165,000. The Water Authority will have the option for a two-year extension at a cost of $58,000 per year.

9-3. Resolution setting a Public Hearing date for the Water Authority’s proposed calendar year 2016 Rate and Charge increases.

Adopt Resolution No. 2015-__ setting the time and place for a public hearing on June 25, 2015, at or after 9:00 a.m., or as soon thereafter as may practicably be heard, during the Administrative and Finance Committee meeting, to receive comments regarding proposed rates and charges to be effective January 1, 2016.

LEGISLATION, CONSERVATION AND OUTREACH COMMITTEE

9-4. Award a three-year professional services agreement with Mission Resource Conservation District in an amount not-to-exceed $470,000 to administer the Agricultural Water Management Program.

Authorize the General Manager to execute a three-year professional services agreement with Mission Resource Conservation District in an amount not-to-exceed $470,000 to administer the Agricultural Water Management Program.

9-5. Amendment to Professional Services Contract with DeLorenzo International for Implementation of the WaterSmart Landscape Makeover Program.

Approve amendment to professional services contract with DeLorenzo International (DLI) to increase the contract value by $455,000 to a not-to-exceed amount of $744,000 and extend the term for two years from July 1, 2015 through June 30, 2017.

9-6. Adopt positions on various state bills.

1. Adopt a position of Support on AB 1139 (Campos).
2. Adopt a position of Support and Seek Amendments on AB 1201 (Salas).
3. Adopt a position of Support on AB 1325 (Salas).
4. Adopt a position of Support on SB 286 (Hertzberg).
5. Adopt a position of Support if Amended on SB 551 (Wolk).
WATER PLANNING COMMITTEE

9-7. Resolution for the Final Mitigated Negative Declaration for the Application of Copper-Based Algaecides at five reservoirs in San Diego County; adopting a Mitigation Monitoring and Reporting Program; approving the project; and authorizing Filing of a Notice of Determination.
It is recommended the Board adopt Resolution No. 2015-___ (attached) that:
   a) Finds that the project will not have a significant effect on the environment.
   b) Adopts the Final Mitigated Negative Declaration (MND).
   c) Adopts the Mitigation Monitoring and Reporting Program.
   d) Approves the Project.
   e) Authorizes filing of a Notice of Determination (NOD).

9-8. Amend the memorandum of understanding with city of San Diego (City) and county of San Diego (County) for implementation of Integrated Regional Water Management activities.
Approve the first amendment to the memorandum of understanding (MOU) with the city of San Diego and county of San Diego to extend the MOU term and maintain the financial commitment of the three agencies to the IRWM Program.

ENGINEERING AND OPERATIONS COMMITTEE

9-9. Notice of Completion for the Pipelines 3, 4, and 5 Relining at the San Luis Rey River project.
Authorize the General Manager to accept the Pipelines 3, 4, and 5 Relining at the San Luis Rey River project as complete, record the Notice of Completion, and release funds held in retention to L.H. Woods & Sons, Inc., following the expiration of the retention period.

9-10. San Vicente Pumped Storage Study Update.
Approve the following actions to further advance the San Vicente Pumped Storage Study:
   1. Authorize the General Manager to execute an Agreement between the City of San Diego and the San Diego County Water Authority for the Joint Development of the San Vicente Pumped Storage Project.
   3. Approve starting the process for procuring an Owners’ Advisor Team to provide professional services for recommending a business model.
ADMINISTRATIVE AND FINANCE COMMITTEE

REVISED

AGENDA FOR

MAY 28, 2015

Gary Arant – Chair     Mark Muir
Doug Wilson – Vice Chair DeAna Verbeke
Halla Razak – Vice Chair Ron Watkins
Lois Fong-Sakai     Mark Watton
Ed Gallo      Mark Weston
Frank Hilliker     Ken Williams
Tom Kennedy      Tom Wornham
Keith Lewinger

1. Roll call – determination of quorum.

2. Additions to agenda (Government Code Section 54954.2(b)).

3. Public comment – opportunities for members of the public to address the Committee on matters within the Committee’s jurisdiction.

   4-A Directors’ comments.

I. CONSENT CALENDAR

1. Treasurer’s Report.
   Staff Recommendation: Note and file the monthly Treasurer’s report.
   (Action) Lisa Marie Harris

2. Professional services contract with Alliant Insurance Services, Inc., to provide Health Insurance Broker Services.
   Staff Recommendation: Authorize the General Manager to award a Professional Services contract to Alliant Insurance Services, Inc. to provide Health Insurance Broker Services for a three-year term, beginning July 1, 2015 through June 30, 2018, at a cost of $55,000 per year, for a total not-to-exceed amount of $165,000. The Water Gretchen Spaniol
Authority will have the option for a two-year extension at a cost of $58,000 per year. (Action)

II. ACTION/DISCUSSION

1. Presentation of General Manager’s Recommended Budget for Fiscal Years 2016 and 2017 for review by the Administrative and Finance Committee and the Board of Directors. (Information) 

Maureen Stapleton

2. Resolution setting a Public Hearing date for the Water Authority’s proposed calendar year 2016 Rate and Charge increases. 

Staff Recommendation: Adopt Resolution No. 2015—__ setting the time and place for a public hearing on June 25, 2015, at or after 9:00 a.m., or as soon thereafter as may practicably be heard, during the Administrative and Finance Committee meeting, to receive comments regarding proposed rates and charges to be effective January 1, 2016. (Action)

Lisa Marie Harris
David Shank

III. INFORMATION


2. Board Calendar.

IV. CLOSED SESSION

V. ADJOURNMENT

Melinda Cogle
Clerk of the Board

NOTE: This meeting is called as an Administrative and Finance Committee meeting. Because a quorum of the Board may be present, the meeting is also noticed as a Board meeting. Members of the Board who are not members of the Committee may participate in the meeting pursuant to Section 2.00.060(g) of the Authority Administrative Code (Recodified). All items on the agenda, including information items, may be deliberated and become subject to action. All public documents provided to the committee or Board for this meeting including materials related to an item on this agenda and submitted to the Board of Directors within 72 hours prior to this meeting may be reviewed at the San Diego County Water Authority headquarters located at 4677 Overland Avenue, San Diego, CA 92123 at the reception desk during normal business hours.
LEGISLATION, CONSERVATION AND OUTREACH COMMITTEE

REVISED

AGENDA FOR

MAY 28, 2015

Gary Croucher – Chair    Jim Madaffer
Christy Guerin – Vice Chair    Ron Morrison
Fern Steiner – Vice Chair    Mark Muir
David Barnum      Jose Preciado
Ed Gallo      Dave Roberts
Matt Hall      Elsa Saxod
Frank Hilliker    Yen Tu

1. Roll call – determination of quorum.

2. Additions to agenda (Government Code Section 54954.2(b)).

3. Public comment – opportunities for members of the public to address the Committee on matters within the Committee’s jurisdiction.

4. Chair’s report.
   4-A Directors’ comments.

I. CONSENT CALENDAR

1. Award a three-year professional services agreement with Mission Resource Conservation District in an amount not-to-exceed $470,000 to administer the Agricultural Water Management Program.
   Staff Recommendation: Authorize the General Manager to execute a three-year professional services agreement with Mission Resource Conservation District in an amount not-to-exceed $470,000 to administer the Agricultural Water Management Program. (Action)

2. Amendment to Professional Services Contract with DeLorenzo International for Implementation of the WaterSmart Landscape Makeover Program.
   Staff Recommendation: Approve amendment to professional services contract with DeLorenzo International (DLI) to increase the contract value by $455,000 to a not-to-exceed amount of $744,000 and extend the term for two years from July 1, 2015 through June 30, 2017. (Action)
3. **Adopt positions on various state bills.**
   
   **Staff Recommendation:**
   1. Adopt a position of Support on AB 1139 (Campos).
   2. Adopt a position of Support and Seek Amendments on AB 1201 (Salas).
   3. Adopt a position of Support on AB 1325 (Salas).
   4. Adopt a position of Support on SB 286 (Hertzberg).
   5. Adopt a position of Support if Amended on SB 551 (Wolk).
   
   (Action)

II. **ACTION/DISCUSSION**

1. **Legislative issues.**
   1-A Washington Report by Ken Carpi. (supplemental materials)

III. **INFORMATION**

1. Presentation on Drought Response Communications and Outreach Update.
   
   Jason Foster

   
   Glenn Farrel

   
   Glenn Farrel

IV. **CLOSED SESSION**

V. **ADJOURNMENT**

Melinda Cogle
Clerk of the Board

**NOTE:** This meeting is called as a Legislation, Conservation, and Outreach Committee meeting. Because a quorum of the Board may be present, the meeting is also noticed as a Board meeting. Members of the Board who are not members of the Committee may participate in the meeting pursuant to Section 2.00.060(g) of the Authority Administrative Code (Revised). All items on the agenda, including information items, may be deliberated and become subject to action. All public documents provided to the committee or Board for this meeting including materials related to an item on this agenda and submitted to the Board of Directors within 72 hours prior to this meeting may be reviewed at the San Diego County Water Authority headquarters located at 4677 Overland Avenue, San Diego, CA 92123 at the reception desk during normal business hours.
Date: May 27, 2015
To: San Diego County Water Authority Board Members
From: Ken Carpi, Washington Representative
Subject: Federal Legislative Update

**House Passes Energy-Water Spending Bill**

The House passed its version of the FY2016 Energy & Water Development Appropriations Act by a vote of 240-177. The bill provides a total of $35.4 billion, a level $1.2 billion above the FY2015 enacted level and $633 million below the President’s request.

Prior to passage, President Obama notified the House that he would veto the bill over funding levels and policy riders contained in the bill. Among the riders included in the bill are the following:

- A prohibition on any changes to federal jurisdiction under the Clean Water Act.
- A prohibition on any changes to the definition of “fill material” and “discharge of fill material” under the Clean Water Act.
- A restriction on the application of the Clean Water Act in certain agricultural areas, including farm ponds and irrigation ditches.

The bill provides $1.1 billion for the Bureau of Reclamation, a level $35 million below the FY2015 enacted level and $1 million below the President’s request. It provides $23.37 million for the Title XVI water reclamation program, an increase of $3.4 million over the President’s request. The Committee Report accompanying the bill “encourages Reclamation to develop and propose recommendations for improvements, which may include programmatic changes and project-specific authorizations” for the Title XVI program. The congressional earmark ban and lack of support for the program within the Administration has hindered Title XVI’s effectiveness.

The bill includes provisions setting deadlines for Reclamation to complete feasibility studies on the expansion of Shasta, Temperance Flat, Los Vaqueros, Sites, and San Luis dams. Reclamation must include timelines for completion, draft environmental impact
statements, final environmental impact statements, and a Record of Decision for each dam by specific dates.

**Senate Committee Approves Energy & Water Spending Bill**

The Senate Committee on Appropriations approved its version of the FY2016 Energy & Water Development Appropriations Act by a 26-4 vote. The full Senate may take up the bill before the July 4th recess. The bill largely mirrors the top-line funding totals of the House-passed bill and also includes $52.5 million for the Bureau of Reclamation’s WaterSMART Program to assist with drought response.

It would provide a total of $35.4 billion, $1.2 billion above the FY2015 enacted level and $668 million below the President’s request. The President indicated he would also veto this bill if it came to him in its current form over funding levels.

Including the WaterSMART funds, the bill provides $1.1 billion for the Bureau of Reclamation, a $3 million increase above the FY2015 enacted level and $35 million above the President’s request. For the Army Corps of Engineers, the bill provides $5.5 billion, an increase of $45 million above the FY2015 enacted level and $768 million above the President’s budget request.

The bill prohibits any changes to the definition of “fill material” and “discharge of fill material” under the Clean Water Act. Sen. John Hoeven (R-ND) offered, but withdrew, an amendment to block the proposed “Waters of the United States” rule. He did so at the urging of Senator Lisa Murkowski, who is promoting an alternative approach offered by Senator John Barrasso (R-WY) that would amend, rather than block, the proposed rule.

**House Passes Bill Targeting WOTUS Rule as Senate Takes Up Issue**

The House of Representatives passed the Regulatory Integrity Protection Act of 2015 (H.R. 1732). The bill would require the EPA and the Corps of Engineers to withdraw their proposed “Waters of the United States” rule within 30 days and begin an extensive consultation with stakeholders before proposing a new rule. The bill passed 261 – 155, with 24 Democrats siding with all Republicans to approve it. President Obama said he would veto the bill.

The Senate is taking a different approach. While many Republicans support the House approach, Senator John Barrasso (R-WY) introduced the “Federal Water Quality Protection Act” (S. 1140) and has three Democrats among its cosponsors. Rather than strike down the proposed rule, Barrasso’s bill would amend it to exclude “isolated ponds, ditches, agriculture water, storm water, groundwater, floodwater, municipal water supply systems, wastewater management systems, and streams without enough flow to carry pollutants to navigable waters.” Supporters hope to secure additional Democratic support and bring the bill to a vote this summer.
In a briefing to stakeholders, Ken Kopocis from EPA’s Office of Water said the proposed rule is “on track” and that the final rule is expected to be promulgated before summer.

**Additional Pending EPA Actions**

- Harmful Algal Bloom Health Advisories. The EPA held a stakeholder meeting in early May and is expected to issue a final advisory by June 15 on how to respond to harmful algal blooms. The advisory will provide technical advice on methods, treatment options, and health notifications.

- Reduction of Lead in Drinking Water Act. The EPA plans to issue a proposed rule this summer 2016 to implement to Act.
May 27, 2015

Attention: Imported Water Committee

Metropolitan Water District Delegates’ Report (Information)

Background
This report summarizes discussions held and key actions made at the Metropolitan Water District (MWD) committee and Board meetings, as reported by the MWD Delegates. The MWD committees and Board met on May 11 and 12, 2015. The next regular MWD Board and committee meetings are scheduled for June 8 and 9.

Discussion
The Water Authority Delegation supported 10 of the 17 action items approved by the MWD Board. The Delegates opposed an item to continue MWD’s Standby Charge for fiscal year 2016 because it is used to support MWD’s readiness-to-serve charge which is not cost of service based (for the Water Authority Delegates’ letter to MWD, see Attachment 1). Although the Delegates expressed support for conservation, they opposed MWD staff’s proposal to increase funding for conservation incentives in fiscal years 2015 and 2016 by $150 million (see Attachment 2 for the Delegates’ letter to MWD). The Delegates opposed the action because MWD’s conservation program lacks accountability and transparency, is unbudgeted, is funded through illegal rates, and is a regressive tax. Ultimately, both the Water Planning and Stewardship Committee (in which the item was discussed) and the Board voted to defer action on its conservation program to a Special Board meeting on May 26.

Attachment 3 is a copy of MWD’s May 2015 committee and Board meeting agendas and summary report.

Board
Donald Galleano was inducted as a Board member, representing Western Municipal Water District (replacing Tom Evans).

Communications and Legislation Committee
The committee, and later the Board, expressed support, as proposed to be amended, for SB 485 (Hernandez, D-San Gabriel Valley) – County of Los Angeles: Sanitation Districts. This bill would allow Los Angeles County sanitation districts to construct, utilize, and maintain facilities to divert, manage, and treat stormwater and runoff for beneficial use. The proposed amendments clarify that the bill would not alter existing water rights and water rights law. The committee expressed support for H.R. 212 (Latta, R-Ohio) and S. 460 (Portman, R-Ohio) – Drinking Water Protection Act, which would direct the U.S. Environmental Protection Agency (EPA) to develop a strategy to assess and manage the health risks posed by cyanotoxins (also called algal toxins or microcystins) in drinking water.

Also, the committee received an update on MWD’s Water Awareness and Conservation Campaign, which summarized the results of online surveys and focus groups that will be used to improve the campaign’s outreach message. Survey and focus group results indicated that the public, generally,
understands the drought is serious and holds a negative view on water waste. Additionally, most people are actively conserving water and believe there are opportunities to further conserve. The surveys and focus groups also revealed apprehension that individual conservation actions will provide drought relief. Staff said the results suggest MWD has the opportunity to further encourage water conservation and promote the message that “we are all in this together,” and everyone’s help is needed to mitigate the drought’s impacts. Following staff’s presentation, Director Tu requested that MWD coordinate with its member agencies to minimize overlap and effectively synchronize campaigns. External Affairs Group Manager Sims said coordination on messaging and timing of campaigns is ongoing.

The committee also previewed MWD’s new website, which is expected to launch at the end of this month, and received reports on current state and federal activities.

**Engineering and Operations Committee**

The committee and Board approved an item related to the installation of the Emergency Radio Communication System. Staff reported that MWD will construct 32 radio stations to ensure seamless communication with two-way radios across MWD’s infrastructure during an emergency.

The committee also received the third quarter report on MWD’s Capital Investment Plan (CIP) for fiscal year 2015. Through March, MWD spent almost $159.6 million out of its budgeted $245.4 million.

Water System Operations Manager Green reported that due to MWD’s efforts to maximize the use of its Colorado River supplies, MWD is not blending water. This means that all of MWD’s available SWP supplies are being used to meet its SWP-exclusive area demands. In addition, Green reported that the EPA issued health advisories for two algal toxins, but the advisories are not an enforceable regulatory standard and MWD already meets them.

**Finance and Insurance Committee**

The committee received a report on MWD’s property and casualty insurance program. Staff reported that MWD’s insurance expenses are estimated to increase to $1.182 million in fiscal year 2016 from $1.129 million in fiscal year 2015. This increase is consistent with current trends, staff said. In June, staff will return to the committee for Board action.

Chief Financial Officer Breaux reported that through April MWD’s water sales were 185,600 acre-feet (or 13 percent) above budget, which equates to $126.1 million more in water sale revenues than budgeted. Breaux presented a summary of discretionary Board reserve fund balances, including the Water Management Fund (WMF), Water Stewardship Fund (WSF), and Water Rate Stabilization Fund (WRSF). As of March 31 the MWD Board authorized $199.8 million of additional unbudgeted expenditures through the use of the WMF. However, the actual fiscal year 2015 projected expenditures amount to $90.1 million, which would leave an estimated $141.9 million in the WMF at the close of the fiscal year. Through under-expenditures in prior years, MWD also has $49.5 million in its WSF. In addition, MWD is on track to over-collect this fiscal year, which will result in MWD having $155.2 million over its maximum reserves target. These funds collectively total $346.6 million. Director Lewinger questioned why the authorized WMF expenditures differ from projected expenditures. Breaux clarified that some of the funds authorized by the Board will not be used. As an example, Breaux said the Board authorized $71 million for
Sacramento Valley water transfers, but MWD anticipates using only $14.5 million due to limited transfer supplies. Lewinger requested that staff provide a similar update on transfer supplies that reflect all unrealized authorizations. Director Caulkins (Anaheim) asked how MWD’s drought allocation will impact water sales. Breaux responded that the Board’s allocation action was intended to reduce MWD deliveries to around 1.75 to 1.8 million acre-feet, which would be similar or a bit higher than sales assumed when the rates were set – thus, no rate impact. Breaux mentioned that MWD sales could be lower given the Governor’s conservation mandate and said staff will monitor sales closely.

The committee also received a report on MWD’s investment activities, and voted to continue the Water Standby Charge for fiscal year 2016, which the Delegates opposed.

**Legal and Claims Committee**
In closed session, without the Delegates present, the committee heard a report on the rate litigation with the Water Authority. Also in closed session, the committee discussed the General Counsel’s performance in meeting the Board’s expectations. In open session, the committee and, later the Board, authorized increasing the contract amount for legal services with Manatt, Phelps and Phillips, LLP., (Manatt) by $100,000 to $540,000. Manatt assists with the monitoring of, and disbursement of funds for the cleanup of perchlorate at a Tronox facility near Henderson, Nevada.

General Counsel Scully reported that following the Appellate Court’s ruling on the San Juan Capistrano rate case, six additional cases challenging tiered rates are pending in appellate courts.

**Organization, Personnel and Technology Committee**
In closed session, the committee received updates on salary negotiations and cyber security. MWD’s memoranda of understanding with its employees’ unions, AFSCME and the Management and Professional Employee’s Association, expire at the end of 2016, but allow for salary renegotiations in 2015 and 2016. If an agreement through the renegotiations cannot be reached by July 15, employees will receive a salary increase no greater than “50 percent of the average increase to the Consumer Price Index over the three previous years.”

**Real Property and Asset Management Committee**
The committee and Board authorized granting an easement in the city of Los Angeles and entering into an Exclusive Sales Listing Agreement with CBRE, Inc., for the marketing of MWD’s Gilman Springs surplus property. The committee also authorized amending a long-term lease of property in Temecula to Legends Golf Club, LLC.

**Water Planning and Stewardship Committee**
The committee approved the purchase of water transfer supplies from Yuba County Water Agency. This action authorized expending up to $9.975 million for 15,000 acre-feet of groundwater substitution supplies (excluding Delta carriage and conveyance losses).

Also, the committee received an update on Sacramento-San Joaquin Bay-Delta (Delta) issues by Charlton Bonham, Director of the California Department of Fish and Wildlife (CDFW). Bonham focused his comments on CDFW’s new plan to restore 30,000 acres of Delta ecosystem, called “Cal Eco Restore,” in support of Governor Brown’s recent announcement to address Delta ecosystem restoration and conveyance projects separately. He said restoration should be based on
“non-combative science.” Noting that although Cal Eco Restore will restore less habitat than described in the Bay Delta Conservation Plan (BDCP), Bonham said the new plan has realistic funding sources. Separating restoration from the water conveyance project, “Cal Water Fix,” enables CDFW to move forward on restoration and allow the conveyance project to be assessed on “its own merits.” Bonham said that the single 50-year permit, originally proposed in the BDCP, was unlikely to gain approval due to the unknown long-term impacts of climate change and large financial burden on water users to fund the project.

Following Bonham’s update, Director Peterson (Las Virgenes) encouraged an adaptive management and habitat approach to restoration efforts similar to those used in the Lower Colorado River Multi-Species Habitat Conservation Plan, rather than a single species approach. Bonham agreed with taking an ecosystem approach based on “good science.” In response to Director Steiner’s question, Bonham clarified that Cal Eco Restore’s 30,000 acres included the 25,000 acres already required by the 2008 Biological Opinions. Replying to Director Quiñonez (Los Angeles), Bonham said that the 30,000 acre restoration plan is better than BDCP’s proposed 150,000 acre restoration project because the larger plan required a larger budget, which Bonham said would have cost about $8 billion, (compared to Cal Eco Restore’s estimated cost of about $350 million) and would “ostracize” Delta communities (due to concern that most of the restoration would be accomplished through agricultural land conversion). In response to Director Murray’s (Los Angeles) request for clarification on funding sources, Bonham said that Proposition 1 funds may be used for Cal Eco Restore, which is separate from the mitigation requirements of the water conveyance.

Staff presented its recommendations to increase the budget for fiscal years 2015 and 2016’s conservation program by an additional $150 million1 and to modify MWD’s Turf Removal Program. Since increasing the subsidy amount to $2 per square-foot in May 2014, MWD’s Turf Replacement Program experienced unprecedented requests for subsidies, which increased even more following the Governor’s conservation mandate (staff estimated that weekly turf removal applications are tracking at about $49 million in subsidy requests). With the recommended program modifications, staff projects the program would cost $348 million ($72 million lower than the projected expenditures of $419.5 million without any modifications) over fiscal years 2015 and 2016. Although MWD’s revised conservation budget currently stands at $100 million, and the projected budget cap of $248 million to carry the program through fiscal year 2016, staff requested a budget increase of $150 million only due to uncertainties related to subsidy requests over the rest of the current fiscal year. An additional funding request is planned later, but depending on consumers’ response to the modified program, staff indicated “additional modifications to the Turf Removal Program may be necessary.” To provide perspective on how these costs may impact rates, Kightlinger said that a 7 percent rate increase is needed for every $100 million of expenses added to MWD’s budget.2

Following staff’s presentation, the committee engaged in a lengthy discussion about MWD’s conservation program. Several directors voiced their concern with limiting the subsidy amount.

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1 Through previous actions, the MWD Board already increased the conservation budget for fiscal year 2015 by $80 million to $100 million.
2 During the committee’s discussion, Steiner confirmed that the 7 percent rate increase per $100 million of additional expenditures is based on sales of 1.75 million acre-feet, which Steiner observed that if sales are projected to be less than 1.75 million acre-feet then the rate increases would be even greater.
residential customers may receive from the Turf Removal Program as proposed by staff. Directors Abdo (Santa Monica), Quiñonez, and Gray (West Basin) urged the committee not to restrict residential customers’ subsidy amount. Peterson said he was “embarrassed” by the use of MWD funds to subsidize turf removal at private country clubs, equating MWD’s subsidies to one of the private golf courses in his service area to “half of a membership” fee. He also questioned the use of funds to remove turf for large residential projects, saying “we paid a check to a residential person for $35,000 in my district…they got rid of grass, but they shouldn’t have had that much grass to begin with.” Supporting changes to the Turf Replacement Program, he advocated for similar subsidy limitations for commercial and residential customers, implying that the residential limits should be higher while the commercial subsidy limits should be lower than those limits proposed by staff. Director Kurtz (Pasadena) and Director Ramos (Burbank) expressed concern that lifetime funding caps will impede turf removal because larger projects may need to be phased over time to be financially feasible. Secretary Morris (San Marino) voiced support for providing subsidies to residential and public agencies, but not commercial entities. Director Martínez (Santa Ana) called for MWD to consider program equity for funding among different sectors, pointing out that in Santa Ana public agencies have the greatest need for subsidies, rather than the residential sector. Director Blois (Calleguas) suggested that the public’s perception on wasting water has been transformed and called for a single budget cap for the entire program, and to limit the amount of subsidies given to commercial entities but allow subsidies for large-scale residential projects. Quiñonez cautioned the committee on adopting changes that could decrease the current interest in turf replacement and requested that staff provide an alternative to minimize the impact of program changes on residential and public agency customers. Touhey also expressed interest in an alternative proposal.

Some directors recommended that MWD implement additional program modifications to contain costs and better promote conservation. Water Resource Manager Upadhyay replied to a question posed by Steiner that local agencies control whether recycled water customers are eligible for turf replacement subsidies. Lewinger questioned if that is indeed the case; Ramos, Lewinger, and Caulkins suggested that these customers should not receive subsidies. Ramos and Lewinger both pointed out that these same customers are likely to have received recycled water subsidized through MWD’s Local Resource Program. Pointing out that California Friendly landscapes require irrigation to establish, Steiner suggested restricting planting during the hotter summer months. Upadhyay said that staff considered requiring the postponement of planting, but did not recommend it due to administrative burdens.

Although several directors suggested relaxing staff’s proposed modifications to encourage more turf replacement, others expressed concern that MWD’s current Turf Replacement Program funding level is unsustainable and questioned the benefits the program provides for its high price tag. McKenney said that he views the Turf Removal Program as a short-term, or at most mid-term, program due to its unsustainable financial requirements and that funding caps are necessary. Director Hogan commented that based on MWD’s own water savings projections attributed to the Turf Removal Program (less than 1 percent of MWD’s annual demand over 10 years) it is clear that the program is more about market transformation (i.e., changing the public’s perception to make California friendly landscapes more desirable than turf). Hogan questioned the water savings the program produces, to which Upadhyay replied that MWD cannot ensure water savings from individual turf removal projects because savings vary from site to site. (Upadhyay said that MWD intends to complete a study on turf removal to understand the program’s long-term water savings.)
To continue funding an aggressive conservation program, Abdo supported raising rates in the future. Director Wunderlich (Beverly Hills) echoed Abdo’s call to be “bold” with MWD’s conservation program, particularly for this and next fiscal years’ program given the amount of funds available in MWD’s reserves; however, he questioned the need for funding larger turf removal projects. He also suggested these high funding levels may not be needed in the future because of market transformation. Based on the increased subsidy requests in the Turf Removal Program, Director Dick (Municipal Water District of Orange County) deemed the program, and MWD’s investment in the program, successful in transforming the market. Considering the program’s success coupled with the Governor’s 25 percent conservation mandate for retail agencies, he suggested that it is time to allow the retail agencies – rather than MWD – to take the lead in funding and implementing turf removal programs. Lewinger echoed Dick and Wunderlich’s comments, suggesting that the current program’s success in transforming the public’s perception on California friendly landscapes coupled with the Governor’s conservation mandate indicates that MWD should lower the subsidy amount.

Voicing support for staff’s proposed changes, Director Ackerman (Municipal Water District of Orange County) said MWD cannot continue “to throw money” into the program. Kurtz suggested that, “at some point,” MWD consider establishing a firm budget for the program and Caulkins called for containment of the “run-away expenditures” for this “very expensive” program. Caulkins also suggested that MWD spend less on turf removal and focus more on water transfers, model landscape ordinances, and device rebates. Steiner encouraged water use audits to promote better understanding of water use and conservation methods. Dick pointed out that under even the modified program proposal, in fiscal years 2014 through 2017, MWD will spend $750 million in cash on conservation. Comparing this investment to building a second surface storage reservoir in Southern California (noting that Diamond Valley Lake cost $2 billion and was financed largely by bonds), he suggested MWD consider which projects and programs will provide the best value for the district’s investment. Pointing out that MWD cannot continue to pay customers not to use MWD’s water, Barbre urged the committee to refocus on water producing projects to drought-proof Southern California such as building more in-region surface storage.

Other directors requested further information and to defer action on this item until more information is available. Touhey asked how much money MWD has saved from conservation programs that offset the need to purchase additional water. Noting the significant policy and financial implications of MWD’s conservation program, Murray suggested that the Board defer action to allow staff to provide more comprehensive information and facilitate thoughtful discussion.

Following the discussion, Kightlinger proposed an amended staff recommendation to:

- Authorize a $150 million increase in the biennial conservation budget;
- Authorize staff’s initial tiered incentive, increasing the incentive cap for residential customers to match commercial ones;
- Direct staff to return later this year with recommendations related to recycled water customers’ eligibility, lifetime funding limits, and subsidy amounts;
- Request the Integrated Resources Program (IRP) Committee to discuss market transformation and water ordinance issues; and
- Direct staff to pursue State funding for turf removal.
Quiñonez offered a “friendly amendment” to staff’s initial recommendation that modified the tiered incentives for residential, commercial, and public agencies (increasing program expenditures compared to staff’s proposed recommendations) as well as increased the funding caps for residential and commercial properties. The committee first considered Kightlinger’s amended staff recommendation, which gained 46.67 percent support (with one committee member abstaining); the motion failed. Quiñonez’s motion was voted on but failed with 40 percent of the committee supporting it. Lewinger then moved that the Board hold a special meeting later this month at its fourth Tuesday meeting to allow staff time to provide more information in light of the committee’s discussion. Peterson cautioned that this motion may cause a spike in turf removal applications, further escalating MWD’s expenditures because customers will be aware that the existing program terms are likely to change. Lewinger’s motion passed with 78.57 percent of the committee’s support.

During public comment at the following day’s Board meeting, four speakers addressed the Board on MWD’s conservation and water supply issues. Speaking as a private citizen of the city of Los Angeles, Director Dake (Los Angeles) said he would recuse himself from voting on MWD’s conservation incentives item because as a landscape architect, he could potentially benefit from these incentives. However, he voiced support for staff’s recommended action and urged the Board to take action today as well as to clearly communicate Turf Removal Program changes to the public. The Southern California Golf Association’s Director of Governmental Affairs echoed Dake’s comments, but requested the use of annual caps instead of the proposed lifetime funding limit for commercial customers. Two speakers from the Lyndon LaRouche Political Action Committee (PAC) urged the Board to incorporate science into solving water supply issues, suggesting the development of new water by ionizing the air to promote rainfall and investing in “nuclear desalination.” Additionally, the LaRouche PAC representatives advocated working collaboratively with the “BRIC” nations (Brazil, Russia, India, and China) to develop water supply solutions saying that conservation will not solve the water supply problem.

Following these comments, Water Planning and Stewardship Committee Chair De Jesus (Three Valleys) moved the committee’s recommended action, but expressed his support for staff’s amended recommendation. Dick offered a substitute motion to approve staff’s amended recommendation excluding the portions that direct staff to pursue State funding and request the IRP Committee to consider various issues. However, Chair Record said the Board would consider the committee’s recommended action first, prompting further discussion.

Directors Koretz (Los Angeles) and Wunderlich voiced support for the committee’s recommendation to delay action on the conservation program, which, later were supported by Murray and Abdo. Expressing the need to make modifications to the Turf Removal Program immediately, Peterson urged that the Board adopt changes that day. He reiterated his concern that continuing the program without changes for the next two weeks will have significant financial impacts to MWD. Echoing Peterson’s concern, Kurtz asked if the Board deferred action at this meeting, whether it may subject applications received after the Board’s deferral to future program changes. Upadhyay answered affirmatively. Record expressed concern that the existing conservation budget will be exceeded by the time the Board reconsiders the conservation program in two weeks. In response to a question from Peterson, Upadhyay said that more than 50 percent of applications are from large turf removal projects requesting more than $100,000 in subsidies. Kurtz expressed concern about further exhausting MWD’s funds and asked if the motion could include a
provision explaining applications are subject to future changes in program terms. Kightlinger
clarified that the motion under consideration does not offer this provision. The Board approved the
committee’s recommendation to defer Board action for two weeks. The motion passed with 61.35
percent of the Board supporting it. Lewinger moved, and the Board approved a motion to subject
all rebate applications received following the Board meeting to the rules that are adopted at the
May 26 Special Board Meeting. Subsequently, MWD sent an email to its member agencies
clarifying that applications received after 1:00 p.m. on May 12 would be subject to the new rules
adopted later in the month.

Prepared by: Liz Mendelson, Water Resources Specialist
Approved by: Communications and Legislation Committee by Keith Lewinger and Yen Tu
Engineering and Operations Committee by Fern Steiner
Finance and Insurance Committee by Keith Lewinger
Legal and Claims Committee by Fern Steiner and Yen Tu
Real Property and Asset Management Committee by Michael Hogan
Water Planning and Stewardship Committee by Keith Lewinger and Fern Steiner

Attachment 1: Letter to MWD on the continuing MWD’s Water Standby Charge for fiscal year 2016,
dated May 9, 2015
Attachment 2: Letter to MWD on Board Memo 8-2 related to authorizing additional funding for
MWD’s conservation incentives and implementing modifications to MWD’s Turf
Removal Program May 8, 2015
Attachment 3: MWD’s committee and Board meeting agenda and Summary of Actions, dated May 11
and 12, 2015
May 9, 2015

Randy Record and
   Members of the Board of Directors
Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, CA 90054-0153

RE:   Adopt resolution to continue Metropolitan’s Water Standby Charge for fiscal year 2015/16 – OPPOSE

Chair Record and Members of the Board:

While we do not oppose use of a water standby charge in the abstract, we vote NO on Board Memo 8-1 for the reasons stated in our April 13, 2015 letter RE: Board Memo 8-1: Approve resolutions fixing and adopting a Readiness-to-Serve Charge and a Capacity Charge for calendar year 2016 - OPPOSE, a copy of which is attached.

Sincerely,

Michael T. Hogan
   Director

Keith Lewinger
   Director

Fern Steiner
   Director

Yen C. Tu
   Director

Attachment:
   1. Water Authority’s April 13, 2015 Letter to MWD Board re 8-1
April 13, 2015

Randy Record and
Members of the Board of Directors
Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, CA 90054-0153

RE: Board Memo 8-1: Approve resolutions fixing and adopting a Readiness-to-Serve Charge and a Capacity Charge for calendar year 2016 - OPPOSE

Chair Record and Members of the Board,

Copies of the following letters (without attachments) are attached:

1) April 8, 2014 letter from Dennis Cushman to Dawn Chin, Clerk of the Board RE: Board Memo 8-1 - Approve proposed biennial budget for fiscal years 2014/15 and 2015/16, proposed ten-year forecast, proposed revenue requirements for fiscal years 2014/15 and 2015/16, and recommended water rates and charges to be effective on January 1, 2015 and January 1, 2016; and transmit the General Manager's Business Plan Strategic Priorities for FY 2014/15 and 2015/16 - COMMENTS ON PROPOSED WATER RATES AND CHARGES (FOR 2015 AND 2016); and

2) April 8, 2014 letter from Dennis Cushman to Jeff Kightlinger RE: April 8, 2014 Board Meeting, Board Memo 8-1 - Approve proposed biennial budget for fiscal years 2014/15 and 2015/16, proposed ten-year forecast, proposed revenue requirements for fiscal years 2014/15 and 2015/16, and recommended water rates and charges to be effective on January 1, 2015 and January 1, 2016; and transmit the General Manager's Business Plan Strategic Priorities for FY 2014/15 and 2015/16 - REQUEST TO CONTINUE BOARD ACTION ONE MONTH, UNTIL THE MAY BOARD MEETING, TO ALLOW AN OPPORTUNITY FOR REVIEW OF INFORMATION PROVIDED TO THE BOARD OF DIRECTORS ON APRIL 4, 2014, AT 4:03 PM; IN THE ALTERNATIVE - OPPOSE.
Chair Record and Members of the Board  
April 13, 2015  
Page 2

The Water Authority requests inclusion of this letter and the attached letters and each and every attachment provided to MWD on April 8, 2014, in the record of proceedings relating to the actions and resolutions to fix and adopt Readiness-to-Serve (RTS) Charge and a Capacity Charge effective January 1, 2016, based on the rates and charges adopted by the Board on April 8, 2014. MWD's Engineer's Report dated April 2015 and 2014 cost of service reports are lacking a reasonable basis to support the RTS and Capacity Charges being imposed on the Water Authority for calendar year 2016, in that they fail to identify either the benefit of each facility or project to be financed with RTS revenues or the recipient of that benefit. Declarations by the Chief Financial Officer and Board of Directors in resolutions are not a sufficient factual or legal basis for the assessment of the RTS and Capacity Charges and are, in fact, contrary to testimony provided by MWD itself in the Water Authority litigation presently pending against MWD, in which MWD's cost allocations and rates have already been determined to violate the common law, Govt. Code Section 54999.7(a), the Wheeling Statute and Proposition 26. The Water Authority also requests inclusion of the April 2, 2015 trial testimony of Devendra Upadhyay in the record of proceedings relating to the Board's actions and resolutions to fix and adopt the RTS and Capacity Charges.

For these reasons, we OPPOSE Board Memo 8-1.

Sincerely,

Michael T. Hogan  
Director

Keith Lewinger  
Director

Fern Steiner  
Director

Yen C. Tu  
Director

Attachments:
1. Letter to Dawn Chin re: Board Memo 8-1, dated April 8, 2014
2. Letter to Jeff Kightlinger re: Board Memo 8-1, dated April 8, 2014
3. Trial testimony of Devendra Upadhyay, dated April 2, 2015
Dear Ms. Chin:

Accompanying this letter are a CD containing a copy of all of the documents listed in the attached Index, “Documents San Diego County Water Authority Requests be Included in the Administrative Record for Setting of 2015-2016 MWD Rates, Part II” (a copy is marked as Attachment 1 to this letter). The documents on the CD are comprised solely of prior correspondence between the San Diego County Water Authority and MWD.

Also attached are copies of the following letters and information:

1. Letter from Marcia Scully to Dan Hentschke dated March 19, 2014 RE: Response to Request for Information Dated February 28, 2014 (a copy is marked as Attachment 2 to this letter).

2. Letter from Marcia Scully to Dan Hentschke dated April 4, 2014 RE: Further Response to Request for Information Dated February 28, 2014 (a copy is marked as Attachment 3 to this letter).

3. Email transmittal of the April 4, 2014 information to the MWD Board of Directors dated April 4, 2014, transmitted at 4:03 PM (a copy is marked as Attachment 4 to this letter).

4. Government Finance Officers Association, Best Practice, Long-Term Financial Planning (2008) (BUDGET) (a copy is marked as Attachment 5 to this letter) and Overview of the Characteristics of Effective Financial Planning Documents, which may be found at the following link: http://www.gfoa.org/index.php?option=com_content&task=view&id=366.

5. Public meeting excerpt RE MWD’s draft 2010 Integrated Resources Plan, August 10, 2010. (Attachment 6)
6. Audio files of the following MWD Finance and Insurance Committee (F&I) and Board meetings (Board), which may be found at the following links (discussions at the April 7 F&I and April 8 board meetings are not yet available from MWD but are requested to be made part of the record):

   f. April 7, 2014 F&I meeting: Approve biennial budget and rates (8-1)
   g. April 8, 2014 Board meeting: Approve biennial budget and rates (8-1)

The Water Authority requests inclusion of this letter and its Attachments, including each and every document listed on the Index and included on the CD, in the record of the proceedings relating to the actions and resolutions for adoption and imposition of MWD’s rates and charges for 2015 and 2016.

Sincerely,

Dennis A. Cushman
Assistant General Manager

Attachments
Documents San Diego County Water Authority Requests be Included in the Administrative Record for Setting of 2015-2016 MWD Rates, Part II

List of Contents

- Water Authority’s Director Steiner letter re: Member Agency Willingness to Sign Take-or-Pay Contracts (August 16, 2011)
- Water Authority Delegation letter re: Board Memo 8-2: Authorize the execution and distribution of the Official Statement in connection with the issuance of the Water Revenue Refunding Bonds (April 9, 2012)
- Water Authority Delegation letter re: Agenda Item 8-8: Authorize the execution and distribution of Official Statements in connection with issuance of the Water Revenue Refunding Bonds (June 11, 2012)
- Water Authority Delegation letter re: Board Memo 8-1: Authorize the execution and distribution of the Remarketing Statement in connection with the remarketing of the Water Revenue Bonds (August 20, 2012)
- Water Authority’s Director Wilson letter re: Comments on Appendix A and OS (August 29, 2012)
- Water Authority Delegation letter re: Board Memo 8-1: Authorize the Execution and Distribution of the Official Statement in Connection with the Issuance of the Water Revenue Refunding Bonds (November 5, 2012)
- Water Authority Delegation letter re: Board Memo 8-1: Authorize the execution and distribution of the Official Statement in connection with the issuance of the Water Revenue Refunding Bonds (February 11, 2013)
- Water Authority Delegation letter re: Board Memo 8-3: Authorize the execution and distribution of the Official Statement in connection with the issuance of the Special Variable Rate Water Revenue Refunding Bonds (May 13, 2013)
- Water Authority Delegation letter re: Board Memo 8-5: Authorize the execution and distribution of the Official Statement in connection with issuance of the Special Variable Rate Water Revenue Refunding Bonds (June 7, 2013)
- Water Authority Delegation letter re: Board Memo 8-1: Authorize the execution and distribution of Remarketing Statements in connection with the remarketing of the water Revenue Refunding Bonds (December 9, 2013)
- Water Authority letter re: Draft Long Range Finance Plan (January 5, 2011)
- Water Authority Delegation letter re: Update on Rate Refinement Discussions (Finance & Insurance Committee Item 7-a) (July 9, 2012)
• Water Authority’s Director Wilson letter re: Rate Refinement Workshop (August 16, 2012)
• Water Authority Delegation letter re: Update on “Rate Refinement” (Board Information Item 7-b) (September 10, 2012)
• Water Authority Delegation letter re: Board Memo 8-3 – Approve the form of the amended and restated Purchase Order and authorize amendment of section 4122 of the Administrative Code (October 8, 2012)
• Water Authority letter re: Amended and Restated Purchase Order for System Water to be Provided by the Metropolitan Water District of Southern California ("Revised Purchase Order Form") (December 27, 2012)
• Water Authority letter re: Amended and Restated Purchase Order for System Water to be Provided by the Metropolitan Water District of Southern California (January 14, 2013)
• Water Authority Director Lewinger’s letter re: Tracking Revenues from Rate Components Against Actual Expenditures (November 4, 2012)
• Water Authority Delegation letter re: Board Memo 8-1: Adopt resolutions imposing Readiness-to-Serve Charge and Capacity Charge effective January 1, 2014 – Request to Table or in the Alternative, Oppose (April 8, 2013)
• Water Authority Delegation letter re: Board Memo 8-1 – Set public hearing to consider suspending Section 124.5 of the Metropolitan Water District Act to maintain the current ad valorem tax rate (May 14, 2013)
• MWD letter re: Public Hearing scheduled pursuant to section 124.5 of the Metropolitan Water District Act (Stats. 1984, ch. 271) (May 29, 2013)
• MWD Board Memo 8-1 re: Mid-cycle Biennial Budget Review and Recommendations for Use of Reserves over Target signed by the general manager on May 30, 2013
• MWD Board Memo 8-2 re: Suspend the tax rate limitations in Section 124.5 of the Metropolitan Water District Act to maintain the ad valorem tax rate for fiscal year 2013/14 signed by the general manager on May 31, 2013
• Water Authority Delegation letter re 8-1 – Mid-cycle Biennial Budget Review and Recommendation for Use of Reserves over Target Water Rate Increases – Oppose and Request for Refund to Ratepayers of Excess Reserves and Board Memo 8-2 – Suspend the tax rate limitations in Section 124.5 of the Metropolitan Water District Act to maintain the ad valorem tax rate for fiscal years 2013/14 – Oppose (June 5, 2013)
• Water Authority Delegation letter re: Board Memo 5G-2: Adopt resolution maintaining the tax rate for fiscal year 2013/14 – Oppose (August 16, 2013)
• AFSCME letter re: October 8, 2013 Board Meeting (November 1, 2013)
• Water Authority letter re: Written Request for Notice Request for Data and Proposed Methodology for Establishing Rates and Charges (January 27, 2014)
• Mayors of 14 cities in San Diego Region letter re: MWD’s calendar years 2015 and 2016 rate setting and fiscal years 2013 and 2014 over-collection (February 3, 2014)
• MWD’s response letter re: Written Request for Notice Regarding Rate Setting (February 5, 2014)
• Water Authority response letter re: Renewed written request for data and proposed methodology for establishing rates and charges (February 28, 2014)
• Water Authority Delegation letter re: Metropolitan Water District Public Hearing on Suspension of Tax Rate Limitation (March 7, 2014)
• MWD response letter re: Response to Request for Information Dated February 28, 2014 (March 10, 2014)
• MWD letter re: Response to Request for Information Dated February 28, 2014 (March 19, 2014)
• Water Authority Delegation letter re: KPMG Audit Report of MWD’s Basic Statements for Years ended June 30, 2011 and 2010 (October 25, 2011)
• Water Authority letter re: San Diego County Water Authority’s Annexation (March 13, 2012)
• Water Authority Delegation letter re: Adoption of 2010 Integrated Resources Plan - Oppose (October 11, 2010)
• Water Authority Delegation letter re: Board Memo 8-3 – Adjustments to Metropolitan’s Water Supply Allocation Plan Formula; Request to Defer Action Pending Board Workshop (September 9, 2011)
• Water Authority Delegation letter re: Water Planning and Stewardship Committee items 6a, 6b, and 6d (October 7, 2011)
• Water Authority Delegation letter re: SB 60 Annual Public Hearing and Report to the Legislature Regarding Adequacy of MWD’s Urban Water Management Plan; Request to Include Information in Report to Legislature (December 13, 2011)
• Water Authority Delegation letter re: Board Memo 7-2: Authorize execution of Memorandum of Understanding for the greater Los Angeles County Region Integrated Regional Water Management (IRWM) Plan leadership committee and join other IRWM groups in our service area if invited by member agencies (December 10, 2012)
• Water Authority Delegation Letter re: SB 60 Annual Public Hearing and Report to the Legislature Regarding Adequacy or MWD’s UWMP; Request to Include Information in Report to Legislature (December 10, 2012)
• Water Authority Delegation Letter re: Board Item 9-1 – Proposed Foundational Actions Funding Program (March 7, 2013)
• Water Authority Delegation Letter re: Board Item 8-4: Approve Foundational Actions Funding Program -- OPPOSE (April 8, 2013)
Water Authority Delegation letter re: Board Memo 7-3: Authorize entering into an exchange and purchase agreement with the San Gabriel Valley Municipal Water District (August 19, 2013)

Water Authority Delegation letter re: Board Memo 8-2: Authorize staff to enter into funding agreements for Foundational Actions Funding Program proposals - Oppose (September 10, 2013)

Residents for Sustainable Mojave Development letter re: Metropolitan Water District’s Role in Approving the Cadiz Valley Water Conservation, Recovery and Storage Project (October 4, 2013)

Water Authority Delegation letter re: Board Memo 8-3- Authorize (1) agreement with the State Water Contractors, Inc. to pursue 2014 Sacramento Valley water transfer supplies; and (2) $5 per acre-foot initial administrative deposit not to exceed $500,000 – Support with Reservation of Rights to object to cost allocation (October 4, 2013)

Water Authority Delegation letter re: Board Letter 8-1 - Authorize amendment to Metropolitan’s Cyclic Storage Agreement with Upper San Gabriel Valley Municipal Water District and the Main San Gabriel Basin Watermaster – Request to Table or in the Alternative to Oppose (October 8, 2013)

Water Authority letter re: Foundational Actions Funding Program Agreement (November 13, 2013)

Water Authority Delegation letter re: SB 60 Report – Water Planning and Stewardship Committee Public Hearing (December 9, 2013)

Water Authority Delegation letter re: Board Memo 8-6 – Consolidated Agreement for Chino Basin Desalination Program – Oppose (June 13, 2011)

Water Authority Delegation letter re: Board Item 8-3 –Oppose: Authorize entering into a Local Resources Program Agreement with Municipal Water District of Orange County and the city of San Clemente for the San Clemente Recycled Water System Expansion Project (June 11, 2012)

Water Authority Delegation letter re: Board Item 7-1 –Oppose: Authorize entering into a Local Resources Program Agreement with Municipal Water District of Orange County and El Toro Water District for the El Toro Recycled Water System Expansion Project (August 20, 2012)

Water Authority Delegation letter re: Board Item 7-4 –Oppose: Authorize entering into a Local Resources Program Agreement with Calleguas Municipal Water District and Camrosa Water District for the Round Mountain Water Treatment Plant (February 11, 2013)
- Water Authority Delegation letter re: Board Item 7-2 – Oppose: Authorize entering into a Local Resources Program Agreement with the city of Long Beach and Water Replenishment District of Southern California for the Leo J. Vander Lands Water Treatment Facility Expansion Project (May 10, 2013)

- Water Authority Delegation letter re: Board Item 7-1 – Oppose: Authorize entering into a Local Resources Program Agreement with the city of Anaheim for the Anaheim Water Recycling Demonstration Project (July 5, 2013)

- Water Authority Delegation letter re: Board Item 7-4 – Oppose: Authorize entering into a Local Resources Program Agreement with Eastern Municipal Water District for the Perris II Brackish Groundwater Desalter (October 4, 2013)

- Water Authority Director Steiner letter re: August 2010 Board Memo 9-1, MWD Water Conservation Program (August 16, 2010)

- Water Authority letter re: Metropolitan’s Draft Long Term Conservation Plan (November 29, 2010)


- Water Authority letter re: Turf Replacement Grant Programs (November 23, 2011)

- Water Authority Delegation letter re: Board Memo 8-4 – Oppose: Authorize changes to water conservation incentives (subsidies) as described (May 7, 2012)

- Water Authority Delegation statement re: Item 7-5: Adopt resolutions to (1) support applications and (2) authorize General manager to accept funding and enter into contracts with the Bureau of Reclamation for WaterSMART grant funding if awarded (February 11, 2013)


- Water Authority Delegation letter re: Board Memo 8-2 – Authorize $3 million for an On-Site Retrofit Pilot Program: Table Pending Development of Program Criteria and Cost of Service Analysis, or in the Alternative, Oppose and Board Memo 8-7 – Authorize an increase of $20 million for conservation incentives and outreach: Oppose Unless Amended to Allow the Water Authority to Receive Program Benefits and Comply with Cost of Service Requirements (February 10, 2014)

- Water Authority Delegation letter re: Board Memo 8-3 – Table Pending Receipt of Additional Information or in the Alternative, Oppose: Authorize entering into a Water Savings Incentive Program (WSIP) Agreement with Altman’s Specialty Plants, Inc. to provide financial incentives for a water use efficiency project (March 10, 2014)

- Water Authority Delegation letter re: Board Memo 5-1 – Sale of discounted water Program (April 25, 2011)

- Water Authority Delegation letter re: Board Memo 5-1 Sale of Discounted Water (May 6, 2011)
- Water Authority Director Lewinger re: Comments and Questions on Board Memo 9-2 – Update on Replenishment Service Program (September 12, 2011)
- Water Authority Delegation letter re: Board Memo 8-8 - Approve Policy Principles for a Replenishment (Discounted Water) Program (November 4, 2011)
- Water Authority Delegation letter re: Board Memo 9-1 - Review Options for Updated Replenishment (Discounted Water) Program (December 12, 2011)
- Water Authority Delegation letter re: MWD Letters on Replenishment dated December 21, 2011 (January 5, 2012)
- MWD response letter re: Replenishment Workgroup Documentation (January 18, 2012)
- Water Authority Delegation letter re: Item 7-3 – Approve amendments to the Metropolitan Water District Administrative Code to current laws and practices and makes corrections (September 10, 2012)
- Testimony of Dennis Cushman, Water Authority assistant general manager, re: Water Planning and Stewardship Committee Item 6-c: oral report on QSA issues (October 9, 2012)
- Water Authority letter re: Record of September 10, 2013 Meeting of the Board of Directors of the Metropolitan Water District of Southern California - Item 8-2 (September 11, 2013)
- MWD response letter re: Record of September 10, 2013 MWD Board Meeting of the Board of Directors of the Metropolitan Water District of Southern California - Item 8-2 (September 16, 2013)
- MWD letter re: Responses to Director Questions re Ethics Workshops (November 14, 2013)
- Water Authority Delegation letter re: Applicability of MWD’s Administrative Code (December 9, 2013)
- MWD response letter re: Applicability of MWD’s Administrative Code (January 10, 2014)
VIA FEDERAL EXPRESS

March 19, 2014

Daniel Hentschke, Esq.
San Diego County Water Authority
4677 Overland Avenue
San Diego, CA 92123-1233

Re: Response to Request for Information Dated February 28, 2014

Dear Daniel,

Enclosed is a DVD containing Metropolitan records provided in response to San Diego County Water Authority’s (SDCWA) February 28, 2014 Public Records Act request for the “database, inputs, outputs, spreadsheets, and reports used or prepared by Metropolitan staff or consultants in the development of the recommended rates, charges, surcharges, or fees,” to the extent that such material has not already been provided to Metropolitan’s Board of Directors, including SDCWA’s delegates. Proprietary formulas and programming code have been removed from spreadsheets, and employee names and identifying employee numbers have been redacted.

As stated in my March 10 letter, although Metropolitan disagrees with SDCWA’s assertion that Government Code Section 54999.7 is applicable to Metropolitan (and SDCWA has agreed in the past that the Section does not apply to Metropolitan), Metropolitan has fully complied with Government Code Section 54999.7’s requirements through the proposed budget and rates information that has been provided and will continue to be provided to the Board, member agencies and the public. As part of its regular budget-setting and rate-setting process, Metropolitan provides to the Board, member agencies and the public the detailed data and proposed methodology for the proposed rates and charges, through the budget and rate Board letters, proposed budget, costs of services studies for various rate proposals, presentations and discussions at the multiple committee and Board meetings and workshops.

The DVD contains Metropolitan Finance staff’s working materials that underlie this detailed, previously-provided material. This includes drafts and calculations, and also includes materials concerning potential rate scenarios that were not presented to the Board. Metropolitan’s budget-setting and rate-setting process is still in progress. The DVD contains materials through the February 25, 2014 Board budget and rate workshop and some subsequent underlying materials. As the staff continues to work on rate scenarios in response to requests from the Board and
direction from management until final adoption of the budget and rates, we will provide one or more additional productions with later records as well.

As noted in my March 10 letter, we will post this material on-line so it is available to all Metropolitan Board members, member agency staff and the public. If any Board member requests, we will also provide the material on a DVD.

Very truly yours,

Marcia Scully
General Counsel

Enclosure

cc (without enclosure):
   Members of the Metropolitan Board of Directors
   Member Agency Managers
   Jeffrey Kightlinger
   Maureen Stapleton
April 4, 2014

Daniel Hentschke, Esq.
San Diego County Water Authority
4677 Overland Avenue
San Diego, CA 92123-1233

Re: Further Response to Request for Information Dated February 28, 2014

Dear Dan:

This follows up on my letter of March 19, 2014, which enclosed a DVD containing materials provided in response to San Diego County Water Authority’s February 28, 2014 Public Records Act request. My March 19 letter noted that as Metropolitan’s budget-setting and rate-setting process is still in progress, we would also provide one or more additional productions of later records. Enclosed is a DVD containing Metropolitan’s second production of requested records. Proprietary formulas and programming code have been removed from spreadsheets.

As with Metropolitan’s first production, we have posted this material on-line so it is available to all Metropolitan Board members, member agency staff and the public. If any Board member requests, we will also provide the material on a DVD.

Very truly yours,

Marcia Scully
General Counsel

cc: (without enclosure)
Members of the Metropolitan Board of Directors
Member Agency Managers
Jeffrey Kightlinger
Maureen Stapleton
Attached is our further response to SDCWA’s Request for Information dated February 28. If you have any questions, please feel free to contact me.
**BEST PRACTICE**

**Long-Term Financial Planning (2008) (BUDGET)**

**Background.** Long-term financial planning combines financial forecasting with strategizing. It is a highly collaborative process that considers future scenarios and helps governments navigate challenges. Long-term financial planning works best as part of an overall strategic plan.

Financial forecasting is the process of projecting revenues and expenditures over a long-term period, using assumptions about economic conditions, future spending scenarios, and other salient variables.

Long-term financial planning is the process of aligning financial capacity with long-term service objectives. Financial planning uses forecasts to provide insight into future financial capacity so that strategies can be developed to achieve long-term sustainability in light of the government's service objectives and financial challenges.

Many governments have a comprehensive long-term financial planning process because it stimulates discussion and engenders a long-range perspective for decision makers. It can be used as a tool to prevent financial challenges; it stimulates long-term and strategic thinking; it can give consensus on long-term financial direction; and it is useful for communications with internal and external stakeholders.

**Recommendation.** The Government Finance Officers Association (GFOA) recommends that all governments regularly engage in long-term financial planning that encompasses the following elements and essential steps.

A long-term financial plan should include these elements.

1. **Time Horizon.** A plan should look at least five to ten years into the future. Governments may elect to extend their planning horizon further if conditions warrant.

2. **Scope.** A plan should consider all appropriated funds, but especially those funds that are used to account for the issues of top concern to elected officials and the community.

3. **Frequency.** Governments should update long-term planning activities as needed in order to provide direction to the budget process, though not every element of the long-range plan must be repeated.

4. **Content.** A plan should include an analysis of the financial environment, revenue and expenditure forecasts, debt position and affordability analysis, strategies for achieving and maintaining financial balance, and plan monitoring mechanisms, such as scorecard of key indicators of financial health.

5. **Visibility.** The public and elected officials should be able to easily learn about the long-term financial prospects of the government and strategies for financial balance. Hence, governments should devise an effective means for communicating this information, through either separate plan documents or by integrating it with existing communication devices.
A long-term financial plan should include these steps.

(1) **Mobilization Phase.** The mobilization phase prepares the organization for long-term planning by creating consensus on what the purpose and results of the planning process should be. The mobilization phase includes the following items.

   a. **Alignment of Resources.** This step includes determining the composition of the project team, identifying the project sponsor, and formulating a strategy for involving other important stakeholders. This step also involves the creation of a high-level project plan to serve as a roadmap for the process.

   b. **Preliminary Analysis.** This step helps raise awareness of special issues among planning participants, such as the board or non-financial executive staff. A scan of the financial environment is common at this point.

   c. **Identification of Service Policies and Priorities.** Service policies and priorities have important implications on how resources will be spent and how revenues will be raised. A strategic plan or a priority setting session with elected officials could be useful in identifying service policies and priorities.

   d. **Validation and Promulgation of Financial Policies.** Financial policies set baseline standards for financial stewardship and perpetuate structural balance, so a planning process must corroborate policies in place (as well as the organization’s compliance with those policies) and also identify new policies that may be needed.

   e. **Definition of Purpose and Scope of Planning.** The purpose and scope of the planning effort will become clear as a result of the foregoing activities, but the process should include a forum for developing and recognizing their explicit purpose and scope.

(2) **Analysis Phase.** The analysis phase is designed to produce information that supports planning and strategizing. The analysis phase includes the projections and financial analysis commonly associated with long-term financial planning. The analysis phase involves information gathering, trend projection, and analysis as follows:

   a. **Information Gathering.** This is where the government analyzes the environment in order to gain a better understanding of the forces that affect financial stability. Improved understanding of environmental factors should lead to better forecasting and strategizing.

   b. **Trend Projection.** After the environment has been analyzed, the planners can project various elements of long-term revenue, expenditure, and debt trends.

   c. **Analysis.** The forecasts can then be used to identify potential challenges to fiscal stability (e.g., “imbalances”). These could be fiscal deficits (e.g., expenditures outpacing revenues), environmental challenges (e.g., unfavorable trends in the environment), or policy weaknesses (e.g., weaknesses in the financial policy structure). Scenario analysis can be used to present both optimistic, base, and pessimistic cases.

(3) **Decision Phase.** After the analysis phase is completed, the government must decide how to use the information provided. Key to the decision phase is a highly participative process that involves elected officials, staff, and the public. The decision phase also includes a culminating event where the stakeholders can assess the planning process to evaluate whether the purposes for the plan described in the mobilization phase were fulfilled and where a sense of closure and accomplishment can be generated. Finally, the decision phase should address the processes for executing the plan to ensure tangible results are realized.
(4) Execution Phase. After the plan is officially adopted, strategies must be put into action (e.g. funding required in achieving goals). The execution phase is where the strategies become operational through the budget, financial performance measures, and action plans. Regular monitoring should be part of this phase. The following diagram highlights the various long-term financial planning phases discussed in this recommended practice.

References


Approved by the GFOA’s Executive Board, February 22, 2008.
Comments by Jeffrey Kightlinger, General Manager, Metropolitan Water District of Southern California, during a public workshop held in San Diego on MWD’s Integrated Resources Plan, Aug. 10, 2010.

“A quick comment on contracts. That is an interesting point. Metropolitan and all the State Water Contractors agreed to what are commonly referred to as ‘take-or-pay’ contracts. I’ve never understood the word ‘or,’ because the reality is, you pay regardless of what you take, to be honest. So it’s more like ‘pay’ and ‘sometimes take.’ But, these ‘take-or-pay’ Contractors, we have made a firm commitment to the State of California that we are going to pay half of the fixed costs of the State Water Project every single year, regardless of whether we get one drop of water from the project. There has been debate within Metropolitan that perhaps Member Agencies should do that same kind of commitment as well, so there is a certain base-load of funding and financing available for our projects. Because Member Agencies develop local resources on their own, and start using less and less of Metropolitan water. To date, that while staff thinks contracts are a terrific idea, to date, most of our board members have said ‘we’re not so sure about that.’ And, most of our Member Agencies have said ‘No. Thanks, but no thanks, because we prefer this the way it is.’ We do try to, though, keep a certain amount of our revenue stream in fixed costs, and a certain amount of our revenue stream in the water supply. But, right now it’s about 80% or more comes from the sale of water. We have about 15% in property taxes, and we’ve slowly but surely added to a fixed fee that everybody pays every single year. But that’s an ongoing debate within Metropolitan. Should people make those firm commitments going into the future? So far, the Member Agencies have opted not to. They prefer it the way it is. I think we’re going to continue to have that discussion at Metropolitan, particularly as costs increase.

“Oh, and we’ll definitely take that into consideration, I definitely want to make sure that’s put into the Integrated Resources Plan.¹ Because I do believe, if we are successful – and this is something I keep telling people - if we are successful on the State Water Project – and success means a very expensive eco-system rehab project the size of what we’ve done in the Florida Everglades, and success means building a new tunnel or canal that we’re looking in the eight- to 12-billion-dollar range with the State of California - and Metropolitan coming on board to pay 25% of that cost – that’s a significant new cost that Metropolitan, the next generation of Metropolitan ratepayers will be paying. And we need to take a look at different financing mechanisms that everyone is comfortable with region-wide.”

¹Requirement for firm contractual commitments by Member Agencies to pay MWD’s State Water Project costs was not included in MWD’s adopted 2010 Integrated Resources Plan.
April 8, 2014

Jeff Kightlinger, General Manager and
Members of the Board of Directors
Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, CA  90054-0153

RE: April 8, 2014 Board Meeting  Board Memo 8-1 – Approve proposed biennial budget for fiscal years 2014/15 and 2015/16, proposed ten-year forecast, proposed revenue requirements for fiscal years 2014/15 and 2015/16, and recommended water rates and charges to be effective on January 1, 2015 and January 1, 2016; adopt resolutions fixing and adopting water rates and charges for 2015 and 2016; and transmit the General Manager’s Business Plan Strategic Priorities for FY 2014/15 and 2015/16 – REQUEST TO CONTINUE BOARD ACTION ONE MONTH, UNTIL THE MAY BOARD MEETING, TO ALLOW AN OPPORTUNITY FOR REVIEW OF INFORMATION PROVIDED TO THE BOARD OF DIRECTORS ON APRIL 4, 2014, AT 4:03 PM; IN THE ALTERNATIVE – OPPOSE

Dear Mr. Kightlinger and Board Members:

We have reviewed Board Memo 8-1 and the supplemental information that was provided by MWD via Ms. Scully’s March 19, 2014 letter to Dan Hentschke and DVD, as the basis of its proposed rates and charges for 2015 and 2016. The Water Authority has not had an opportunity to review the additional information that was provided by Ms. Scully last Friday afternoon in her letter dated April 4, 2014 and an attached DVD, which states that it is in response to the Water Authority’s February 28, 2014 Public Records Act request.

Request to continue Board action one month, until the May Board meeting, to allow an opportunity for review of information provided to the Board of directors on April 4, 2014 at 4:03 PM

The information provided to the Water Authority last Friday afternoon was first requested more than two months ago, on January 27, 2014. Based upon a cursory review, there does not appear to be any reason why this information could not have been provided in a timely manner, which would have allowed for meaningful review and consideration of the information by MWD Board members, agency staff and the public. For this reason, we request that the Board continue action on the 2015 and 2016 rates (“the 2015/16 rates”) until the May 13 Board meeting.
Leaving aside for the moment that Judge Karnow has already ruled that Government Code § 54999.7 does apply to MWD, and leaving aside that your delivery of the data today is not timely under the Public Records Act, we do not understand why the MWD staff and Board of Directors would not want to make available all of the data and methodology MWD relies upon in setting its rates and charges. As stated earlier, in Mr. Hentschke’s February 28, 2014 letter to Ms. Scully (RE: Renewed written request for data and proposed methodology for establishing rates and charges (Government Code §§54999.7 and 6250 et seq.)), we believe the “financial planning model” computer program MWD uses in setting its rates and charges should be provided in the interest of making review of the data and methodology easier to understand and more transparent. This would be a great service to the MWD member agencies and public we serve and enable it to meet the burden it now has under Proposition 26. Based upon the information that has been provided, it is not possible for MWD to meet its burden because there is insufficient data to determine the cause of the costs MWD is incurring or the relative benefits each of its member agencies and ratepayers is receiving.

The cost-of-service methodology used by MWD in support of its rates and charges violates Proposition 26, the California wheeling statute, Government Code § 54999.7 (a) and the common law

The cost-of-service methodology used to establish water rates and charges under the three rate options presented by MWD (which do not vary substantively but only provide for varying percentage increases in the proposed 2015/16 rates) in Board Memo 8-1 (“the Board Memo”) is based on the very same rate structure and cost-of-service methodology that was at issue in the recent trial in San Francisco challenging the 2010-2014 rates and charges (“the rate litigation”). We are disappointed that the MWD Board has not taken a closer look at the issues and tentative decision by Judge Karnow in the rate litigation, as well as the reasons for his decision. MWD has not changed how it allocates State Water Project and Water Stewardship Rate costs; as a result, unless the trial court’s ruling is reversed on appeal, the 2015/16 rates will suffer from exactly the same deficiencies as have already been determined to be unlawful in the rate litigation.

Although MWD has once again provided a lot of paperwork relating to the proposed rates and charges for 2015/16, it fails to present relevant or timely factual data, or, follow a cost-of-service process that allows costs to be allocated based on cost causation and according to the benefits received by its member agencies and ratepayers. Although the MWD Board has been told during this process that staff has allocated costs consistent with cost-of-service requirements, MWD has argued in court that none of these requirements even applies to MWD. This includes state constitution Article XIII C (Proposition 26), Government Code Section 54999.7 and the common law. In other words, MWD argues that all these legal requirements – intended to ensure that ratepayers are charged fair rates for government services – simply do not apply to MWD.
MWD’s claim of immunity from cost causation requirements exposes its cost-of-service report for what it is – a pretense that portrays the impression that MWD follows cost causation principles, when it does not. Perhaps that is why MWD refuses to release its financial planning model, which would allow member agencies and the public to understand how MWD has allocated its costs. MWD’s position is that its actions are subject only to the requirement that uniform rates be charged and approved by a majority of the MWD Board of Directors. This should be a cause of concern for all MWD Board members and the millions of ratepayers they collectively serve. MWD has offered no explanation why it would be in the public interest to allow MWD to charge ratepayers more than the actual cost of the services it provides.

**MWD’s newly created “full service exchange cost” is based on litigation strategies and “labels,” not cost-of-service requirements**

MWD has added – without any substantive explanation or analysis – a new line item to its schedule of rates and charges for the 2015/16 rates, namely, a “Full Service Exchange Cost” (Table 2. Rates and Charges by Option, at page 5 of the Board Memo). MWD has not supported this new “rate” by any cost-of-service analysis, because none exists or could exist. In fact, until MWD’s Board Memo was distributed, there was no such thing as a “Full Service Exchange Cost” rate.

The full service exchange cost rate is yet another litigation-driven invention designed to be consistent with MWD’s most recent litigation theory, advanced for the first time in the objections to the court’s tentative decision that MWD filed on March 27, 2014. MWD is now saying that its individual rates – which it had previously claimed were adopted for more transparency and were based on cost of service – are in fact, nothing more than “labels.” It doesn’t matter, MWD now argues, whether a dollar of costs or a hundred dollars of costs is assigned to any particular rate component. While obviously intended to salvage its position in the rate litigation, this argument by MWD actually supports what the Water Authority has been saying all along – that MWD’s rates are arbitrary and capricious and not based on data or cost-of-service requirements.

**MWD’s “revenue requirements” are based on a false set of assumptions and purposely underestimate revenues, rather than on facts and data available to MWD**

In the current budget and rate-setting process, MWD staff has abandoned any effort to estimate MWD’s real revenue requirements. Instead, the budget and long term “projections” are based on an artificial water sales assumption of 1.75 million acre feet, which staff has said would be exceeded three out of every four years. In years when high demands are anticipated – such as during the current drought – this artificial assumption purposely under-estimates projected revenues. MWD has also purposely over-stated its costs by, for example, including costs associated with assumed delivery of State Water...
Project water in volumes that MWD itself projects will not be delivered.

These budget and rate-setting practices do not conform to any industry or agency standard. To the contrary, these practices are purposely designed to put MWD in the same position it has been in over the last budget cycle: collecting hundreds of millions of dollars in revenues without any basis in cost of service and making budget and spending decisions ex post facto. The Board’s budget and rate-setting process is broken. MWD should set its rates based on rational projections, rather than assumptions it knows are incorrect and will result in hundreds of millions of dollars in over- and under-collections.

**Board Memo 8-1 shows on its face that suspension of the tax rate restriction is not now, and will not in August be “essential to the fiscal integrity of MWD”**

Section 124.5 permits MWD to suspend the limitation on property tax collections if the MWD Board finds that tax revenue in excess of the restriction is “essential to the fiscal integrity” of MWD. The Board Memo states that, “if the Board decides to not suspend the tax rate restriction in August, any reduction in revenues will be made up from the R&R Fund, and projected rate increases in FY 2016/17 and 2017/18 will be 2 percent higher.” Given this explanation and the massive over-collection of revenues MWD continues to plan for and impose on ratepayers through the adoption of the proposed budget and rates, suspension of the tax rate restriction cannot plausibly be “essential to the fiscal integrity” of MWD.

**The General Manager’s “Business Plan Strategic Priorities” include large spending priorities that have not been presented to policy committees or even to the Board as part of the budget deliberations**

The Board should bring back the General Manager’s “Business Plan Strategic Priorities,” for discussion and deliberation by the Board of Directors. The Board has not yet voted on key issues that would be foundational to moving forward with the “priorities” being declared by the General Manager, for example, “developing procedures and structures to handle the mechanics and logistics of managing a mega-construction project.” The General Manager’s priorities should not exist separate and apart from the priorities that the Board establishes during the budget deliberations and in other long-range planning processes that have not yet occurred.

**MWD’s “10-year forecast” lacks the essential elements of long-term planning and does not constitute a long range finance plan**

MWD’s “10-year rate forecast” lacks both the substance and process of a long-range finance plan. The 10-year “forecast” is not based on any data, and does not include any planning scenarios, risk analysis or input and data from its member agencies. Instead, it describes a set of assumed, static conditions.
Mr. Kightlinger and Members of the Board of Directors
April 8, 2014

Page 5

Long range finance planning is a dynamic, fact-based process of aligning financial capacity with long-term service objectives. Forecasts of future financial capacity are used so strategies can be developed to achieve long-term sustainability in light of the stated service objectives and financial challenges. None of these key issues are discussed in the “projection” included in the budget, which has been unilaterally prepared and presented by MWD staff without any involvement whatsoever by the MWD Board of Directors or input or participation by the member agencies. Neither does the purported long term plan contain any scenarios and risk analyses that a real long range finance plan includes. The 10-year rate forecast that MWD labels a long range finance plan has the same attribute as its budget process – it is based on assumptions, rather than engaging in the more difficult and important process of financial planning based on best available data and articulation of service objectives.

In closing, MWD’s Board of directors is being asked by its staff to adopt a budget based upon data and assumptions it knows are incorrect, and two more years of rates based upon the same defective methodology that the court has ruled violates Proposition 26, the wheeling statutes, Government Code §54999.7 and the common law.

Sincerely,

[Signature]

Dennis A. Cushman
Assistant General Manager
SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO
BEFORE THE HONORABLE CURTIS E. A. KARNOW
DEPARTMENT 304
SAN DIEGO WATER AUTHORITY, )
 )
Petitioner and Plaintiff, ) Case No.
 ) CPF-10-510830 &
vs. \)
 ) CPF-12-512466
 )
METROPOLITAN WATER DISTRICT OF )
SOUTHERN CALIFORNIA; ALL )
PERSONS INTERESTED IN THE )
VALIDITY OF THE RATES ADOPTED BY )
THE METROPOLITAN WATER DISTRICT )
OF SOUTHERN CALIFORNIA ON APRIL )
10, 2012 TO BE EFFECTIVE JANUARY )
1, 2013 AND JANUARY 1, 2014, and )
DOES 1-10, )
 )
Respondents and Defendants. )

REPORTER'S TRANSCRIPT OF PROCEEDINGS
San Francisco Superior
San Francisco, California
Thursday, April 2, 2015
Reported By:
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EXHIBITS
NUMBER FOR ID EVIDENCE
95 8/17/04 fax 25 25
169 5/3/10 letter 10 11
120 8/2/05 letter 68 68
175 6/30/10 letter 11 11
189 2/24/11 letter 14 14
207 8/26/11 letter 12 12
221 9/25/03 presentation 134 134
225 5/4/12 letter 12 13
229 10/2 letter from McCrae 15 15
230 10/15 letter from Breaux 15 15
232 2/5/13 letter 17 17
234 2/15/13 letter 17 17
243 6/18/13 letter 17 17
302 7/3/06 email (EC54-547) 17 17
358 7/7/10 letter 80 80
475 12/28/01 Draft Report Rates 95 95
624 2/10/11 letter 17 17
767 10/11/01 MWD Rate Structure 93 93
772 2/28/02 Minutes 97 97
829 9/9/03 email 112 112
830 9/10/03 email 118 118
837 9/16/03 email 122 122
856 9/24/03 document re Water Policy Committee 128 128
909 7/30/04 letter 20 20
979 2/2011 SB-60 Report 59 87
1114 Water Authority's MWD Work Plan 162 162

EXHIBITS (continued)
358 7/7/10 letter 80 80
475 12/28/01 Draft Report Rates 95 95
624 2/10/11 letter 17 17
767 10/11/01 MWD Rate Structure 93 93
772 2/28/02 Minutes 97 97
829 9/9/03 email 112 112
830 9/10/03 email 118 118
837 9/16/03 email 122 122
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San Francisco, California
Thursday, April 2, 2015
10:00 a.m.

Department 304           Hon. Curtis E. A. Karnow, Judge

THE COURT:  Good morning.
I had a chance to look at Metropolitan's motion
brought at the conclusion of the Plaintiff's case.  And
I am going to defer this until the end of trial.  I
think I understand the differences in approaches here.
We've got two views as to how it is proper to
establish a breach and how it is proper to measure
damages.  I think the wisest course is to defer ruling
until the end of this trial.
So let's proceed with our witnesses.

JEFF KIGHTLINGER,
resumed the stand and testified further as follows:

THE COURT:  You recall you are still under
oath?
THE WITNESS:  Yes, sir.

CROSS-EXAMINATION (resumed)
BY MR. PURCELL:
Q.   Good morning, Mr. Kightlinger.
A.   Good morning, sir.
Q.   I would just like to clear one thing up to
start with.  There's a lot of testimony yesterday about
the Metropolitan rate structure; correct?
A.   Yes.
Q.   Now, the rate structure is the buckets that Met
arranges for the rates; right?  There is a supply
bucket; there's a power bucket, and there is a system
access bucket?
A.   Yes.
Q.   San Diego's objections aren't to the buckets,
really; they are to the allocation of costs that go into
the buckets; correct?
A.   That is how I understand their objections, yes.
Q.   Okay, good.
So I am going to talk about in terms of cost
allocations, really, rather than the rate structure, and
if there is any confusion, please let me know.
You testified yesterday about the five-year
period following the execution of the exchange
agreement; correct?
A.   Yes.

Q.   I think you testified that San Diego during
that five years didn't try to persuade Metropolitan to
change the cost allocations that went into its rate
structure; correct?
A.   Yes.

MR. PURCELL:  All right.  I'd like to read from
Brian Thomas's deposition again, the person most
knowledgeable for Metropolitan, pages 144, line 18, to
145, line 21.

THE COURT:  Is that something that I have?
MR. PURCELL:  We can get it up on the screen.
THE COURT:  Let's follow along on the screen.
You don't have that?
THE WITNESS:  I am not aware if I have it.
THE COURT:  Let's follow along on the screen.
You don't have that?
THE WITNESS:  I am not aware I have it.  Maybe
it is in one of these binders.
MR. KEKER:  144, yes.
MR. PURCELL:  This is in evidence as PTX 516.
May I proceed, your Honor?
THE COURT:  Please.
MR. PURCELL:  (Reading:)
Starting at page 144, line 18 and going to page
145 at line 21.

"Q   Okay.  The Water Authority
waited until beyond that
five-year period before it
filed this lawsuit; correct?
"A   Yes.
"Q   During the -- during the
time between the filing of the
exchange agreement or, rather,
the signing of the exchange
agreement and the filing of
this lawsuit, the Water
Authority participated in
various Metropolitan processes
related to the setting of Met's
rates; right?
"A   Yes.
"Q   The Water Authority
continued to advocate for
changes to Met's rates in the
boardroom and in committee
meetings; right?
"A   Yes.
"Q   That was part of the rate
-- for example, the rate
refinement process?"
"A   Yes. Staff, as well. In
staff meetings, as well.
"Q   And in staff meetings, as
well.
"And likewise, there was a cost
of service review process that
the Water Authority
participated in during that
process?
"A   Yes.
"Q   And as part of the cost of
service review process, the
Water Authority again advocated
in the boardroom, and in
committee meetings and in staff
meetings for changes to
Metropolitan's rates?
"A   Yes."
Q.   Mr. Kightlinger, was Mr. Thomas wrong?
A.   No.
Q.   We talked yesterday a little bit about the
dispute resolution process in Section 11.1 of the
exchange agreement.
Do you remember that discussion?
A.   Yes.

Q.   Prior to the Water Authority filing this
lawsuit, the Water Authority invoked that dispute
resolution process; correct?
A.   Yes, they sent us a letter at some point,
around 2010, I believe.
Q.   And Metropolitan responded with a letter of its
own?
A.   I believe so. I don't think you showed it to
me yesterday. I think we did respond.
Q.   I would just like to do that now and hopefully
we can do it quickly. Can I get PTX 169 up on the
screen?
Mr. Kightlinger, is this the letter the Water
Authority sent to you invoking paragraph 11.1?
A.   Yes.

Q.   Mr. Kightlinger, is this a subsequent letter to
the Water Authority sent to Karen Tachiki, your
successor as Metropolitan general counsel, involving
the resolution dispute process in paragraph 11.1?
A.   Yes, it looks like it.
Q.   Did you get a copy of this letter when it was
sent to Ms. Tachiki?
A.   Probably.

MR. PURCELL: Can I get PTX 175 up on the
screen?
MR. PURCELL: Your Honor, I would like to move
PTX 175 into evidence.
MR. EMANUEL: I have an objection. This was
not part of Plaintiff's exhibit list in advance of
trial. I will not object to it being admitted, but I do
want it noted that it is not really playing by the
rules.
MR. PURCELL: It is on our list, your Honor.
We are happy to provide a copy of the list.
THE COURT: We can take care of that at one of
the convenient breaks today. In the meantime, PTX 175
is admitted.
(Exhibit PTX 175 was received into evidence.)
MR. PURCELL: Can I have PTX 207 up on the
screen?
MR. KIGHTLINGER, is this a letter that the
Water Authority sent to Metropolitan, to you
specifically, stating that all payments made to the
water stewardship rate after June 23, 2011, are made
under protest?
A.   Yes.

MR. PURCELL: I would like to move PTX 207 into
evidence.
MR. EMANUEL: No objection, your Honor.
THE COURT: I am looking at the record. It
clearly reflects your position.
PTX 207 is admitted.
(PTX 207 was received into evidence.)
MR. PURCELL: Can I have PTX 225 up on the
screen?
Q.   Mr. Kightlinger, is this a letter you sent in
response to the Water Authority's request for a
negotiation under paragraph 11.1 of the exchange
agreement?
A.   I can't see the bottom. I don't know if I
signed it or Karen signed it, but this is certainly a
letter in response from Metropolitan, yes.
Q.   I think PTX 225 is in the new binder I gave you
this morning, if you want to confirm that fact. It is
in fact.
Actually, Mr. Kightlinger, you can see on the screen, I pulled up the signature block.

A. That is my signature, yes.

MR. PURCELL: I would like to move 225 into evidence.

MR. EMANUEL: No objection.

THE COURT: PTX 225 is admitted.

Q. BY MR. PURCELL: Mr. Kightlinger, Metropolitan has never contended that the Water Authority failed to satisfy the dispute resolution obligation in paragraph 11.1 of the exchange agreement; correct?

A. That's correct.

Q. Similarly, there's a procedure under the exchange agreement for Metropolitan to set aside disputed amounts of payments under the exchange agreement when there's a price dispute; correct?

A. Yes.

Q. And the Water Authority sent some correspondence to Metropolitan invoking that set-aside procedure?

A. Yes.

Q. And Metropolitan responded to the Water Authority's letters?

A. Yes, they did.

Q. In fact, money was set aside?

A. Yes, it was.

MR. PURCELL: I would like to show you a few letters on that. PTX 189, please.

Q. Mr. Kightlinger, is this a letter that the Metropolitan general counsel sent to Dan Hentschke, San Diego general counsel, regarding payments under protest under the exchange agreement?

A. Yes, it is.

MR. PURCELL: I would like to move PTX 189 into evidence.

MR. EMANUEL: No objection, your Honor, although the copy that is on the screen doesn't have a number on it. Is it there someplace else?

MR. PURCELL: It is at the top.

THE COURT: PTX 189 is admitted.

MR. EMANUEL: That's all I needed.

THE COURT: PTX 189 is admitted.

(Exhibit 189 is received in evidence.)

MR. PURCELL: I am happy to do this one by one. We invited Metropolitan to stipulate to admission of these letters between the parties. I don't think there is any objection to the authenticity of any of them.

MR. EMANUEL: I am a little put off that they asked for a stipulation. That is not really appropriate to argue in front of the Court. Right now I am just asking they lay a foundation and let's go through it.

THE COURT: All right. Let's go.

MR. PURCELL: Let's just do it. PTX 229, next, please. I would like to move PTX 229 in evidence, your Honor.

THE COURT: Any objection?

MR. EMANUEL: No objection.

THE COURT: PTX 229 is admitted.

(Exhibit 229 was received in evidence.)

MR. PURCELL: PTX 230 is the next exhibit. I would like to move PTX 230 into evidence.

MR. EMANUEL: No objection.

THE COURT: PTX 230 is admitted.

(Exhibit 230 was received in evidence.)

MR. PURCELL: PTX 232. I would like to move PTX 232 into evidence.

MR. EMANUEL: No objection.

THE COURT: PTX 232 is admitted.

MR. PURCELL: PTX 234. I would like to move PTX 234 into evidence.

MR. EMANUEL: No objection.

THE COURT: PTX 234 is admitted.

MR. PURCELL: PTX 243. I would like to move PTX 243 into evidence.

MR. EMANUEL: No objection.

THE COURT: PTX 243 is admitted.

MR. PURCELL: PTX 243 is the next exhibit. I would like to move PTX 243 into evidence.

THE COURT: I would like to ask whether these are coming in to try to prove any disputed fact?

MR. PURCELL: Your Honor, these are trying -- these are being submitted for the purpose of proving the amounts that were set aside -- under the set-aside provision of the contract. We don't think there's a dispute about it.

THE COURT: Is it part of your case that X dollars were set aside or that money was set aside?

MR. PURCELL: It relates to the availability of interest under the damages calculation.

THE COURT: Okay.

MR. EMANUEL: Your Honor, if I may, these don't go to the amount that has been set aside.

THE COURT: How many of these are there?

MR. EMANUEL: One more.

THE WITNESS: This letter is about a bond.

THE COURT: We will wait for a question. Is there an objection to PTX 243?

MR. EMANUEL: No.

THE COURT: PTX 243 is admitted.

MR. PURCELL: The last one is DTX 624.

THE COURT: This last one only is a D; correct?

MR. EMANUEL: No objection, your Honor.

THE COURT: DTX 624 is admitted.
provisions of the Metropolitan Water District Act, Administrative Code or adopted board policies."

Do you see that?

A. I do.

Q. One of the reasons that this agreement was within the authority of Mr. Gastelum to execute without submitting to the Metropolitan board of directors was because LADWP moving non State Water Project water through the State Water Project did not require the use of any Metropolitan facilities or infrastructure; correct?

A. That's right.

Q. Mr. Kightlinger, you are familiar with the rate structure integrity program; correct?

A. Yes.

Q. And that language that Metropolitan included in contracts permitted Metropolitan to terminate the contract if the recipient member agency mounted a challenge to Metropolitan's current rate structure; correct?

A. Yes.

Q. The first paragraph says, "For years we have...."

A. Yes.

Q. One of the reasons that this agreement was within the authority of Mr. Gastelum to execute without submitting to the Metropolitan board of directors was because LADWP moving non State Water Project water through the State Water Project did not require the use of any Metropolitan facilities or infrastructure; correct?

A. That's right.

Q. Mr. Kightlinger, you are familiar with the rate structure integrity program; correct?

A. Yes.

Q. And that language that Metropolitan included in contracts permitted Metropolitan to terminate the contract if the recipient member agency mounted a challenge to Metropolitan's current rate structure; correct?

A. Yes.

Q. It did not permit Metropolitan to terminate the contract if Metropolitan were to change its rate structure and then the agency were to mount a challenge to the new rate structure; correct?

A. I don't recall that twist on it. That sounds right. I would have to take a look at it.

Q. We can show you the documents and hopefully refresh you.

Can we have PTX 80 to put on the screen. This is in evidence.

This is a little bit of background. This is a memo, June 18, 2004, from Ron Gastelum, who was then the CEO and general manager of Metropolitan; correct?

A. Yes.

Q. Your predecessor. Not your immediate predecessor, but one of them in that role?

A. Exactly.

Q. It's the job you have today?

A. Yes.

Q. The first paragraph says, "For years we have been discussing the continuing financial risk to Metropolitan and the member agencies from the threat of legal or legislative actions undermining our rate structure. As in the past, some entities for their own gain may challenge the rate structure in order to convey

essence, this agreement permits AVEK to transport non State Water Project, SWP water, through the California aqueduct, and to deliver such water to LADWP at a turnout to be constructed within AVEK's service area."

A. Yes.

Q. This refers to the agreement that permits LADWP to obtain non State Water Project water through the State Water Project facilities without needing to move through Metropolitan's facilities; correct?

A. Yes.

Q. I would like to highlight the first paragraph under Authority for the turnout agreement, page three. This paragraph reads, "Another question that has been raised is whether the former CEO had the authority to execute the turnout agreement without obtaining prior approval from the board of directors."

"As I explained at the meeting, Mr. Gastelum posed this question to me, as then general counsel, and it was my conclusion it was within his authority to execute the turnout agreement because it is, "one, was consistent with enforcement of Metropolitan's rights under the State water contract; two, did not require the use of Metropolitan's facilities or infrastructure; three, did not require any expenditure of Metropolitan's funds; and, four, did not conflict with any applicable

(Exhibits 232, 234, 243 and 624 were received in evidence.)

Q. BY MR. PURCELL: Mr. Kightlinger, getting back to the substance of the case here for a second, one of the issues that San Diego objected to, I think you testified yesterday, was the inclusion of State Water Project costs in Metropolitan's transportation rates; correct?

A. Yes. Going back to the late '90s, they protested that when we were doing the unbundling process.

Q. Mr. Kightlinger, the State Water Project is not the start of the Metropolitan's facilities and infrastructure; correct?

A. It is owned by the State of California.

Q. I would like to put up PTX 302. Is this an e-mail that you sent to your board of directors in July of 2006 about the LADWP AVEK turnout agreement?

A. It appears to be. I don't recall the issue.

MR. EMANUEL: No objection.

THE COURT: PTX 302 is admitted.

(Exhibit 302 was received in evidence.)

Q. BY MR. PURCELL: Going to the last paragraph on page one, the second sentence says, "Distilled to its

essence, this agreement permits AVEK to transport non State Water Project, SWP water, through the California aqueduct, and to deliver such water to LADWP at a turnout to be constructed within AVEK's service area."

A. Yes.

Q. This refers to the agreement that permits LADWP to obtain non State Water Project water through the State Water Project facilities without needing to move through Metropolitan's facilities; correct?

A. Yes.

Q. I would like to highlight the first paragraph under Authority for the turnout agreement, page three. This paragraph reads, "Another question that has been raised is whether the former CEO had the authority to execute the turnout agreement without obtaining prior approval from the board of directors."

"As I explained at the meeting, Mr. Gastelum posed this question to me, as then general counsel, and it was my conclusion it was within his authority to execute the turnout agreement because it is, "one, was consistent with enforcement of Metropolitan's rights under the State water contract; two, did not require the use of Metropolitan's facilities or infrastructure; three, did not require any expenditure of Metropolitan's funds; and, four, did not conflict with any applicable
Mr. Gastelum writes Miss Stapleton, "Thank you for

Q.   BY MR. PURCELL:  In the first paragraph

24

22

THE COURT:  909 is admitted.

21

MR. EMANUEL:  No objection.

20

MR. PURCELL:  I would like to move DTX 909 into

19

A.   Yes.

18

Q.   And let's take a look at DTX 909.  This is a

17

A.   Not in this sentence, no.

16

Q.   Mr. Gastelum, when he talks about the

15

A.   That's my understanding of this.

14

Q.   Mr. Gastelum, when he talks about the

13

A.   Not in this sentence, no.

12

Q.   There is nothing in this language that limits

11

A.   Yes.

10

Q.   Mr. Gastelum is specifically referring to San

9

A.   He certainly knew what the intent was, but he

8

A.   Not in this sentence, no.

7

Q.   Mr. Gastelum doesn't say anything there about

6

A.   Yes.

5

Q.   That accurately summarizes why Metropolitan

4

A.   Yes.

3

Q.   He doesn't limit his understanding of San

2

A.   Yes.

1

Q.   That reference to five years, that's a

THE COURT:  Do you see if it was on the list

MR. EMANUEL:  Now they have handed me -- wait a

MR. EMANUEL:  Your Honor, because it wasn't on the exhibit

MR. PURCELL:  I believe it was inadvertently

THE COURT:  Do you know if it was on the list

MR. EMANUEL:  Your Honor, because it wasn't on the exhibit

MR. EMANUEL:  It wasn't omitted in the Phase 1;

MR. EMANUEL:  It wasn't omitted in the Phase 1;
is that correct?

THE COURT: PTX 95 is admitted.
(Exhibit 95 was received in evidence.)

Q. BY MR. PURCELL: If we could turn to page two of the letter itself, which is the third page of the document, the paragraph starting "likewise."

This paragraph reads: "Likewise, member agencies are not being asked to forfeit any fundamental First Amendment rights in exchange for such funding.

They are merely being asked to forego commencing a legal or legislative action challenging the district's existing rate structure. See Section 7, rate structure integrity language.

"Paragraph 2: "Member agencies who accept such finding remain free to challenge Metropolitan's existing rate structure via the normal board process and challenge any material changes to the existing rate structure via whatever means are available. Such member agencies also remain free to commence a legal action against Metropolitan, quote, should Metropolitan in setting rates under existing rate structure fail to comply with public notice, open meeting or other legal requirements associated with the process of setting water rates and related taxes, fees and charges."

Do you see that, Mr. Kightlinger?

A. Yes.

Q. This is your letter; correct?

A. Yes.

Q. You wrote this to Mr. Hentschke at the Water Authority?

A. And to Jerry Shoal at -- counsel, I believe at this time, to Eastern MWD, as well.

Q. This was in response to a letter they had written to you objecting to the rate structure integrity language as unconstitutional and objectionable in various other ways?

A. I don't remember exactly all their objections, but I do know they were upset with it.

Q. This accurately reflected your understanding of what the language covered; correct?

A. Yes.

Q. And you say pretty clearly there that "member agencies remain free to challenge any material change to the existing rate structure under the RSI language."

Correct?

A. Yes.

Q. So if the RSA language limited only changes to the existing rate structure, your testimony yesterday was under the exchange agreement San Diego gave up the right to challenge the existing rate structure; correct?

A. Yes.

Q. This accurately reflected your understanding of what the language covered; correct?

A. Yes.

Q. And you say pretty clearly there that "member agencies remain free to challenge any material change to the existing rate structure under the RSI language."

Correct?

A. Yes.

Q. So if the RSA language limited only changes to the existing rate structure, your testimony yesterday was under the exchange agreement San Diego gave up the right to challenge the existing rate structure; correct?

A. Yes.

Q. This accurately reflected your understanding of what the language covered; correct?

A. Yes.

Q. And you say pretty clearly there that "member agencies remain free to challenge any material change to the existing rate structure under the RSI language."

Correct?

A. Yes.

Q. So if the RSA language limited only changes to the existing rate structure, your testimony yesterday was under the exchange agreement San Diego gave up the right to challenge the existing rate structure; correct?
Q. He doesn't call out any other Met member agency by name other than San Diego?
A. Not in that memo, no.
Q. As regarding San Diego, if San Diego had really given up its right to sue under the exchange agreement over the existing rate structure, there would be no need for the rate structure integrity provision as against San Diego, would there?
A. That was the intent, yes.
MR. PURCELL: Nothing further.
THE COURT: Thank you.
Redirect, sir?
MR. EMANUEL: Thank you.
THE COURT: If you need a break because of this new document, let me know.
MR. EMANUEL: I appreciate that. I have my team looking at it.
THE COURT: In a situation like that, if there is something I can do to ameliorate the situation, let me know.
MR. EMANUEL: I apologize. It got the better of me. It is such a long document, single space, it was a lot.

THE COURT: I understand.

A. No. Simply challenges to the existing rate structure.
Q. Would it apply to ill-conceived or non-meritorious lawsuits?
A. I assume they were challenging the existing rate structure, it would apply to that.
Q. I want to go back to some exhibits that were shown you yesterday.
Could you put up PTX 56, please. Zoom this on the date.
Mr. Kightlinger, do you see the date on this?
A. Yes.
Q. You see how it is "for your information, San Diego's latest proposal," do you see that?
A. Yes.
Q. Based on the date, would this proposal have been the one we talked about yesterday, Option-1 and Option-2?
A. No. This predated that by some months.
Q. Can you give me an estimate of when Option-1 and Option-2 was proposed?
A. The late July, early August time frame of 2003.
Q. This preceded that by some months.
A. Yes.
Q. Can you give me an estimate of when Option-1 and Option-2 was proposed?
A. The late July, early August time frame of 2003.
Q. Close enough. Give me PTX 57.
A. Yes.
Q. Do you see the subject line?
A. "Getting to yes."
Q. This originated with an email from Mr. Slater;
correct?
A. Yes.
Q. Was this part of that process after Option-1,
Option-2, to work out the points and reach an agreement?
A. That's correct.
Q. I take it as of this point, just by the phrase
"getting to yes," what was your understanding as to
whether you had in fact reached yes?
A. No. We had a number of deal points that still
had not yet been worked out.
Q. Can we go down to the bottom of this exhibit,
item number five. Do you see that?
A. I do.
Q. Was that literally true?
MR. PURCELL: Objection. Vague.
THE COURT: I am not sure what that question
means. The record will be a little bit easier if you
just read that line into the record.
THE WITNESS: Certainly. "Item five, San Diego
will draft an 'I love you MWD' reso." Reso meaning
resolution.
Q. BY MR. EMANUEL: How did you understand that?
A. We had talked about the intent was if we got to
yes and our agencies agreed on this, that this was
intended to start a new page and peace and harmony, et
cetera, between our two agencies and put aside the
lawsuits and the rancor. So they were going to draft a
resolution to that effect.
Q. You were asked about the State Water Project?
A. Yes.
Q. Does Metropolitan consider it part of its
conveyance system? Do you remember that question?
A. Yes.
Q. I think your answer didn't answer the question.
You said, "The state owns it."
The question was, sir, as asked by Mr. Purcell,
does Metropolitan consider it part of its conveyance
system?
A. We do not consider it part of our conveyance
system, but we do consider our agency as having an
ownership interest in the State Water Project based on
the contract we entered into with the State of
California and the way in which we make our payments on
that project.
Q. Please explain why you consider it to be a part
owner of that system?
A. We have certain rights to use that facility.
We have transportation rights. We have to pay for it
every year, so a significant sum. But with that, even
if we don't -- aren't getting water just from the State
of California, if we wish to move water within it, we
have capacity rights that enable us to move water,
Metropolitan transfer water, in our ownership capacity
rights. And in fact we can do so on behalf of our
member agencies, and we have done so, including San
Diego.
They have purchased transfers in the past and
they have moved that water within Metropolitan's
capacity rights in the State Water Project system.
Q. When San Diego moved non-State Water Project,
non-Metropolitan water through the conveyance system,
did San Diego have to pay a wheeling rate to
Metropolitan?
A. Only when it reached our system and then they
had the ability to use the State system through our
ownership capacity.
Q. Did they have to pay a wheeling rate through
the State or could they use Metropolitan's?
Q. What I'm asking you, have you ever heard or have an understanding that the payments to the State is the State's mere conduit?

MR. PURCELL: Objection. Vague.

THE COURT: Has he ever heard it? That's not vague.

Have you ever heard that?

THE WITNESS: I've not heard it actually expressed that way.

MR. EMANUEL: Can you pull up the 2003 exchange agreement. Would you go to the paragraph just before 5.2?

THE COURT: For the record, the exhibit number is --

MR. KEKER: 65 PTX and DTX 51, but they have 51 up, I think.

THE COURT: PTX 65 we will call it.

Q. BY MR. EMANUEL: Do you see paragraph 5.1 and that deals with pricing? Do you see that, sir?

A. I do.

Q. Would you go to the paragraph above that? You see paragraph 4.2?

A. I do.

Q. Let's back up. So 4.1 deals with characterization of exchange water. Do you see that?

A. Yes.

Q. And for some purpose it is characterized as local water; is that right?

A. Yes.

Q. That has certain financial implications?

A. Yes. This is something San Diego wanted. It doesn't fit within the typical meaning of the word "local." It is coming from several hundred miles away.

In our parlance, in our structure within Metropolitan, local water has certain benefits, how we do our drought management planning.

Local water is not considered regional water to be shared. It is their own water, so it doesn't fit into something that we would then pull back in a drought, as part of drought management. So it is important to them that it becomes an independent local supply. It is also how we calculate a readiness-to-serve charge. If it's a local supply, it doesn't go into that calculation. So those were benefits, how they wanted this water, the IID transfer water to be treated.

Q. Let's look at 4.2., the entire paragraph, please.

Notwithstanding provisions of 4.1, "The water delivered to SDCWA shall be characterized as Metropolitan water and not as local water."

Do you see that?

A. I do.

Q. What is your understanding of that?

A. Notwithstanding for the purposes of drought management and the readiness-to-serve charges, at the -- the way the exchange worked is that when the water hits our intake, it's Metropolitan's water. And then we take it and then what we exchange with San Diego is Metropolitan water.

Q. And when does it hit your intake?

A. In theory, when it's made available by IID to us, we order from the Bureau of Reclamation, and it comes to Lake Havasu, and that is where our intake is and that is where we pump the water.

Q. You are still on the Colorado River?

A. Yes.

Q. The location is the Colorado River?

A. Yes, it is a location on the Colorado River, yes.

MR. EMANUEL: Your Honor, if I could have a minute?

THE COURT: Of course

MR. QUINN: Would it be possible for us to have five minutes?
that.

THE COURT: I think it was a shorthand for -- it's like having rights to a license more than anything else or rights to use, and that's how I interpreted it.

I will deny the motion to strike with that understanding, that he really did not mean ownership in the literal sense. RFA 44 actually governs here, and let's proceed.

MR. EMANUEL: Would the Court permit I get that on the record from the witness?

THE COURT: You don't have to. RFA 44 is preclusive.

MR. EMANUEL: Not that. I meant what he was referring to as those interests.

THE COURT: If you think it matters. I think I understand that Metropolitan has certain rights to use the State Water Project. I understand that. We went through some of that in the first trial.

MR. EMANUEL: Very well.

THE COURT: And I recall that.

Q. BY MR. EMANUEL: In that case, then, I'll go back to Exhibit DTX 51.

Mr. Kightlinger, we were discussing this exception and --

THE COURT: Again, this has also been named PTX 65.

MR. KEKER: Sixty-five.

THE COURT: Sixty-five.

Q. BY MR. EMANUEL: Unfortunately, it has two numbers.

"The exchange water delivered to SDCWA shall be characterized as Metropolitan and not as local water only for the limited purposes of paragraph 5.2."

Do you see that?

A. I do.

Q. Let's -- let's look at 5.2 so we know what we're talking about here.

5.2 is the price that the Water Authority would pay; is that correct?

A. That is correct.

Q. Would you please explain, then, how 4.2 relates to 5.2?

A. Yes. The Water Authority wanted this water to be considered local water, the water they were getting from IID, for purposes of how it would be dealt with in terms of drought and calculation of our readiness-to-serve charges.

But for the purpose of the pricing, it was going to be treated as Metropolitan water and governed by 5.2, the pricing terms.

Q. Was there an advantage to the Water Authority for the water to be considered Metropolitan water?

A. Yes. One of the complications in their transfer with IID is the water from IID is Colorado River water. The only parties that can receive Colorado River water are parties that have what's called a Section 5 contract with the Bureau of Reclamation under the Boulder Canyon Project Act.

The Water Authority, not being a Colorado River contractor, technically, unless it got such a contract with the United States, could not receive Colorado River water. So Metropolitan, by receiving that water as Metropolitan and then exchanging it, solved the issue of how to get delivery from the United States Bureau of Reclamation.

Q. But explain, how did that solve that problem?

A. It was deemed Metropolitan's water. And so we have a contract for delivery of Colorado River water with the United States and, therefore, the Water Authority wasn't deemed -- they were not getting a delivery of Colorado River water. Metropolitan was.

Q. Thank you very much.

Let's turn back to this rate structure integrity clause. I believe you testified this was a subject that was discussed at the board level of Metropolitan; is that correct?

A. Yes.

Q. And were there agencies in favor of it, agencies against it?

A. Yes.

No. It was a controversial proposal, and my recollection there were a number of amendments proposed by various board members on behalf of their agencies to be made to the policy before it was adopted.

Q. Was the Water Authority for or against it?

A. They were flat-out opposed to it from the get-go.

Q. Do you have a recollection whether or not the Water Authority made an amendment that the rate structuring integrity clause should only be triggered if someone sued and lost?

A. I don't recall the Water Authority proposing any suggested amendments to it. They felt it shouldn't be adopted at all. The amendments I recall being proposed were from agencies such as Orange County agencies and the Riverside County agencies having a number of concerns and proffering a number of amendments.

MR. EMANUEL: Nothing more, your Honor.

MR. PURCELL: No recross.
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1. Q. Sir, a topic not covered in your declaration in case it comes up on cross.
2. A. Does the Court want a copy? I am not going to and filed with the Court.
3. Q. By whom are you employed?
4. A. The Metropolitan Water District of Southern California.
5. Q. What is your position?
6. A. My position is the group manager for the water resources management group.
7. Q. What programs fall within the water resources management group?

### A. Water resource management group manages demand management programs, conservation programs that provide incentives to consumers in Southern California, local resources program aimed at helping to develop supplies among the customer member agencies.

We have a group that looks at forecasting for the needs of Southern California out in the future. We also manage our contracts with the State Water Project, the Department of Water Resources and with the U.S. Bureau of Reclamation for supplies that we receive on the Colorado River along with many other partners we have. We manage the contracts for those supplies.

Q. Can you tell me what's under those programs?
A. Sure. Demand management programs consist really of two different programs that Metropolitan runs. One of them is a conservation program. That program provides incentives through throughout Southern California for consumers to purchase water-efficient devices, things like, for example would be, high-efficiency clothes washers or high-efficiency toilets that reduce demands for water. We provide incentives that buy down the costs of those things for consumers. That's the conservation program.

Another program is the local resources program. That program provides financial incentives for our local agencies to develop projects that fall into three major categories: Wastewater recycling, groundwater recovery and seawater desalination at some point in the future. These would be projects that would produce supplies that those local agencies are able to use to meet their customers' needs.

Q. You referred to incentives. Did you mean financial incentives? Are there other kinds of incentives?
A. Financial incentives.
Q. How long have you been the manager of the water resources management group?
A. Since the beginning of 2010.
Q. How long have you been an employee of Metropolitan?
A. I started with Met back in 1995, and there was a period for about three years there where I was working for another agency.
Q. Going back to the local resources program, who receives the dollars that are part of these financial incentives?
A. The local agencies, the member agencies and their subagencies that actually develop the projects.
Q. What are the benefits to local agencies for these local resource programs?
A. They are receiving a financial incentive from Metropolitan. But ultimately the benefit of those projects is that those projects produce supplies that they are able to use to meet the needs of their customers and they are able to sell those supplies to their customers.
Q. You used the word "they."
A. They receive supplies.
Q. What are the benefits to local agencies for these local resource programs?
A. They are receiving a financial incentive from Metropolitan. But ultimately the benefit of those
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<table>
<thead>
<tr>
<th>Project</th>
<th>Description</th>
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<tbody>
<tr>
<td>Metropolitan</td>
<td>The member agencies or the local agency that develop the project.</td>
</tr>
</tbody>
</table>

Q. You used the word "they." They receive supplies. Who is "they" referring to?

A. The member agencies or the local agency that develop the project.

Q. Is that also true for other demand management programs that these supply? Who owns the supplies that were produced through those other demand management programs?

A. That's correct. There are supplies that are produced by the local agencies. They are their supplies. They are able to use those to meet their customers' demands.

Q. What I am asking, there are conservation programs and there are other kinds of programs, all of which produce water, I take it?

A. Either produce water or reduce demand for water, right.

Q. And my point is, whose supply is it?

A. It's those local agencies.

Q. When this water is produced through these demand management programs, who has the title to that water? I'm just speaking loosely. I don't know what the word is in water law. Who owns the water?

MR. BRAUNIG: I am going to object to the extent it calls for a legal conclusion.

THE COURT: Overruled.

MR. BRAUNIG: Objection. Vague.

THE COURT: Overruled.

THE WITNESS: To the extent it is water supplied that they are able to use through that project, it's theirs to sell to their customers.

Q. BY MR. EMANUEL: From Metropolitan's point of view, does Metropolitan consider whether or not this is part of Metropolitan's supply?

A. It is not part of Metropolitan's supply. These aren't supplies that we have access to. It doesn't come into our system. We don't sell them to our member agencies. At no point is it a supply that Metropolitan has to provide to our customers. Rather, it is at the local level.

Q. Why does Metropolitan have these demand management programs?

A. These demand management programs provide a benefit to Metropolitan in that it reduces the demand for water to move through our system.

But there's also a piece of legislation that was passed in 1999, we refer to it as Senate Bill 60, that requires that Metropolitan increase or focus on conservation, water recycling and groundwater recovery recharge.

Q. Are you familiar with the phrases "upstream" and "downstream"?

A. Yes, I am.

Q. Would you explain what "upstream" means and "downstream" means in the context of what we've been talking, conservation?

A. Sure. Metropolitan has service connections that demark the point of delivery between Metropolitan's distribution system into our member agencies' distribution systems. And so we refer to anything that is downstream of those service connections, that are then within our member agencies and their local agencies, as downstream.

Anything that is above those service connections in Met's system and beyond is considered to be upstream.

Q. The demand management programs that you referred to, are they upstream or downstream?

A. They are downstream.

Q. What rate at Metropolitan generates the income that pays for demand management programs?

A. The cost of the demand management programs is recovered through our water stewardship rate.

Q. Are you aware of whether any part of that water stewardship rate – let me back up. Does the entirety of the water stewardship rate go upstream, downstream or split between the two streams?

MR. BRAUNIG: Objection. Vague.

THE COURT: Overruled.

THE WITNESS: Can you please restate the question?

Q. BY MR. EMANUEL: Let me take it one at a time. So the costs that are paid through the water stewardship rate, are they paid to downstream users or upstream users or some combination?

A. It is all downstream.

Q. Has that been true -- how long has that been true?

A. To my knowledge, it's been true since the beginning of the water stewardship rate.

Q. Does Metropolitan have -- strike that. What benefits -- what benefits, if any, do wheelers enjoy because of demand management programs?

A. Demand management programs that we run reduce the need for water to move through Metropolitan's system. And as a result of that it is creating capacity
A. Yes, it is.

25. duties and responsibilities, at least, to oversee?

Q. Is the production of this report one of your
23. recharge.

22. conservation, recycling, groundwater recovery and

some of the actions that we had taken in the areas of

20. Metropolitan, and one of those requirements was filing a

19. earlier Senate Bill 60 that placed some requirements on

18. Metropolitan, and one of those requirements was filing a

17. report to the State legislature each year that showed

16. some of the actions that we had taken in the areas of

15. conservation, recycling, groundwater recovery and

14. recharge.

13. Q. Is the production of this report one of your

12. duties and responsibilities, at least, to oversee?

A. Yes, it is.

11.

A. Yes. This is the February 2011 version of what

10. we refer to as our SB-60 report. I had mentioned

9. earlier Senate Bill 60 that placed some requirements on

8. Metropolitan, and one of those requirements was filing a

7. report to the State legislature each year that showed

6. some of the actions that we had taken in the areas of

5. conservation, recycling, groundwater recovery and

4. recharge.

3. Q. Is the production of this report one of your

duties and responsibilities, at least, to oversee?

2. A. Yes, it is.

1.

Q. If you would turn to page 7 of this report,
tell us what this achievement scorecard represents.

A. This -- what you see on the screen is the

scorecard that we include in the report that shows both
the acre-feet associated with the demand management
programs and the dollars associated with the demand
management programs.

This is a part of what we're reporting to the
legislature that we've been able to do in combination
with the member and local agencies.

Q. If we look at the very first line under

conservation, would you explain what that 15,500
acre-feet are?

A. Okay. So as part of the demand management
programs, I mentioned one of the programs we run is a
conservation program where we're providing incentives
for consumers, businesses, residents in our service area
to purchase devices that save water, are more efficient.

That line is showing that in fiscal year

2009-'10, which was the period that we were reporting on
for this year in this report, those new conservation
deVICES that were installed and funded by that program
saved 15,500 acre-feet. That is the new savings from
those actions.

Q. How is that line different from the line below

it?

A. The line below it is showing that we've
actually been doing this program for a number of years,
and that devices that were installed in previous years
are also still saving water.

The first line is showing just the new things
that were installed that year and their savings. But
the next -- the second line, 147,000 acre-feet, depicts
the savings associated with things that had been
installed before that are still saving water in that
year.

Q. Now, if we look at the third line, what does
that represent?

A. The third line is showing that since the
program's inception in the early 1990s, the cumulative
water savings across all of those things that have been
installed is estimated to be about 1.4 million
acre-feet.

Q. Let's move down the chart to under "recycled
water." Look at the first line there.

Please explain what that represents.

A. The first line under "recycled water" is
similarly showing for 2009-'10 the acre-feet that was
produced in that year by wastewater recycling facilities
that were funded, in part, by this program.

Q. Could you give us an example of a wastewater
recycling program or type of program?

A. Sure. The -- an example there, and there are
many different facilities that are funded that are
producing as part of this, but an example would be an
agency would take wastewater that is coming from the
wastewater plant and treat that wastewater to a higher
grade of treated supply, and then would pipe that to, as
an example, outdoor irrigation on a park or on a golf
course, so that they are able to use that treated
wastewater to meet the needs of that irrigated
territory.

Q. If we look two lines below that, see where it
says, "cumulative production." Please explain what that
represents.

A. The cumulative production line is showing that
since this program's inception, the projects that were
partially funded by these incentives for Metropolitan
are producing or have produced about 1.3 million
acre-feet.

Q. Move down to "groundwater recovery," and
looking at the first line. What is an example of a
groundwater recovery program?

A. Groundwater recovery refers to a situation
where there is groundwater that is contaminated in some
way or may have salt content that is high enough that in order to be able to use that water, you have to put some measure of treatment to be able to get rid of that contaminant.

So groundwater recovery are programs where we're providing incentives similar to the wastewater recycling to be able to help an agency develop a project, to help them pay for that project, so they can clean up that groundwater and be able to use it to meet their customers' demands.

Q. Does the 50,000 acre-feet represent the amount of water produced through this program for that particular fiscal year?
A. Right. For 2009-10 the production for those facilities was 50,000 acre-feet.

Q. And two lines below that, "the cumulative production," is that the same as what you explained before, the life of these programs, this is your estimate?
A. That's correct. Over the life of the program, it's produced 515,000 acre-feet.

Q. Let me ask you to turn in this document to page 109, line 16.
A. I do.
Q. To whom is conserved water a source of supply?
A. This statement is showing that it is a source of supply for Southern California. Specifically, it's a source of supply for the local agencies that produce it and they are able to take that supply and meet their customers' demands.

Q. Would it be accurate to say not only -- when you say use it, do they give it away or do they sell it to their users?
A. To my knowledge, it's always sold to their users. I'm not aware of a situation where it is simply given away.

Q. Can you tell the Court whether or not conserved water downstream is a source of supply for Metropolitan?
A. So, this -- these programs, they're not a source of supply for Metropolitan. At no point are they producing water that Metropolitan is able to take into our system. We are not able to sell that water to our customers. Rather, they are supplies that our member agencies and local agencies are able to use to meet their customer demands.

MR. EMANUEL: Thank you, your Honor. No more questions.
THE COURT: Cross-examination. It looks like maybe one more question.
MR. EMANUEL: I will move it into evidence.
MR. BRAUNIG: (Reading:) "Q. Okay. Is metropolitan's imported supplies?"

A. The demand management programs reduce the need for the movement of water through the Metropolitan system. It may not be Metropolitan's imported supplies.

THE COURT: Go ahead.

MR. BRAUNIG: Your deposition, page 109, line 21 through page 110, line one.

THE COURT: Sixteen through 20.

MR. BRAUNIG: (Reading:)

"Q. That's true testimony?"

A. That's correct.

Q. The demand management programs also create a benefit for Metropolitan by not having to spend money on imported water supplies; correct?

A. The demand management programs reduce the need for the movement of water through the Metropolitan system. It may not be Metropolitan's imported supplies.

MR. BRAUNIG: Your deposition, page 109, line 21 through page 110, line one.

THE COURT: Go ahead.

MR. BRAUNIG: (Reading:)

"Q. That's true testimony?"

A. That's correct.

Q. The demand management programs also create a benefit for Metropolitan by not having to spend money on imported water supplies; correct?

A. The SB-60 report we are producing is showing the supplies that are benefiting the local agencies as a result of those programs. It is a characterization of what's produced through those programs.

Q. I am asking you a specific question. I am asking you about the regional benefit. Met has not calculated the regional benefit of the programs Met

A. We did that initially when the program was set up, but we're not doing that on an annual basis, no.

Q. And you didn't do that for the money that was invested in 2011?

A. Not to my knowledge.

Q. Or 2012 through '14 either?

A. Not to my knowledge.

Q. Met does not calculate the regional benefit of the group of programs as a result of that.

A. No. I don't believe we've done it in dollar terms.

Q. You didn't do that in 2012, '13 or '14 either?

A. Not to my knowledge.

Q. Met does not calculate the regional benefit of the group of programs as a result of that.

A. No. I don't believe we've done it in dollar terms.

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A. No. I don't believe we've done it in dollar terms.

Q. You didn't do that in 2012, '13 or '14 either?

A. Not to my knowledge.
MEET THE OVERALL OBJECTIVE.

Q. On a project-by-project basis Met doesn't evaluate whether a specific project it invests in will have a transportation or facility benefit, does it?

A. No.

Rather, we have overarching goals for the programs. They are articulated in our integrated resource plan in terms of goals. We are trying to put programs together that meet these goals.

Q. Water stewardship is not a service that is inherent to the delivery of water, is it?

A. A service that is inherent to the delivery of water?

Q. Met could supply and deliver water to its member agencies without charging for water stewardship; correct?

A. If by that you mean we could exist without running these programs, I think that's true.

Q. Met has made a policy decision that it wants to fund these demand management programs?

A. That's correct.

Q. And Met collects money from the water stewardship rate to fund the programs; correct?

A. That's correct. And one thing we're also doing is complying with SB-60. We are carrying out these

DUTIES.

Q. Met then, after it takes the money, after it collects the money, then distributes -- then distributes the demand management subsidies to its member agencies; right?

A. The conservation programs largely do not go directly to the member agencies. They are benefit to the consumers throughout Southern California. The local resources program financial incentives are provided to local agencies that enter into a contract with Metropolitan and produce supplies for their customers through those projects.

Q. Met makes the decision, though, about how those subsidies are going to be distributed out to the member agencies; right?

A. To the extent member agencies are applying for or consumers are applying for those rebates, then they are ultimately going to be getting those benefits. There isn't a pre-decision distribution of funds.

Q. The decision about how these funds are going to be distributed out is a decision made by Met in response to applications made by the member agencies?

A. That's correct.

Q. That's created situations where some large member agencies receive a lot more in demand management subsidies than they pay into the water stewardship rate; right?

A. I'm not sure.

Q. You are not sure because Met hasn't done that analysis?

A. Because I know the projects that are pursued, but I can't say as to whether that compares with the amounts that agencies are paying in.

Q. So Met has the data to determine how much each agency contributes to the water stewardship rate; right?

A. Probably, yes.

Q. As far as you know, they would?

A. As far as I know.

Q. And Met also possesses data about how much it pays out in subsidies to each member agency; correct?

A. Correct.

Q. Met has never compiled that data in order to determine whether there's a proportional relationship between the amount of water stewardship rate monies that are contributed and the amount of subsidies that are going out to those member agencies?

A. Not to my knowledge, and, frankly, that's not the way our programs are measured. Our programs are measured against overall regional goals.

Q. But Met has never done that; Met has never
A. Not to my knowledge. And the reason for that is, frankly, these are programs meant to provide regional benefits. It's not designed to provide a specific amount of benefit to any specific agency.

Q. But they do provide a local benefit, don't they?

A. They do provide local benefit.

Q. That local benefit is cash in the form of subsidies; correct?

A. There is a financial incentive Metropolitan is providing.

Q. There is also the water created that is a benefit to the local member agency that is generated through these subsidies; right?

A. That is correct.

Q. You don't measure what the benefits are that are specific to those agencies compared to how much they are contributing through the water stewardship rate?

A. Not to my knowledge.

Q. You're familiar with the rate structuring

Q. And the actions that have been triggered are because San Diego filed this lawsuit, they are not allowed to participate in new local resource program projects?

A. That is a follow-on action that has occurred as a result of San Diego's litigation.

Q. That means no matter how good a program San Diego might have to generate supply of water, no matter how cost effective it is, no matter how shovel-ready it is, Met is not going to fund it because San Diego filed this lawsuit; correct?

MR. EMANUEL: I am going to object. The question is argumentative and the Court may recall this was the subject of a motion in limine, as well.

THE COURT: It is a little argumentative. I will allow it.

Go ahead.

THE WITNESS: What was the question?

Q. BY MR. BRAUNIG: The question is no matter how good the project is that San Diego might have, Met is not going to fund it because of rate structure integrity?

A. To the extent that San Diego has a project, and I can't speak to how good a project is or isn't, a project that would be part of the LRP program, that

contract would contain rate structure integrity language that would be triggered by the action San Diego has taken with this litigation.

Q. And therefore, Met wouldn't fund it?

A. Ultimately, our board would have to consider that but, yes, it would likely trigger that clause and until that's settled, we wouldn't be funding it.

Q. There have been some questions that have been asked about whether San Diego at any point tried to get Met to change the RSI provisions. In fact, San Diego did try to change the provisions at one point in time and Met said no. Correct?

A. I actually don't recall that.

Q. Can we go to Tab 17, please, PTX 120.

Do you recognize Tab 17, PTX 120, as a letter from Metropolitan to San Diego County Water Authority about the rate structure integrity on August 2, 2005?

A. Yes, I recognize this as that letter.

MR. BRAUNIG: We would move PTX 120 into evidence.

MR. EMANUEL: No objection.

THE COURT: PTX 120 has the proposal as an attachment and you are moving that in, as well?

MR. BRAUNIG: Yes.

THE COURT: PTX 120 is admitted.
Q. BY MR. BRAUNIG: I want to draw your attention, please, to the second line of that first paragraph. "Metropolitan is unable to execute your agreement because your modified version departs from the uniform rate structure integrity provision required by Metropolitan's board of directors for all new incentive program agreements with the member agencies."

A. The process that we would consider or our board would consider would be their own board process to take a look at whether changes to the rate structure integrity provision are things they would want to undertake.

Q. The RSI language is nonnegotiable; correct?

A. Once the board has adopted the language, they then gave us direction to include that in all of our contracts.

A. That's correct.

Q. Metropolitan has never done a backward-looking analysis to determine if demand management programs are actually avoiding particular costs, has it?

A. Not to my knowledge.

Q. Since the mid-1990s Metropolitan has never done another forward look to see if additional demand management spending would avoid transportation facility costs, has it?

A. Additional demand management spending itself may not be analyzed, but I do believe we looked at the projected capital investment program at Metropolitan in the, maybe, mid-2000s to see if reductions in demand would help reduce the expenditures to our capital program in the future. But I don't think it was directly related to the incentive program itself.

Q. Changing gears a little bit, when a member agency your board for you.

A. To the extent that it's part of the standard language that the board has instructed to have in all of these agreements that has standard provisions."

MR. EMANUEL: To be fair, you should read the question and answer above that.

THE COURT: The question and answer above that, starting at line 13?

MR. EMANUEL: Starting at line seven.

THE COURT: Starting at line seven?

MR. BRAUNIG: I think it is a different question. If he wants to read it in and spend his time doing it, he can do that.

THE COURT: I don't think it changes the meaning. Let's go ahead at this time and read that in, line seven and ending at line 12.

Q. Metropolitan has never done a backward-looking analysis to determine if demand management programs are actually avoiding particular costs, has it?

A. Not to my knowledge.

Q. Since the mid-1990s Metropolitan has never done another forward look to see if additional demand management spending would avoid transportation facility costs, has it?

A. Additional demand management spending itself may not be analyzed, but I do believe we looked at the projected capital investment program at Metropolitan in the, maybe, mid-2000s to see if reductions in demand would help reduce the expenditures to our capital program in the future. But I don't think it was directly related to the incentive program itself.

Q. Changing gears a little bit, when a member agency your board for you.

A. That's correct.
Q. Different cost allocations that would move all of the
25
A. That's right.
Q. I don't think so.
A. Metropolitan is looking at our programs, as I said
before, you're looking back, say, the 1990s, we were
considering in the future the needs for the system to be
determined to be able to move water to meet customer
demands.

And that includes both supplies that
Metropolitan is providing but supplies that would be
wheelied by other parties through the system.
Q. You're not able to identify any specific
wheeling transactions that are attributable to spending
on demand management programs, are you?
A. What do you mean by attributable to spending?
I'm not sure I understand.

Q. Your testimony is that spending this money
frees up space that then makes wheeling possible; is
that right?
A. It reduces demand for deliveries in our system.
Q. But you're not able to identify any specific
wheeling transaction that's attributable to the spending
that's been made on demand management programs, are you?
A. Again, I'm not sure what you mean by
"attributable."
Q. It had been caused by or as a result of.
A. I don't know why a wheeling transaction would
be caused by demand management programs.
Q. You have been a Met staffer for more than a
decade; correct?
A. That's true.
Q. And you have been involved in a number of
different rate refinement or rate-related initiatives;
correct?
A. Yes, sir.
Q. Since 2003, when Met unbundled its rates, Met
has not presented any rate structures to its board other
than the one it's using today, has it?
A. Not to my knowledge.
Q. Met has not presented to its board any
different cost allocations that would move all of the

State Water Project costs off of transportation, has it?
A. Over the course of the years since the rate
structure was adopted, we have discussed many different
potential things with the board, but we've never made a
recommendation for a wholesale rate structure change, if
that's what you're getting at.
Q. There has never been presented to the board an
option that would move State Water Project costs off of
transportation?
A. In a -- as an option that the board would take
action on, I'm not sure.
Q. You're not sure, or no?
A. Well, we've had many discussions over the years
about different things that could be done. We've had
board workshops related to what we called our long-range
finance plans and things like that.

So there were concepts that were discussed, but
I don't know that there was ever a specific action to
make significant changes to the rate structure that the
board would have acted on.
Q. The same goes for the demand management
programs, there's never been an option presented to the
board that would take those demand management programs
off of transportation and put them somewhere else?
A. Not to my knowledge.

Q. Over the years that you've been working on
these rate initiatives, San Diego has frequently
complained about the fact that State Water Project costs
are on transportation, haven't they?
A. San Diego has voiced that opinion in many
meetings.
Q. Over the course of many years?
A. That's correct.
Q. Since 2003?
A. I can't say the exact years, but yes.
Q. Likewise, with the demand management programs,
they've been complaining for a decade or more that those
programs shouldn't be on Metropolitan's transportation
rates; correct?
A. I can't say a decade or more, but I do know
that they have voiced that desire.
Q. You can't say that they have voiced that
desire?
A. I can say that they have.
Q. Okay, thank you.
And they've voiced that desire repeatedly?
A. Yes.
Q. Over the course of many years?
A. Yes.
Q. In your declaration that was submitted into --
as part of your testimony, you note that Metropolitan and its member agencies have the right to wheel third-party water on the State Water Project; do you recall that?
   A. Yes.
   Q. Met has never attempted to put a financial value on the right of Metropolitan or its member agencies to wheel water on the State Water Project, has it?
   A. A financial value on our right to wheel water?
   Q. Uh-huh.
   A. Metropolitan's right to wheel water?
   Q. That's right.
   A. Not to my knowledge. It is one of the benefits we get as State water contractor and part of the fees we pay under our State water contract allow us part of that right.
   Q. But you've never attempted to put a financial value on that right, Metropolitan hasn't?
   A. I don't believe that we put a financial value on it other than the fact that the bill we pay for the State Water Project is broken up into conservation/supply and transportation from the Department of Water Resources. We are getting that value for the transportation.

Q. Is it your opinion that the disaggregation of the DWR bill into conservation and conveyance that has -- that has legal meaning, that that -- that that, therefore, means that's the value to Metropolitan?
   MR. EMANUEL: I will object to the question.
   THE COURT: It is two different questions. I think you mean the latter.
   MR. BRAUNIG: I'll re-ask the question.
   Q. Your -- you were present during the first phase of this trial; correct?
   A. Correct.
   Q. Have you read the Court's statement of decision on the issue of whether or not DWR -- the fact that DWR disaggregates its bill means those are Met's transportation costs?
   A. I have.
   Q. You have, okay.
   Since 2013, since December of 2013, has the structure of DWR's billing to Met changed?
   A. Not to my knowledge.
   Q. DWR still breaks up its bill in the same way?
   A. Correct.
   Q. Met still doesn't own the State Water Project, does it?
   A. Correct.

Q. Met still doesn't operate the State Water Project, does it?
   A. We don't operate the State Water Project, to my knowledge.
   Q. And the State Water Project still is not part of Met's conveyance system, is it?
   A. It is included in our conveyance rates.
   Q. With respect to this idea of State Water Project wheeling, there are many years where Met doesn't wheel any third-party water on the State Water Project; correct?
   A. That's correct.
   Q. And there are many years where Metropolitan member agencies don't wheel any water on the State Water Project; correct?
   A. Correct.
   Q. In fact, isn't it true that of the water that's been moved on the State Water Project over the last decade, less than five percent of that is wheeling by Metropolitan or its member agencies?
   A. I think that's probably right. I don't know the exact statistic, but I would imagine that is a very small amount.
   Q. Met makes decisions about whether a member agency like San Diego can stand in Met's shoes and wheel water on the State Water Project, doesn't it?
   A. Can stand in Metropolitan's shoes and wheel water? If -- in a scenario where San Diego wants to execute a transfer that's purchasing supply from another entity?
   Q. Right.
   A. Then they could enter into an arrangement with Metropolitan to wheel the water, yes.
   Q. And Metropolitan would have the discretion to decide whether or not San Diego is allowed to do that; correct?
   A. Well, there are wheeling provisions that would apply in terms of the ability to move the water.
   Q. Can we bring up PTX 358, please.
   This is Tab 24 in your binder. It's in the binder that's in the binder one.
   This is PTX 358. This is a letter from Metropolitan to San Diego concerning a proposed wheeling transaction?
   A. Okay.
   Q. The answer is yes, that's what this is?
   A. Yes, it appears that way, yes.
   MR. BRAUNIG: We would move PTX 358 into evidence.
   MR. EMANUEL: No objection.
REPORTER'S TRANSCRIPT OF PROCEEDINGS - April 2, 2015

San Francisco, California
Thursday, April 2, 2015
1:30 p.m.
Department No. 304 Hon. Curtis E.A. Karnow, Judge

DEVENDRA UPADHYYAH,
resumed the stand and testified further as follows:

THE COURT: Shall we continue. Do we have a witness?
Sir, if you'll join us.

MR. BRAUNIG: Your Honor, counsel for Met had sought to move in DTX 979, which is the SB-60 report, a 30-page document, and you had asked them to prepare an excerpted version. We think for purposes of completeness the entire 979 should come in, and we don't object to it. Since he sought to move it in, we don't object, if the Court would allow it.

MR. EMANUEL: I am withdrawing 979. I would ask to enter evidence 979A which is only the two pages we used. I think that would be more efficient.

MR. BRAUNIG: Your Honor, I think, that putting in two pages of a 30-page document, it's not an enormous document.

THE COURT: Is there something else that when you write the post-trial briefs you will be pointing me to some of the other pages?

MR. BRAUNIG: Possibly. We would like to have the opportunity to do that.

THE COURT: One of the requests -- I'll make it now -- when we finish the exhibits, you are going to be providing to me the courtesy copies, you are going to take everything out of this room and you are going to be providing me only the pages you will be relying on and you think I need to read afterwards.

If you want the entire 979 in, I will admit the entire 979. It is hereby admitted. And I apologize to counsel for having gone to the trouble of doing what I asked you to do.

MR. EMANUEL: No apologies necessary.

MR. BRAUNIG: Your Honor, also there is some discrepancy as to whether or not I moved PTX 358 in.

THE COURT: I have an indication that you did.

MR. BRAUNIG: It's admitted.

THE COURT: That's my indication. The clerk confirms.

THE COURT: Now he does.

MR. BRAUNIG: With that, your Honor, I have nothing further.

THE COURT: Any further questions of this witness, redirect?

REDIRECT EXAMINATION
BY MR. EMANUEL:
Q. We are going to look again at PTX 358.
Mr. Upadhyah, do you have that in front of you?


THE WITNESS: Yes, I do.

Q. BY MR. EMANUEL: Let's look into the third paragraph, and specifically, I think, to the third sentence of the third paragraph.
For the record, "If SDCWA possesses a change in place of use from the State Water Resources Control Board for CVP supplies from SJWD, then Metropolitan will provide transportation for this water as non-SWP supplies."

Sir, would you explain to us what that means?

A. Sure. When San Diego was proposing this transfer at the time, it was with a party that has rights on the Central Valley project, which in this paragraph is referred to as CVP. And there is a certain
place of use defined for the Central Valley Project and contractors that are on the Central Valley Project, that is separate from the place of use for the State Water Project and contractors on the State Water Project.

Q. Let's stop you right there. Would you explain the importance of place of use?

A. Sure. It's defined that permanent operations of the CVP is for the benefit of contractors on the CVP and its use of water in the CVP area, that place of use, which is completely different than the State Water Project and the place of use within the State Water Project area.

So what we were saying there is there is a process that is used to go to the State board and request a change in place of use. There was risk from Metropolitan if we were to agree to a wheeling arrangement for a transfer that does not have that approval, so we were saying if you are able to process that change in place of use through the State board then we'll move the water as nonproject water.

THE COURT: Do you need the permission of the State board to do any wheeling deal?

THE WITNESS: If it's in this situation where there's the risk of not -- the State board not to do any wheeling deal?

THE COURT: Do you need the permission of the State board to do any wheeling deal?

THE WITNESS: If it's in this situation where there's the risk of not -- the State board not acknowledging the change of place of use, then there is a risk that, for example, if we had done that without that change in place of use, the State Board could look, after the fact, could look and say, you took delivery of your State Water Project allocation, we are not acknowledging that it was a transfer.

Q. BY MR. EMANUEL: We were talking about the conservation and the demand management program. Do you have an estimate of how much water was produced through these demand management programs?

A. The number changes as we go through time, as the benefits increase. It is more than three million acre-feet over the life of the programs.

MR. EMANUEL: Thank you. Nothing more, your Honor.

MR. BRAUNIG: Nothing further.

THE COURT: Thank you. You are excused.

MR. KEKER: Let me get Miss Stapleton who is next, your Honor.

THE COURT: Thank you.

MR. EMANUEL: Can we do administrative housekeeping? Do you remember there was the Administrative Code, the Court asked that only some portion of it, so we have -- what was the number -- 1149A, Metropolitan moves into evidence, your Honor.

THE COURT: Does San Diego have a copy of that?
MR. QUINN: If you could look, please, at DTX 475. This has not been admitted, at least as marked, your Honor. It was previously part of the administrative record. There is no objection to it, as I understand it, and we will offer Defense Exhibit 475.

MR. KEKER: No objection.

THE COURT: DTX 475 is admitted.

(Exhibit 475 was received into evidence.)

THE COURT: If we could put that up on the screen.

MR. KEKER: Again, this is a 200-page document.

THE COURT: I think we're just going to have a general conversation about this at the end of the trial.

Q. BY MR. QUINN: Do you recognize this document, Miss Stapleton?

A. I do not.

Q. But you did -- you did get information -- you do recall receiving information from time to time about specifically -- prior to January 1, 2003, when these unbundled rates went into effect, you had very specific information about what the particular charges would be and what is contained in those charges.

Is that fair to say?

A. Yes.

Q. And in March of 2002, the specific rates for the unbundled rate structure, including the conveyance rate, were considered and approved by the Met. But you did -- you did get information -- you do recall receiving information from time to time about specifically -- prior to January 1, 2003, when these unbundled rates went into effect, you had very specific information about what the particular charges would be and what was contained in those charges.

Is that fair to say?

A. Yes.

Q. And do you recall participating in a San Diego Water Authority workshop concerning Met's unbundling proposal back in October of 2001?

A. Yes.

Q. And do you recall participating in a San Diego Water Authority workshop concerning Met's unbundling proposal back in October of 2001?

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A. Yes.

Q. And do you recall participating in a San Diego Water Authority workshop concerning Met's unbundling proposal back in October of 2001?
Q. Can you tell us what this document is?
A. This is an at-a-glance voting record of our MWD delegates from the Water Authority.
Q. So is it true, then, that in this document we can see how the delegates from the San Diego Water Authority, who sit on the Metropolitan board, how they vote on various issues?
A. Yes.

MR. QUINN: That's what this reflects. And then if we could turn, please, to Defense Exhibit 772, DTX 772, not yet admitted, your Honor. As I understand there is no objection to it. I am going to offer this, as well.

(Exhibit 772 was received into evidence.)

MR. KEKER: No objection.

THE COURT: DTX 772 is admitted.

Q. BY MR. QUINN: You see this exhibit, 772, these are minutes of a San Diego Water Authority board meeting on February 28, 2002?
A. Yes.
Q. And if you turn, please, to page 11, that's page 11 on the lower right-hand side. You can also see that on the screen. You see there in the first paragraph, but I would like to read that to you. The first paragraph under 1B it says, "Director of imported water has provided reasons why CWA staff--"
A. County Water Authority. That's our agency.
Q. -- "had recommended that the board take a position on MWD's proposed rates and charges. He reviewed the proposed rate structure and described rate structure components. He showed potential impact to CWA member agencies. Mr. Hess compared existing and proposed MWD rates and charges, and said the IID transfer would provide a benefit to the proposed MWD rate structure."
You see that?
A. Yes, I do.
Q. The second paragraph says, "After a lengthy discussion, the staff recommendation was revised to read: "The board direct the Met delegates to support the proposed MWD rates and charges for 2003, with the statement and understanding that the action is without prejudice to the continuation of the preferential rights lawsuit."
You see that?
A. Yes, I do.
Q. Apparently there was some lawsuit then going on between San Diego and who?
A. Metropolitan Water District.
Q. About this preferential rights issues?
A. Yes.
Q. After a discussion at San Diego about the unbundled rate structure and the components of it, the San Diego board, after looking at this, directed the San Diego delegates on the Met board to vote for the rates that went into effect January 1, 2003; is that correct?
A. Yes. To support the rate structure, correct.
Q. And to vote, you understand that?
A. Yes, to vote affirmative.
Q. The only reservation related to this other issue, which was the subject of a pending lawsuit regarding preferential rights, at least as reflected in the minutes?
A. Yes.
Q. There was no reservation, at least as reflected in the minutes, in terms of the vote on these unbundled rates with respect to either State Water Project costs or the water stewardship rate; correct?
A. Correct.
Q. In fact, San Diego delegates, if we go back and look at Defense Exhibit 129, San Diego's members on the Met board did, in fact, vote in favor of those unbundled rates; correct?
A. They voted in favor of the rate structure, correct.
Q. And those rates and that rate structure and the components of it, that's the same structure which San Diego maintains in this case is a breach of the 2003 exchange agreement?
A. Yes.
Q. You are aware Mr. Slater has been -- Mr. Scott Slater was designated by San Diego as the person most knowledgeable to testify on various issues relating to damages, breach and mistake. You are aware of that?
A. Yes, I am. I would like to read to you from Mr. Slater's deposition as the person most knowledgeable, from page 216 to 217, 12.
MR. KEKER: No objection.
Q. BY MR. QUINN: I will read to you Mr. Slater's testimony as the person most knowledgeable.
"Q. You knew that at the time the October 2003 agreement was signed, that that $235 charge included charges, costs relating to the State Water Project that were included in the system access rate, that
A. Yes. We believed that they were not lawfully to be included.

Q. And you heard him express that opinion and you believed that also, even before the exchange agreement was signed up; correct?

A. Correct.

Q. When, Miss Stapleton, did you first reach the conclusion that the inclusion of State Water Project costs in the unbundled conveyance rate was unlawful?

A. When Metropolitan started talking about unbundling of the rates and of the cost allocation of the State Water Project. That's when we believed that was a misinterpretation of what was allowed by law.

Q. You had that belief when you first heard that Metropolitan had proposed to include those costs in the unbundled conveyance rate?

A. Correct.

Q. That could have been in 2001, 2002, but certainly by 2003; correct?

A. Correct.

Q. You believed that it was unlawful, based upon the law as it existed then in 2003; correct?

A. Yes. We believed that the interpretation by Metropolitan was not correct.

...
unbundled its rates, and after the new rates went into effect, you wrote Mr. Gastelum --
A. Yes.
Q. -- your counterpart at Metropolitan at the time, about those rates and documented your concerns. Do you recall that?
A. Yes, I do.
Q. Let's take a look at DTX 794. This is in evidence. And you say in the first line of your letter that you have identified some issues in the setting and the adoption of Metropolitan's proposed rates. Do you see that?
A. I do see that.
Q. And then it goes on -- and I am not going to take the time to go through your three-page single-spaced letter -- but continuing in the second paragraph there, and on to the second paragraph, you list certain of these issues; correct?
A. Yes.
Q. And these include something called "pay-as-you-go funding." I'm not even going to ask you what that is.
A. Yes.
Q. "Excess revenue collection. The use of reserved funds."
A. I do see that.
Q. And then it goes on -- and I am not going to take the time to go through your three-page single-spaced letter -- but continuing in the second paragraph there, and on to the second paragraph, you list certain of these issues; correct?
A. Yes.
Q. And these include something called "pay-as-you-go funding." I'm not even going to ask you what that is.
A. Yes.
Q. "Excess revenue collection. The use of reserved funds."
A. I do see that.
Q. And then on page two there is a -- you reach -- in the first full paragraph on page two, in the last sentence, you refer to "rate stability." Do you see that?
THE COURT: Can you say that one more time, Mr. Quinn?
MR. QUINN: Yes.
Q. On page two, last sentence of the first full paragraph on page two, if you look at the second-to-last maybe you can highlight that, "rate stability."
A. Yes, it was.
Q. You say, "it is an excellent example of rate component transparency." Is what you wrote?
A. Yes.
Q. You go on to explain why San Diego objects. You say, and I quote, "The inclusion of supply costs in the system access rate creates subsidies for Metropolitan's supplies and increased costs for water delivery. This result sends inappropriate economic signals on both the costs of alternative supplies and appropriate delivery costs."

A. I do.

Q. At that time you thought that those costs, actually, that it was unlawful, it was illegal?

A. Yes, we believed it was unlawful.

Q. But you decided not to put that in the letter?

A. Not in this letter.

Q. Well, let me ask you: Before this lawsuit was filed, are you aware of any written communication that you wrote to anyone at Metropolitan saying that any of these challenged rates were illegal or unlawful?

A. I cannot recall offhand a written letter that says, hello, these rates are unlawful.

Q. Are you aware of any written communication, prior to the filing of this lawsuit, at any time, where anybody at San Diego tells anybody at Metropolitan that the inclusion of these State Water Project costs and the water stewardship rate in the unbundled conveyance rate is illegal?

A. Yes, sir, they do.

Q. If somebody thought it was illegal, they are illegally being charged tens of millions of dollars, or that a proposal was on the table that would contemplate illegally charging tens of millions of dollars, that would be something significant, wouldn't you agree?

A. It is something significant, yes.

Q. And there is nothing in this letter where you say that --

Let me turn now to the water stewardship rate and what you write there. The last paragraph on that page, "The Water Authority" -- it says, "The Water Authority supports the goal of increasing the production of recycled water and increasing support for economic water conservation programs, requiring an increase in the water stewardship rate. The Water Authority would like to continue to support local resource management and development programs," and it goes on. You can read ahead and read it to yourself.

There is nothing there where you say the water stewardship rate charges was actually unlawful or illegal?

A. Correct.

Q. Did you have any role in the negotiation and approval of the exchange agreement that ended up being signed in October of 2003?

A. Yes, I did.

Q. And what was your role?

A. I was the team leader of the negotiating team.

Q. And do you recall that, just kind of jumping into the middle of that, that around August of 2003, San Diego proposed to Metropolitan two different ways of entering into this conveyance arrangement for the water that San Diego had contracted to get; do you recall?

A. I do.

Q. And if we could take a look at DTX 8- -- just a second. DTX 829.

MR. QUINN: This is not in evidence but there isn't an objection to it and I would offer this, your Honor.

MR. KEKER: No objection.

THE COURT: DTX 829 is admitted.

(exhibit 829 was received into evidence.)

Q. By Mr. Quinn: You are in the e-mail string down at the bottom, between you and Mr. Campbell, and Mr. Campbell refers it up to Lee Miller, I guess.

A. Yes.

THE COURT: Willer, W-I-L-L-E-R.

MR. QUINN: Thank you, your Honor.

Q. Who is Lee Willer?

A. She was an employee of the Water Authority who was a subordinate of Campbell.

Q. This is dated in -- your email is dated September 8. This is, I guess, kind of early on, not too long after the idea of these two different options have been put on the table; is that right?

A. Correct.
Q. In your email you ask Mr. Campbell to develop some written material for San Diego's board concerning the potential deal points for this exchange agreement?

A. Yes.

Q. Mr. Campbell then writes to Mr. Willer asking also, "How are you doing on the last canal lining analysis? We talked about comparing the exchange agreement versus wheeling rate differential and spreading the difference over canal lining water for 75 years. I would like to do some escalation sensitivities on the MWD wheeling rate, two percent, three percent, four percent, to see the per AF" --

A. Yes, it is.

Q. "on the canal lining water."

Do you see that?

A. I do.

Q. What was requested here was an analysis of the assumption that the MWD conveyance or wheeling rate would escalate over a 75-year period; correct?

A. Right. We were doing a range of escalations.

Q. Among the ranges you did, do you ever recall being a range of escalations done where you only looked at a five-year period, and assume those rates would only be in effect for five years?

A. No. We actually did it on a worst-case scenario.

Q. If you look at your e-mail, the second at the bottom, in the second sentence in the first paragraph, where it says, "The handout needs to articulate the deal points and identify the canal lining projects and its water as an alternative path that is at the sole discretion of the authority."

Do you see that?

A. Yes.

Q. Do you recall that Metropolitan, when these two options were put on the table by San Diego, Metropolitan came back to San Diego and said, "They look roughly the same to us from an economic standpoint. San Diego, you can choose which one. You choose, Option-1 or Option-2." Do you recall that?

A. I do recall that Metropolitan said that they were okay with either Option-1 or Option-2.

Q. Right. I was interested in an answer you gave a moment ago. Are you telling us the reason you didn't run the numbers, the projections for five years, is you're only interested in a worst-case analysis?

A. Yes, a worst-case scenario to present to my board, so that they knew if, in fact, we were unsuccessful in negotiating what we thought was the lawful wheeling rate, that they knew what their exposure would be.

Q. You didn't think the board would be interested in knowing what the future scenarios might look like if the rate structure was only in place for five years?

A. No. They want to know what the worst case is. You hope for the best but you plan for the worst.

So we did the worst-case scenario in a two to five percent, I believe it was, escalation, so we knew what our maximum exposure would be.

Q. So that's your experience in the business world when you're looking at a particular potential deal. You don't look at -- you only look at a worst case. You don't run the numbers for what the case is, for what you hope to achieve, it's not the worst case; you don't run those numbers?

A. We did not. We were under a very short time period. We were talking about a huge risk that we were taking on, and I would rather tell my board what I believed was the worst-case scenario so they wouldn't come back and say, why didn't you tell me what that maximum exposure was.

Q. I understand, ma'am, why you -- the board would want to know worst case, and I understand why you would want to tell them worst case. My question is a little different.

Isn't it your experience in the business world, that decision makers also want to see a projection based on what you realistically think you can achieve, something that is not the worst case?

MR. KEKER: Objection. Argumentative. No foundation. And I move to strike the speech at the beginning.

THE COURT: Overruled.

Go ahead.

THE WITNESS: We had been on a monthly or twice or three times a month been talking to our board about the various options. The All-American Canal option was a new option, and that was the focus of what my board needed to look at, was whether to take Option-1, which was already out there, or Option-2, which was new. And, therefore, I directed staff to take the number that Metropolitan had, escalate it out, and assuming that it would not change over that 45 years, what was our exposure based on the escalation of two to five percent. That is what I wanted the board to know, what the maximum exposure would be so they could make the most informed decision.

The worst thing for a manager is to have a board member come back and say why didn't you tell me...
<table>
<thead>
<tr>
<th>Q.</th>
<th>She lives in enemy territory. It's a joke.</th>
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<td>MWD</td>
<td>building.</td>
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<td>the MWD program and she's located in Los Angeles in the MWD building.</td>
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<td>Q.</td>
<td>Who is Amy Chen?</td>
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<tr>
<td>A.</td>
<td>Correct.</td>
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<td>Q.</td>
<td>Is it your testimony that you had some discussion with some board members where they said to you, &quot;No, don't present us with any scenarios reflecting what you really intend to achieve in this agreement or what you can think you can realistically do. We are not interested in that. All we want to see is the absolute worst case?&quot; Did you have a conversation like that with anybody on the San Diego board?</td>
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<tr>
<td>A.</td>
<td>No, I did not.</td>
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<td>MR. QUINN:</td>
<td>Let's take a look at DTX 830.</td>
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<tr>
<td>I understand this is not in evidence and I understand there is no objection.</td>
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<td>THE COURT:</td>
<td>The PowerPoint slides.</td>
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<tr>
<td>MR. KEKER:</td>
<td>No objection, your Honor.</td>
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<tr>
<td>MR. QUINN:</td>
<td>We have offered this.</td>
</tr>
<tr>
<td>THE COURT:</td>
<td>DTX 830 is admitted.</td>
</tr>
<tr>
<td>(Exhibit 830 was received into evidence.)</td>
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<td>BY MR. QUINN:</td>
<td>Just so you know where I'm going, ma'am, I want to walk through the written records that exist leading up to the execution of the exchange agreement in October. What we're looking at here, the cover note is an e-mail from Amy Chen to some people, including yourself, and it is dated September 10, 2003; correct?</td>
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<td>A.</td>
<td>Correct.</td>
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<tr>
<td>Q.</td>
<td>Who is Amy Chen?</td>
</tr>
<tr>
<td>A.</td>
<td>She is one of my staff members who is assigned the MWD program and she's located in Los Angeles in the MWD building.</td>
</tr>
<tr>
<td>Q.</td>
<td>She lives in enemy territory. It's a joke.</td>
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</table>
Do you see that?

A. Yes.

Q. And you understood that was Met's position about what the proposal was?

A. Yes. It doesn't reference a year on this one. So I can't tell how long they thought that would be.

Q. It just says full wheeling rate?

A. Yes.

Q. You understood that was their understanding and expectation?

A. No, I did not know that full wheeling rate -- it's not the same language we used, but I presume it referenced the $253 rate.

Q. And that's what ultimately ended up going into the agreement?

A. It did.

Mr. Quinn: And then if we could look at DTX 837, which has not been admitted. I understand there is no objection to it. We would offer it, your Honor.

Mr. Keker: No objection.

The Court: DTX 837 is admitted.

(Exhibit 837 was received into evidence.)

Mr. Keker: It is also 846. You're right. No objection.

Q. By Mr. Quinn: The top document is an email from you dated September 16, 2003?

A. Yes.

Q. And you sent this to all board members --

A. Yes.

Q. -- is that right? Concerning QSA update and attached fact sheet and Campbell memorandum, you attached those two documents; right?

A. I did.

Q. The first attachment, if we could look at that, the first page, it says, "Fact Sheet, September 16, 2003." And this is a fact sheet that was prepared at San Diego outlining the two options; right?

A. Yes.

Q. And the second attachment is the memorandum from Bob Campbell outlining the financial analysis of the two options; correct?

A. Yes.

Q. So if we could just look first at the fact sheet.

And if we could go to the second page, which says, "Option-2" at the top. If we would just enlarge, say, the top third. The second bullet, in describing the Option-2, it says "MWD assigns its canal lining rights to SDCWA. Canal lining water rights to SDCWA. Project yields 77,700 acre-feet annually for 110 years.

8.5 million acre-feet of water." That's a lot of water?

A. It's a lot of water.

Q. Worth a lot?

A. Worth a lot.

Q. Worth billions, with a B, of dollars; correct?

A. I don't know. But it is worth a lot of -- it has high value.

Q. It is certainly worth -- 77,700 acre-feet annually for 110 years is certainly worth more than $100 million?

A. Absolutely.

Q. Absolutely. Certainly worth more than $500 million?

A. I don't know.

Q. You don't know?

A. I'd have to do a calculation of what it would be worth compared to other transfers.

Q. Would you dispute that that quantity of water is worth -- I understand you don't know whether it's worth billions. Are you in a position to dispute that?

Would you dispute -- if somebody said that was worth $2 billion, with a B, would you dispute that?

A. I would not. no.

Q. You just don't know?

A. I wouldn't know what, you know, what the costs would be over 110 years and how to present value the cost of that water.

Q. How about just the current cost? Let's talk in terms of today. If you could get that much water today -- let's not worry about for now the discounting -- that would be worth billions of dollars?

A. Yes, it would be worth a lot of money.

Q. Billions?

A. Sir, I don't want to say what it's worth unless I had the ability to spend some time to calculate its value.

Q. Certainly anyone who said it might only be worth $100,000, that would be flat-out wrong?

A. I would say it's worth much more than that.

Q. Let's go to the second attachment, the memorandum from Mr. Campbell. And I assume you would read this memo before you sent it -- before you attached it to your email to your board of directors?

A. Yes, I would have read it.

Q. And insofar as you know, everything that's in this memo is accurate?

A. Yes.

Q. And the description of Option-2, in this memo, there in that first paragraph, it says, "The assignment of Met's canal lining project water rights to SDCWA, in
A. Yes. That would be included in that $253 that we would pay instead of the 90-dollar rate.

Q. So you were going to pay a lot more?

A. Yes.

Q. You understood that $253, probably beating the dead horse here, but it included that system access rate, the power rate with the State Water Project costs built into both of them, and the water stewardship rate; correct?

A. Yes. That would be included in that $253 that we would pay for a minimum of the five years.

Q. In the next full paragraph Mr. Campbell writes about how the staff used two different approaches to evaluate the costs of the two options.

A. Correct.

Q. In this memorandum that you sent, you said we are anticipating that the wheeling rate, at least for purposes of trying to value this option, we assume the wheeling rate will include these components, will be starting at $253, and there will be a factor for inflation over time; correct?

A. That -- I'm not sure about the way we would value this option. But that -- what the potential costs could be for this option.

Q. Right.

A. It would be done in this manner.

Q. Thank you. You are trying to compare the two, and in looking at the potential costs of the second option, the staff is looking at these two different ways, but they are assuming it is going to start at 253 and escalate up over time; right?

A. Right. In this calculation or analysis, that is exactly what we're doing.

Q. Again, there is no numbers here run on just a five-year scenario. This only --

A. No.

Q. -- the 253 and escalator is only for five years?

A. No. Because the canal lining was for 110 years.

Q. A week after that you helped prepare and approved a memorandum to the water policy committee?

A. Yes.

MR. QUINN: And let's take a look at DTX 856. Not admitted yet. No objection, as I understand it.

We'd offer this, your Honor.

MR. KEKER: No objection.

THE COURT: DTX 856 is admitted.

(MR. QUINN: Not admitted yet. No objection, as I understand it.

MR. KEKER: No objection.

THE COURT: DTX 856 was received into evidence.)

A. It is a committee made up of approximately 14 members of my board of directors.

Q. If you go to the last page, you will see an indication there, I think it's the last lines on the page, this is a memorandum that was -- that you prepared and approved?

A. Yes.

Q. Also prepared by Mr. Campbell and Mr. Hentschke, the general counsel?

A. Correct.

Q. If you turn to page two in this memo that you wrote, you describe Option-1 and Option-2?

A. Yes.

Q. In particular to Option-2, if we can enlarge that paragraph, you wrote, "In consideration for Met's assignment of All-American and Coachella canal lining water rights to the authority, the authority would pay Met's lawful wheeling rate in lieu of the exchange agreement. The Met's current published wheeling rate is $253 per acre-foot and is comprised of the system access charge, water stewardship charge and power cost."

Do you see that?

A. I do.

Q. In this memo, at any point, do you tell the water policy committee when you're laying this out that you think those charges are unlawful?
A. We do not provide any written documentation to share with us?
Q. You don't have anything in writing that you can discuss those discussions were held with our board.
A. Related to our belief that Met's wheeling rate at that time was not lawful. We did not provide anything in writing to the board on that.
Q. Related to this -- A. Related to our belief that Met's wheeling rate at that time was not lawful. We did not provide anything in writing to the board on that.
Q. It wasn't important enough to include in any of the documents?
A. Oh, not in the documents. It was absolutely important for the board to know that what our concerns were about Met's rates not being lawful and those -- and those discussions, and there were many of those discussions were held with our board.
Q. You don't have anything in writing that you can share with us?
A. We do not provide any written documentation to the board for closed session items.

Q. So this is something that -- this view about the illegality is something you wanted to keep in closed session?
A. Absolutely.
Q. You regarded that as something that was confidential?
A. Absolutely.
Q. You didn't want that to be publicly known, that you thought these rates were --
A. The discussions, it was not appropriate to have those discussions in open session.
THE COURT: Ma'am, you have to just let him finish his question. Just give it a beat and then answer.
Q. BY MR. QUINN: I am not asking about the discussions. I am focusing on your view that these rates were illegal. You didn't want that to be publicly known.
A. No, that is not true.
Q. If you look at pages five and six, there is a discussion of the staff, two approaches to the analysis of the cost of Option-1 and -2. Do you see that?
A. Yes, I do.
Q. And, again, each of those approaches assumes the $253 rate will escalate over time, using inflation factors ranging from two to five percent?
A. Yes.
Q. And, again, if we look in here, there's nothing in here about proposed -- any other proposed alternative scenario, like a five-year period, in terms of length of the wheeling deal?
A. There is not.
Q. At the bottom of page six there is a beginning of a summary in which you present various factors to assist the board in assessing the risks and benefits of Option-2. Do you see that?
A. I do.
Q. On the next page, page 7, you discuss supply reliability, saying "There is no other readily available water supply with the priority level, cost amount and duration of water supply resulting from the canal lining." Do you see that?
A. I do.
Q. How did you know that, that there wasn't other similar available water supply?
A. Because we had been negotiating for so long and were very familiar with the Colorado River and the availability of various supplies on the river.
Q. On page 7 you indicate how the marginal cost of the canal lining water compares favorably to other water transfers that range in supply costs alone --
A. Yes.
Q. -- between $250 and $300; do you see that?
A. I do see that.
Q. On page 8 under "Supply risks are significantly lower," you write, and I quote, "While choosing Option-2 exposes the authority to higher wheeling costs, comprised of Met rate components and system access charge, stewardship and fluctuations of power costs, it protects the authority from even greater exposure associated with securing an alternative imported supply, whether or not that supply" -- I'm sorry -- "securing an alternative imported supply, whether or not that supply comes from Met or another seller."
Did you believe that to be true at the time?
A. Yes.
Q. And you recommended that Option-2 be approved; right?
A. I did.
Q. Notwithstanding your view that these rates are illegal; correct?
A. Correct.
Q. And you concluded that this was a good deal for San Diego, to start with the wheeling rate -- it was a
You recall this PowerPoint presentation here, DTX 221, was presented to the board at San Diego?

A. Yes. This is our public PowerPoint presentation.

Q. You thought this was accurate?

A. Yes.

Q. You wouldn't have submitted it otherwise?

A. Yes.

Q. If you turn, please, to slide 2.

Fair to say that this shows that San Diego -- this pie here shows that San Diego was fairly dependent on Metropolitan for their water supply?

A. In 1991 we were 95 percent dependent.

Q. Do you know what that was in 2003?

A. In 2003 we had reduced it to maybe -- I am going to say maybe 75 percent or so, 80 percent.

Q. Would it be true to say that San Diego had, for a long time, sought to secure its own independent supply of water?

A. Yes.

Q. And if you turn, please, to slide 21, the heading at the top is "Option-2, Financial Risk/Benefit." Here you identify the risk under Option-2, risk: "Exposure to MWD wheeling rate."

Do you see that?

A. Yes.

Q. Under that exchange agreement that had already been in place, which would have been Option-1, for at least 30 years you knew what the wheeling charges were going to be; correct?

A. Correct.

Q. Because there was -- that starts out at a certain number, $80 and $90, and then an index to increases; right?

A. Yes.

Q. But you didn't have that under the proposal under Option-2?

A. Correct.

Q. The risk was, it says here, "Exposure to the MWD wheeling rate." You mean for the term of the contract; right?

A. Certainly for the first five years we were exposed to it -- to Met's wheeling rate. And then after five years, depending on what the Water Authority chose to do, we were exposed to the lawful wheeling rate.

Q. I mean, even under San Diego's interpretation, if we look at that exchange agreement, we won't see anything in there specifying what the price would be for any year, you know, years two to five or after five?
A. We have -- yes, there's nothing in the agreement that talks about what a specific dollar amount would be after year five.

Q. Or what the increases would be?

A. Correct.

Q. There was no index, in other words, like there was under the previous exchange agreement?

A. Correct.

THE COURT: Whenever you get to a good point in the next five minutes or so, just pick a time and take a break.

MR. QUINN: Why don't I finish this exhibit.

It won't take long.

THE COURT: Sure.

Q. BY MR. QUINN: And then you say, you describe here the cost for benefit received from canal lining.

You describe that as, "The present value difference between the 1998 exchange agreement cost and the MWD wheeling rate cost for 35 years." Do you see that?

A. I do.

Q. And it refers there, below that, to "Inflation sensitivity for the wheeling rate." Do you see that?

A. I do.

Q. That is something that needs to be considered?

A. Yes.

THE COURT: Whenever you get to a good point in the next five minutes or so, just pick a time and take a break.

MR. QUINN: Why don't I finish this exhibit.

It won't take long.

THE COURT: Sure.

Q. BY MR. QUINN: And then you say, you describe here the cost for benefit received from canal lining.

You describe that as, "The present value difference between the 1998 exchange agreement cost and the MWD wheeling rate cost for 35 years." Do you see that?

A. I do.

Q. And it refers there, below that, to "Inflation sensitivity for the wheeling rate." Do you see that?

A. I do.

Q. That is something that needs to be considered?

A. Yes.

Q. So it is still anticipated that San Diego would pay the MWD wheeling rate for 35 years and that rate would increase over time; correct?

A. Yes. As I explained earlier, we had a range of escalations that we used to determine what we felt was the maximum wheeling rate that we would be exposed to.

Q. So if we look at the present value analysis that's done here, and you are kind of summarizing here, that present value analysis, again, was based on an assumption that the Met wheeling rate would escalate over the existing rate of the life term of the contract?

A. Correct.

Q. If we turn to slide 22, "Option-2, financial risk analysis," that identifies what we have been talking about, the price under the 1998 agreement as $97 an acre-foot for 2003. Do you see that?

A. Yes.

Q. It goes on to say, "Risk is in difference between Met wheeling rate cost and wheeling rate cost under the exchange agreement." And using the numbers in the slide the risk was the difference between $253 and $97 per acre-foot or $156 per acre-foot with an inflation factor for each?

A. Yes.

Q. That was the important information that you were presenting to the board in making this decision; correct?

A. Absolutely.

Q. It says, "The present value of differential is the cost of getting the canal lining water benefit." Right?

A. Right.

Q. So the board understood that the canal lining water was a trade-off for the payment of the existing Met wheeling rate plus an inflation factor?

A. I don't think that's exactly correct.

I think that they felt that the canal lining project was a trade for giving up the 1998 exchange agreement for the exchange agreement that was proposed in -- that now is the 2003. It is not correct that we traded absolutely the canal lining project for the Met determined wheeling rate for 45 years.

Q. In terms of the analysis that was presented to the board --

A. Yes. In terms of the analysis, yes.

Q. -- it was presented to the board, and what you were asking the board to make its decision based on, you were presenting them this present value analysis and comparing the cost.

In terms of the analysis that was presented to the board --

A. Yes. In terms of the analysis, yes.

Q. It was presented to the board, and what you were asking the board to make its decision based on, you were presenting them this present value analysis and comparing the cost; correct?

A. Right. We were comparing the costs and the maximum exposure of costs.

Q. And we looked earlier at Mr. -- is it Campbell's memorandum? -- where he talked in terms about the consideration for the canal lining water paying the wheeling rate; do you recall that?

A. Yes.

Q. You understand that -- I mean, you don't have any disagreement with that? That was part of the consideration, forgetting this huge volume of water for 110 years was agreeing to pay this much increased wheeling rate; correct?

A. Yes.

Q. And that was -- those were key points in the deal; fair?

A. Yes.

Q. They are reflected in the -- that deal, those key points of this deal are reflected in different documents, the exchange agreement and the allocation
MR. QUINN: This would be a good time, your Honor. The second request, your Honor, is if you don't take pictures of someone who is on the witness stand. We will arrange the room. Because the witness might object to that. You can always take a picture of everybody after the witness has stepped down, if you want. If anybody else has any objection to being in a picture, please just make that known and move when the picture is being taken.

Let's proceed.

Q. BY MR. QUINN: Miss Stapleton, I would like to read to you again some testimony from Mr. Slater, San Diego's person most knowledgeable. And this will be from page 64 of his deposition, lines 14 to 25.

"Q. I want to jump back to the 2003 agreement for a second. I'm jumping back here like Marty McFly. I'm jumping between time frames here.

"A. I'm not Marty McFly.

"Q. Okay. Get that on the record. 2003, the negotiations for the 2003 agreement, was it ever discussed excluding -- did any party ever propose excluding State Water Project costs from the price -- from the price, the contract price to be charged under that agreement?

"A. I do not recall that, no."

Was Mr. Slater wrong about that?

A. He was not. We did not propose a lower price.

Q. And you also -- at no point did San Diego in negotiations for that agreement, Mr. Slater, the person most knowledgeable testified, never proposed taking out the State Water Project costs from the wheeling rate, in
connection with the negotiation of that agreement; correct?
A. For the price that started, that we started within the exchange agreement?
Q. At no point, did any party ever propose excluding State Water Project costs from the price, the contract price to be charged under that agreement; is that true?
A. That is true.
Q. So is it your testimony, just reading between the lines, Miss Stapleton, are you saying that you brought up with Met excluding State Water Project costs in year two?
A. No.
Q. Year three?
A. No.
Q. Four?
A. No.
Q. For any year?
A. Yes.
Q. What year did you propose backing out the State Water Project costs on, you personally?
A. Yes. In year six or beyond, that we had to come to some agreement in that we believed the State water projects were not lawfully included in the rates.
Q. And who did you propose that to on the Met side?
A. Dennis Underwood.
Q. Anyone else?
A. I believe it was referenced among the group, which would be the Met team and the Water Authority team.
Q. I am trying to find out who, other than Mr. Underwood, you say you proposed taking State Water Project costs out after the five years you identified --
A. I personally?
Q. Yes.
A. I personally?
Q. Yes.
A. No. It would be just Mr. Underwood.
Q. And sadly he's deceased?
A. Yes, unfortunately.
Q. By 2005 the 2003 exchange agreement had been in effect for over a year?
A. Correct.
Q. Met initially billed San Diego for conveyance charges at that initial price of $253?
A. Yes.
Q. And over the next five years that price escalated, just as San Diego had anticipated in those projections that you presented to the board?
A. It escalated. I can't tell you if it escalated between the two and five percent. I do not recall.
Q. But it did escalate every year?
A. Yes, it did.
Q. In 2005, it's true to say that San Diego did not write to Metropolitan saying that the rates were unlawful?
A. Correct.
Q. And in 2005, San Diego did not make any claim with Met that charging a price based on these unlawful rates was a breach of contract?
A. Correct.
Q. And San Diego, in 2005, did not object in writing to the price or to any invoice; true?
A. Correct.
Q. Is there any writing that you can point us to in any of those years where San Diego wrote to Met, prior to 2010, stating that the rates being charged were unlawful?
A. I cannot go to any specific document. I cannot recall any right now.
Q. You cannot recall, can't identify for us any document in any of those years where San Diego made a claim with Met that it was charging a price that was in breach of contract?
A. No.
Q. Or even objecting in writing to the price being charged or to any invoice before 2010?
A. I don't recall any.
Q. If you'd look at -- if we could turn to the exchange agreement itself, DTX 55, PTX 65, and turn to page 26, there is a Section 12.4(c), if you would take a look at that.
A. Correct.
Q. If you look at -- if we could turn to the exchange agreement itself, DTX 55, PTX 65, and turn to page 26, there is a Section 12.4(c), if you would take a look at that.
A. Correct.
Q. And you recall this provision here that says, "In the event of a dispute over the price, SDCWA shall pay, whenever due, the full amount claimed by Metropolitan, provided, however, during the pendency of the dispute, Metropolitan shall deposit . . ."
A. I do.
Q. Unless you want me to, I won't read the whole paragraph.
A. I do know that provision.
Q. You understood since -- at any time after 2003, if San Diego disputed a price, it could deposit money with Met and Met would have to keep that money in an account until the dispute was resolved?
A. Yes.
Q. The first time that San Diego did that was in February of 2011; right?
A. Yes.
MR. QUINN: Let's look at DTX 624, not yet admitted. I understand there is no objection, and I would offer it, February 10, 2010, letter from Mr. Hentschke to Mr. Kightlinger.
MR. KEEKER: No objection.
THE COURT: DTX 624 is admitted. I understand there is no objection, and I refer to the Met board, I do not know.

Q. BY MR. QUINN: You recognize this as a letter from San Diego's general counsel to Mr. Kightlinger?
A. Yes.
Q. This is the first time San Diego asked Met to set aside money under that Section 12.4 (c); correct?
A. Correct.
Q. There is nothing in that five-year provision, sometimes referred to as a standstill or year of good feelings, whatever -- there is nothing in that that prevented San Diego during that time from invoking this deposit procedure under 12.4 (c), was there?
A. I believe we could not challenge the rate for the first five years. So unless they were charging more than the Met established rate, we could not -- we couldn't dispute it.
Q. Let's take a look at that section and see what it provides that you couldn't do in the first five years, Section 5.2, pages 16 and 17.
I think you will see in the second line there, it says, "For the time of this agreement neither San Diego nor Met shall seek or support in any legislative, administrative or judicial forum any change in the form, substance or interpretation of any applicable law or regulation."

Do you see that?
A. I do.
Q. It refers to not taking actions in legislative, administrative or judicial forums; correct?
A. Yes.
Q. Does that refresh your recollection there was nothing that prevented San Diego from invoking this 12.4 (c) procedure even during the first five years?
A. I see that.
Q. You are aware that from 2000 -- during this time frame, 2005 through 2009, Met every single year, Metropolitan's conveyance rates were submitted for approval by the Met board every year; correct?
A. Yes.
Q. You recall, if we can look at DTX 129, I think we looked at this already, in 2005 San Diego's members of the Met board voted for the wheeling rate which included the State Water Project costs and the water stewardship rate; correct?
A. Correct.
Q. As we discussed earlier, San Diego's delegates to the Met board received direction from the San Diego board as to how to vote on certain matters; right?
A. Only -- the only one I see is the one you referenced earlier. That's the only one that I have seen.
Q. Let me ask, is it generally a custom and practice on the issue of rates that San Diego's delegates will be instructed how to vote?
A. No. It's actually opposite of that. They are not instructed by our board of directors on how to vote.
Q. In any event, we can see here, this is a record of how in fact they did vote; right?
A. Yes.
Q. And as part of that, you know that when these rates and rate structures come up for vote, there's a whole package that goes to the whole members of the board to support the requested action; correct?
A. Correct.
Q. And that includes a cost of service breakdown which specifically identifies the components of the rates that the delegates are being asked to vote on; correct?
A. Correct.
Q. So it would not be true to say, would it, that when these things come up for vote at the Met board, the only thing the board members can vote on is whether the rates should be increased?
A. That is the primary issue. But in addition, it is they are aware of how the costs are allocated.
Q. Ma'am, it would not be true to say, would it, that when these packages come up for review, that the only thing the board members have an opportunity to approve is an increase in the rates; that they have no ability to address the rate structures?
A. I do not know what that specific package is. I don't know what the resolution is. So I don't believe I can answer that accurately.
Q. As far as you know --
A. I do not know.
THE COURT: She's still talking, Mr. Quinn.

MR. QUINN: Sorry.

THE WITNESS: I just don't know. I haven't viewed it.

Q. BY MR. QUINN: You attend some of the Metropolitan board meetings?
A. Rarely.

Q. You know that those -- there are recordings made of those meetings?
A. Yes.

Q. As there are recordings made of the San Diego meetings; right?
A. Correct.

Q. So far as you are aware, did any of the San Diego delegates to the Met board ever disclose to the Met board that San Diego believed any of these rates that were being voted on were unlawful?
A. During what period of time?

Q. Prior to the filing of this lawsuit.
A. I believe that they did indicate that they did not support, did not believe that the costs were allocated correctly.

Q. At any time -- my question -- I'm not sure -- I might have misspoken and maybe you misheard my question.

My question is, when these votes -- when these rates came up annually, at any time did any -- so far as you know, did any of the San Diego delegates inform the Met board that the rates on the table submitted for voting were illegal or unlawful?

A. No.

Q. Is it your understanding the board members have fiduciary duties to other board members?
A. To other board members?

Q. To the board. To the board as a whole.
A. To the agency, yes.

Q. As members of the board they are fiduciaries?
A. Yes.

Q. It is true, isn't it, that San Diego's delegates to the Met board also voted to approve these conveyance rates in 2006, 2007, 2008 and 2009?
A. Yes.

Q. During the period we've been talking about, prior to 2010, San Diego requested, on occasion, that Met wheel water, wheel water on San Diego's behalf, isn't that correct?
A. Yes.

Q. And San Diego wanted water wheeled through the State Water Project facilities under Met's contract with the State; correct?
A. Yes.

Q. And San Diego knew that Met pays for those facilities through its contract with the State; right?
A. Yes.

Q. And San Diego knew that Met pays for those facilities without objection; correct?
A. Correct.

Q. And San Diego pays those charges without objections?
A. Correct.

Q. Okay. You are aware when you request wheeling, transportation of water, you are going to be paying system access rate, power rate and including the State Water Project costs; correct?
A. Correct.

Q. No objection to paying those costs when you are wheeling water through the State Water Project?
A. We did not object when we moved this water in, it looks like, probably 2009 when we moved this water.

Q. Similarly, if the State Water Project was being used to perform under the exchange agreement, San Diego would have no objection to paying those costs related to use of the State Water Project?
A. Could you explain what "objection" is?
Q. San Diego would have no issue with being charged for use of State Water Project facilities if they had to be used to perform the exchange agreement; correct?
A. I don't know.
Q. Well, the use of -- it's true, isn't it, that
the use of the State Water Project facilities was
essential to Met's performance under the exchange
agreement; it had to be done? Correct?
A. Not necessarily.
Q. Is it your understanding that Met could perform
the exchange agreement simply by using the Colorado
River Aqueduct exclusively?
A. Yes.
Q. In fact, San Diego understood, at the time that the
exchange agreement was negotiated and signed, that even a
temporary inability to use the State Water Project
facilities could cause a change in the delivery of water
to San Diego under the exchange agreement?
A. Yes, it could.
Q. So if we look at DTX 51, Section -- this is the
exchange agreement -- Section 3.3, pages 13 to 14. You
see where it says, "SDCWA understands that any number of
factors, including emergencies, inspection, maintenance

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or repair of Metropolitan facilities or the State Water
Project facilities may result in a temporary and
incidental modification of the delivery schedule
contemplated in paragraph 3.2." Correct?
A. Correct.
Q. The parties clearly contemplated that the use of
the State Water Project facilities were an essential
aspect under the exchange agreement?
A. I don't see that. "They may result." It
doesn't say "they shall result."
Q. You understood that if there were a shutdown of the
State Water Project facilities, that might have certain
consequences for the schedule of the deliveries?
A. Yes, it might.
Q. So you understood from that that Met might well
be using the State Water Project facilities to perform
under the exchange agreement?
A. Yes, they might.
Q. And as a historical fact, you know that a large
portion of the water that has been delivered under the
exchange agreement has come through the State Water
Project; you know that?
A. Yes.
Q. Do you know how much?
A. I do not.

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the imported water committee.
A. Yes.
Q. On the second page, this is a memorandum prepared by Daniel Hentschke?
A. Yes.
Q. Approved by you?
A. Yes.
Q. The last sentence reads, "The Water Authority does not intend to litigate Met's current rate structure but it cannot know what future actions the Met board may take since the Met rates are established annually and are subject to change by Met's board of directors.” Do you see that?
A. I do.
Q. That is language you approved?
A. Yes.
Q. In 2007 there was no intention to sue; correct?
A. Correct. We did not intend to litigate.
Q. And this was -- Q. It was 2008 that five-year period expired?
A. Yes.
MR. QUINN: And then if we can look at DTX 1114. This is not yet admitted and I understand there is no objection. I would offer it.
MR. KEKER: No objection.
THE COURT: DTX 1114 is admitted.
(Exhibit 1114 was received into evidence.)
Q. BY MR. QUINN: Can you identify this document?
A. This is a PowerPoint related to the MWD's work plan.
Q. If you turn to page 11, there is a reference to "Transportation Issues re SDCWA Transfers."
A. Yes.
Q. And it says, "Approval of canal lining option brought additional reliable water supplies for 110 years."
Do you see that?
A. Yes.
Q. After that it says, "No expectation of litigation."
Do you see that?
A. I do.
Q. If you turn to page 12, "2007 Objectives," do you see, "work in partnership with MWD" and below that "peace treaty' expired - no litigation"?
Do you see that?
A. Yes.
Q. Again, as of 2007, the state of mind at San Diego is there is no intention to sue?
A. Correct.
Q. Since 2003 San Diego has received the benefits it expected to get under the exchange agreement?
A. Yes.
Q. It has received that assignment of the water and the water -- you have no criticisms of Met's performance other than these charges which are the subject of this case; is that true?
A. That's true.
Q. And San Diego has received and accepted the benefits and Met has performed; correct?
A. Correct.
Q. Option-2 had that initial price of $253 which was assumed to escalate from there?
A. Yes.
Q. And the price that San Diego contends it should pay for 2011, for example, according to your expert, Mr. Denham is $136 per square foot?
A. Per acre-foot.
Q. Per acre-foot.
A. Yes.
Q. So is it your understanding of the exchange agreement San Diego is entitled to the benefits of Option-2, the canal lining water, for 110 years and the $235 million, and the other thing it gets but should pay about half of what San Diego assumed it would pay under option two when it was running those analyses?
A. No. We assumed we would pay a lawful wheeling rate, and we would get the benefit of the exchange agreement by a lawful wheeling rate.
Q. If I understand correctly what you're telling us is you believe that Mr. Denham is right, that for 2011, for example, you can get all those same benefits and only pay the $136; correct?
A. The benefits derived were not directly related to the exchange agreement number. The benefits, the totality of benefits of the QSA related to the exchange agreement, the $253.
Q. I mean, again, not to gild the lily, I hope, we've seen these memos that say the consideration for the canal lining water was the wheeling rate, which starts out $238; right? I'm sorry. $253?
A. Correct.
Q. And so San Diego's position now is it should be able to get all those benefits anticipated under the exchange agreement but actually it should only have to pay much, much less than what that initial year's price was?
A. We should only have to pay the lawful wheeling rate.
Q. Your testimony, Miss Stapleton, was -- I was
1. asking about whether you brought up taking out the State Water Project costs, you personally brought it up with anyone on the Met side. And you said that you did that in -- I have 2009.
2. A. About the State Water Project costs?
3. Q. Yes.
4. A. We raised that issue way before 2009.
5. Q. I'm talking about the conversation with Mr. Underwood.
6. A. I raised that conversation with Dennis all the way back to -- I mean, we were having conversations in 1999 or 2000, 2001, 2002, all the way up to the execution of the exchange agreement.
7. Q. I asked you what year did you propose backing out the State Water Project costs on, you personally, and you said, yes, in year six or beyond --
8. A. Right.
9. Q. Right?
10. A. After the execution of the exchange agreement.
11. Q. Year three?
12. A. No. Mr. Underwood had passed since then.
13. Q. That is what I was going to ask. He passed in 2005?
15. basically my conversations with Dennis were during the negotiations to 2003 and beyond, and I continued those conversations with Dennis until he passed in 2005.
16. MR. QUINN: Can I have just a moment, your Honor?
17. THE COURT: Of course.
18. MR. QUINN: Nothing further.
19. CROSS-EXAMINATION
20. BY MR. KEKER:
21. Q. With speed, Miss Stapleton, because of time. When did San Diego raise with Met the problem with cost allocation of the State Water Project costs?
22. A. Our first concerns regarding wheeling were in 2000, 2001, 2002, 2003. The 2009 is when the Water Authority or I actually issued formal objections to the State Water Project costs being included in the Met rate.
23. Q. Wasn't it your testimony that you said that you did not bring -- you were asked, just reading between the lines:
24. "Q Miss Stapleton, are you saying you brought up with Met excluding State Water Project costs in year two?
26. "Q Year three?
27. "A No.
28. "Q Year four?
29. "A No.
30. "Q For any year?
32. "Q What year did you propose backing out the State Water Project costs on you personally?
33. "A Yes. In year six or beyond. We had come to know -- come to some agreement and that we believed the State Water Project costs were not lawfully included in the rates.
34. "Q Who did you propose that to on the Met side?
35. "A Dennis Underwood."
36. Was that your testimony?
37. A. I'm sorry. I misunderstood then. Basically my conversations with Dennis were during the negotiations to 2003 and beyond, and I continued those conversations with Dennis until he passed in 2005.
38. The issue about 2009 was when we had formal conversations about -- in 2009 we were raising the issue in a much more public way.
39. MR. QUINN: Can I have just a moment, your Honor?
40. THE COURT: Of course.
41. MR. QUINN: Nothing further.
42. CROSS-EXAMINATION
43. BY MR. KEKER:
44. Q. With speed, Miss Stapleton, because of time. When did San Diego raise with Met the problem with cost allocation of the State Water Project costs?
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subject of a great deal of discussion and objection and contention between San Diego and Met since the rates were unbundled?

A. Yes. We had many, many conversations with Met staff and during this period of time trying to come to resolution.

Q. Could anybody in these agencies or involved in this process not understand that there was a dispute about where to allocate these State Water Project costs?

MR. QUINN: Objection. Foundation.

THE COURT: Sustained. It is argumentative.

Q. BY MR. Keker: You mentioned something about closed sessions and so on. Was San Diego's position prior to 2003 about the proper allocation of State Water Project costs, was it public or private? Was it publicly known, publicly discussed?

A. Yes. It was known by MWD and the member agencies at Metropolitan that we disputed the inclusion of the State Water Project in the wheeling rate.

Q. When you talked about closed sessions during Mr. Quinn's examination, what was your point about the closed sessions?

A. Was that we had repeated and frequent closed sessions with our board of directors during the negotiations of the QSA, and a huge amount of the

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that I thought it was inconsistent with the wheeling statute.

Q. What wheeling statute are you referring to?

A. The Katz wheeling statute.

Q. Do you know if that has a Water Code designation?

A. Yes. 1810.

Q. Who is Mr. Katz?

A. Mr. Katz was in the legislature and he was the author of the wheeling statute.

Q. Was Mr. Katz the author of the wheeling statute involved in the negotiations -- in 2003, what was his role in 2003?

A. In 2003 Richard Katz actually was a -- was on the Governor's staff and he and another individual on behalf of Governor Davis participated and facilitated the negotiations in 2003.

Q. Did Mr. Katz, for example, understand there was a dispute between San Diego and Met about how to calculate the wheeling rate?

A. Yes, he was aware.

MR. QUINN: Objection. Foundation.

THE COURT: I'll sustain. We are probably going off a little bit.

Q. BY MR. Keker: Just generally, had this been a

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information and the analysis were done in closed session with the board as we continued to try to reach agreement.

Q. What about the water stewardship rate? When had you directly begun communicating your concern about the placement of the water stewardship rate costs on transportation to anybody at Met?

A. In about the year 2000.

Q. And to whom did you communicate that concern and what did you say about it?

A. For me, it was to Dennis Underwood who was my counterpart on the negotiating team of Met. And, again, I indicated the water stewardship charge was directly related to supply development and it didn't belong on the transportation charge. I didn't believe it was consistent, again, with the wheeling law.

Q. And did you say -- did you tell him it was improper, invalid or anything like that?

A. Yes. The language I would use is it's improper or that it's not consistent with the law or that it --

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that is not a valid charge to the transportation or system access rate.

Q. To your knowledge did Met staff -- excuse me.

San Diego Water Authority staff communicate similar concerns to their contemporaries at Met?
MR. QUINN: Objection; foundation.

THE COURT: Did you overhear these communications?

THE WITNESS: I did in some cases.

THE COURT: Tell us about what you heard.

THE WITNESS: I heard both Scott Slater, my special counsel, and Bob Campbell, one of my staff members, having discussions with either Brian Thomas, who was an employee of Metropolitan, or Jeff Kightlinger, the general counsel, about the wheeling rate and our objections to the inclusion of certain charges in that wheeling rate.

Q. BY MR. KEKER: By the way, was Mr. Gastelum, who was the general manager in 2003, is he still around and available to Met as a witness?

A. Yes, he is around.

Q. Miss Stapleton why did the Water Authority agree -- let me back up. You said the $253 wheeling rate made up of the current system access rate, water stewardship rate and system power rate, adding to $253. You said you believed at the time of the exchange agreement that rate was not -- was illegal, was not properly calculated. Do you remember that?

A. Correct.

Q. Why did San Diego agree in the exchange agreement to pay that rate for the initial year?

A. For a couple reasons. We needed to make modifications in the exchange agreement from 1998. We had to solve some problems, which is the exchange agreement term was shorter than our water transfer term and we had 15 years of exposure.

The second issue was there was some conditions precedent that we had been told by Ron Gastelum that would invalidate the 1998 agreement.

So we decided if we could put boundaries on our exposure to Met's wheeling rate and had the opportunity to either negotiate something we both could live with and that it was lawful, that that was worth -- that was worth the risk.

Q. You said you agreed as part of the exchange agreement to pay Met's wheeling rate, whatever they said, for five years?

A. Correct.

Q. And thereafter, what wheeling rate did you agree to pay?

A. The lawful wheeling rate.

Q. Did you make sure that the agreement reflected that agreement?

A. Yes.

Q. Could we look at Plaintiff's 65 and put up 5.2, please?

A. I don't think I have 65.

Q. Sorry, Miss Stapleton, I am rushing. Let's put up 5.2 on the screen.

This is an agreement for exchange water, and in 5.2 it says the price on the date of execution is $253; right?

A. Correct.

Q. At the time was there a dispute between Met and San Diego about whether or not that was a lawful wheeling rate?

A. Yes, that was.

Q. Did Mr. Underwood understand there was a dispute?

A. Absolutely.

Q. Did you understand there was a dispute?

A. Yes.

Q. Did anybody at Met not understand that there was a dispute?

A. No.

MR. QUINN: I object. Move to strike.

THE COURT: Sustained.

Q. BY MR. KEKER: And it says, "Thereafter, the price shall be equal to the charge or charges set by the Met board of directors pursuant to applicable law and regulation."

What did that mean to you?

A. That meant thereafter Met -- that the price would be a lawful wheeling rate that was set by MWD.

Q. And had there been some discussion about how long San Diego would sit still if Met didn't change its ways about cost allocation?

A. Yes.

Q. And what did the discussion lead to?

A. It led to that we could not challenge the MWD established rate for the first five years.

Q. And what was the purpose for you, for San Diego, to agree to a wheeling rate that you thought was higher than the law permitted and to agree to it, to pay it for five years?

A. Because it provided an exchange agreement that matched our water transfer agreement in the length of time. And it got rid of the conditions precedent. So we knew we would have a firm capacity within the aqueduct in this exchange agreement, and we were willing to take the risk.

Q. During the negotiations, as Mr. Kightlinger told us, did Met say we want you to agree to whatever we say the wheeling rate is for the next 45 and maybe 75 years?
A. That was their initial offer to us.
Q. And did San Diego agree to eat whatever they wanted to call the wheel rate, whatever number they wanted to put on it, for 45 to 75 years?
A. Absolutely not.
Q. What did the negotiation yield in that regard?
A. We finally got down to a five-year time period where we agreed to pay the MWD established rate, and after five years we had the opportunity to seek either administrative or judicial remedy.
Q. Let's look at the next term. It says, still in 5.2, "For the term of this agreement neither San Diego nor Met shall seek or support in any legislative, administrative or judicial forum."
   Does administrative include Met?
A. Yes.
Q. So you are promising you are not going to go to Met, you are not going to go to the legislature and you are not going to go to court for the life of this agreement --
A. Yes.
Q. -- pertaining to the charge or charges set by the board of directors. That's what that says; right?
A. Correct.
Q. And then it comes down and it says, "Provided further that, A, after the conclusion of the first five years" --
   What are the next two words?
A. "Nothing herein."
Q. -- "shall preclude San Diego from contesting in an administrative or judicial forum," blah, blah, blah.
   What did you understand that to mean about this five-year period?
A. After five years, if we were unsuccessful reaching an agreement on what would be considered the lawful rate, the Water Authority had the ability to contest the wheeling rate that Met had established in either an administrative or judicial manner.
Q. After the five years with respect to what the subject matter of your lawsuit could be, did you understand that there was any condition about only procedural or only something that didn't exist when we started or anything, any limitation on that?
A. Absolutely not.
Q. Did you expect there was a possible -- did you anticipate there was a possibility the law might change or develop and make the wheeling situation work more plainly over the next five years?
A. Yes. That there were some court cases regarding wheeling during this period of time, and we thought that there may be additional court decisions that might have an influence on -- an influence to help clarify what a lawful wheeling rate might be.
Q. In San Diego's mind did the term "lawful wheeling rate" have meaning?
A. It had essential meaning.
Q. Was there any part of California or constitutional law that was excluded from the term "lawful"?
A. No.
Q. And in your discussions with Mr. Underwood, did he seem to understand that, as well?
A. He did.
Q. Would you look at 11.1, please. 11.1 says you have to negotiate if you have a problem, but it also says, "San Diego shall not dispute whether the price determined pursuant to paragraph 5.2 for the first five years of this agreement was determined in accordance with applicable law or regulation ('a price dispute')."
   What price did you think they were talking about that you couldn't dispute for five years?
A. Met's wheeling rate as selected or as set by the board of directors.
Q. Where the parentheses are around "price dispute," look over at 12.4, please, and 12.4(c), which says, "In the event of a dispute over the price, San Diego shall pay when due. . . ." And then it goes and talks about the escrow accounts?
A. Right.
Q. Was there anything in this agreement that limited San Diego's ability to complain about any aspect whatsoever of the price it was being charged by Met after five years were over?
A. No.
Q. Was that something that was negotiated for hard?
A. Very hard.
Q. And was that contrary to the position that Met wanted, which is you can never challenge our prices?
A. Yes.
Q. That was the compromise?
A. This was the compromise.
Q. For five years you couldn't challenge --
THE COURT: I have to interrupt. I have another case coming in at 4:00. I have a ferocious amount of work to do.
   Can we pick this up on our next trial date?
MR. KEKER: Yes, sir.
THE COURT: I do have some other cases. Thank
you. I will see you next time we get together. (Evening recess was taken.)

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA, )
 ) ss
COUNTY OF SANTA BARBARA. )

I, TARA ANN SANDFORD, CSR #3374, Certified Shorthand Reporter, in the County of Santa Barbara, State of California, hereby certify:
That the court proceedings were taken down by me in stenotype at the time and place herein named and thereafter reduced to typewriting by computer-aided transcription under my direction.
I further certify that I am not interested in the event of the action.
WITNESS my hand this 3rd day of April, 2015, at San Francisco, California.

TARA SANDFORD, RPR, CSR No. 3374
Certified Shorthand Reporter
State of California
May 8, 2015

Randy Record and  
Members of the Board of Directors  
Metropolitan Water District of Southern California  
P.O. Box 54153  
Los Angeles, CA 90054-0153

RE: Board Memo 8-2: Authorize (1) $150 million in additional funding for conservation incentives from the Water Stewardship Fund and the Water Management Fund; and (2) Implementation of modifications to the Turf Removal Program -- OPPOSE

Chair Record and Members of the Board:

As you know, the Water Authority and its member agencies have an outstanding record of leadership in water conservation planning, programs and implementation. The San Diego region’s per capita water use has dropped by 22 percent since 2007. More than a year ago, in response to the current drought, the Water Authority launched its When in Drought, Save Every Day, Every Way campaign to further increase public awareness. Through our continuous efforts, a recent poll shows 87 percent of San Diegans believe saving water is a civic duty, 85 percent are aware the drought is very serious, and 81 percent have taken additional actions to reduce water use since mandatory water use restrictions were implemented in San Diego County last August. It is clear that San Diegans are doing our part to reduce water use, and we will continue to support the Governor’s call for increased water conservation and strive to meet the State Board’s newly adopted regulations. Against this backdrop, we must oppose staff’s recommendation for the following reasons:

- **Lack of accountability.** In spite of repeated requests, MWD has failed to demonstrate actual near-term water savings resulting from the turf removal program. At an estimated cost of almost $1,500 per acre-foot (AF), which staff has amortized over ten years, the near-term cost of any water savings would be substantially more than $1,500/AF and well in excess of MWD’s current spot market transfers. Short term, there has been no demonstration of meaningful water savings as a result of these subsidies, and certainly no demonstration of water savings that would not otherwise have occurred, either as a result of the high cost of water or state mandates limiting the amount of water retail agencies and their ratepayers may use on ornamental landscapes. Long term, MWD’s program includes no measures to ensure that turf that someone is paid to remove today won’t be reestablished in the future. **Without**
such accountability, this program constitutes a waste of ratepayer dollars and a gift of public funds.

- **Lack of transparency.** MWD has not even provided an accounting of the participants who have received the more than $77 million that has already been spent on the program. No further public rate dollars should be allocated or spent without an accounting of past expenditures. We renew our request for an immediate audit of this program, including identification of fund recipients, evidence of the turf removal or other "conservation" improvements that have been made with these public funds, and disclosure of any consultants or business entities that have benefitted from the implementation of this program by MWD.¹

- **Lack of available funding to pay for this massive, unbudgeted program expansion.** It appears that there are insufficient funds available to pay for the staff recommendation;² and it is therefore highly probable that rate increases will be required for which there has been no public notice. In a PowerPoint presentation to the Finance and Insurance Committee last month, staff reported a Water Management Fund balance of $32.2 million as of March 31, 2015.³ This month, staff is requesting to use $9.975 million of that remaining balance to purchase transfer supplies from Yuba County Water Agency, leaving only $22.25 million available in the Water Management Fund.⁴ This means that the rest of the funding - $127.8 million - must come from the Water Stewardship Fund. But in order for the Water Stewardship Fund to generate that level of funding, *MWD would have to sell 3.12 million acre-feet of water* (MWD must also make payments due on long term contracts paid for with Water Stewardship Rate dollars). Since MWD’s water sales are obviously going to be much lower than 3 million acre-feet, there is no identified source from which to generate the $150 million needed for this program. MWD is running this program as an “open checkbook,” but it has not planned or budgeted for these expenditures.

- **The conservation program is being funded with rates the Superior Court has already ruled are illegal.** MWD is continuing to collect the Water Stewardship Rate even though the Superior Court has already ruled that it is an illegal tax. In addition, San Diegans are being excluded from full participation in the member agency program as a result of MWD’s inclusion of the "Rate Structure Integrity" clause, as to which the Court has also ruled substantively in San Diego's favor, subject only to the question of standing.

- **The turf removal program is a regressive tax.** Many low income ratepayers allowed their lawns to die many months if not years ago due to the cost of water. Now, they are being forced to subsidize turf replacement by private golf clubs and other commercial and residential high water users.
Chair Record and Members of the Board
May 8, 2015
Page 3

We have stated our deep concerns about the turf replacement program and MWD’s water conservation programs generally, due to the absence of accountability actually measuring conservation results or accounting for the ratepayer dollars being spent on these programs. We have provided suggestions and made requests for information and for an audit on many prior occasions. A copy of our most recent letter dated December 8, 2014, is attached.

Instead of adopting staff’s recommendation, we urge the board to: 1) order an immediate audit of the $77 million that has been spent to date, including the information described above; and 2) request that staff bring back a detailed report including (a) data and an analysis demonstrating the near-term and long-term benefit of these programs, (b) a recommendation and firm budget cap for any proposed expanded conservation program, and (c) identify the source of available funding to pay for it. Staff should also report on the demand reduction impacts from permanent landscape ordinances and/or code changes limiting outdoor water use and how such changes should contribute to phasing out subsidies as a primary means to achieve water conservation.

For these reasons, we oppose staff’s recommendations.

Sincerely,

Michael T. Hogan
Director

Keith Lewinger
Director

Fern Steiner
Director

Yen C. Tu
Director

Attachments:
1. Water Authority’s December 8, 2014 Letter to MWD Board re 8-1

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1 We have been asked, for example, what role MWD’s past General Manager, Ron Gastelum, has played in the development and implementation of the turf removal program and whether he has benefitted financially from it on behalf of his client “Turf Terminators.” In addition to his former role as General Manager of MWD, Mr. Gastelum also represents a number of MWD member agencies.

2 MWD’s budgeted conservation program funding for fiscal years 2014/15 and 2015/16 totaled $40 million; the staff recommendation in this month’s Board Memo 8-2 will increase that budget more than six-fold to $250 million.

3 In this month’s presentation, the projected balance of the Water Management Fund is shown as $141.9 million as of June 30, 2015; no explanation is provided how the balance will increase by more than $100 million from March to June 2015.

4 This is all the money that is left in the Water Management Fund of the $232 million transferred there from the almost **$500 million MWD has over-collected from ratepayers since June 2013.**
December 8, 2014

Randy Record and Members of the Board of Directors
Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, CA 90054-0153

RE: Board Memo 8-1: Authorize: (1) increase of $40 million for conservation incentives and (2) increase to contract authority of the five-year agreement with Electric and Gas Industries Association for administration of Metropolitan’s regional conservation rebate program – OPPOSE

Chair Record and Members of the Board:

The Water Authority and its member agencies strongly support and have an outstanding record of leadership in water conservation planning, programs and implementation. Through our collective efforts, the San Diego region’s per capita water use has been reduced by almost 25 percent since 2007. In response to the current drought, we launched our *When in Drought, Save Every Day, Every Way* campaign in order to further increase public awareness. As a result of these efforts, a recent poll shows that more than 80 percent of San Diegans now believe saving water is a civic duty. While we continue to support the Governor and State Board’s call to increase conservation, we must oppose staff’s recommendation due to the manner in which ratepayer dollars are being spent and the absence of any accountability or demonstration that the expenditure of these funds is actually achieving the intended purpose.

Staff’s recommendation is to spend five times more than its adopted budget on conservation programs in this fiscal year alone (leaving no conservation funding for the following fiscal year). Funding would come from money MWD has over-collected from ratepayers over the last two fiscal years. This money could have been invested directly at the local level, on water conservation and supply programs that would not only alleviate the impacts of drought, but also provide long term water supply benefits. Instead, MWD is proposing to spend a significant portion of this money, over-collected from all ratepayers, on turf replacement on commercial properties including private golf courses. At MWD’s $2 per square foot rebate, this costs MWD ratepayers more than $1,500 per acre-foot.
Against this backdrop, we find it ironic that the MWD board just last month adopted a purchase order policy that allows MWD member agencies to increase purchases of low priced Tier 1 water (and avoid the higher Tier 2 rate on an annual basis as costs are incurred), completely eliminating the pricing signal Tier 2 was originally intended to send. MWD's "pricing signals" and behaviors - including this water conservation program - are completely upside down and inconsistent.

MWD is simply burning through ratepayer dollars irresponsibly in the name of water conservation. It could accomplish much more by structuring its rates according to its cost of service and sending true price signals about the value of water. At a minimum, before approving any further funding, MWD should redesign this program to place a cap on the amount of rebate applicants may receive so that conservation rebates are possible involving the general public and a wider range of applicants.

Given the proposed unprecedented level of spending associated with money being paid to private business, we request the General Auditor conduct a financial audit of all rebate programs, starting with a specific emphasis on the turf removal program. For the same reason, we request that the contract authority for EGIA be extended only to match the biennial budget, rather than through 2017. We believe this is absolutely essential to ensure that the MWD board of directors is being a responsible steward of ratepayer dollars.

Sincerely,

Michael T. Hogan  
Director

Keith Lewinger  
Director

Fern Steiner  
Director

Yen C. Tu  
Director

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1 The staff letter states that the current proposed increase is “intended to address immediate issues in the conservation program for the current fiscal year.” MWD’s adopted biennial budget for conservation for fiscal years 2014/15 and 2015/16 was $40 million. With the addition of $20 million in February and this request to add another $40 million, the conservation budget for the current year alone would total $100 million.
Finance and Insurance Committee

Meeting with Board of Directors*

May 11, 2015

9:00 a.m. -- Room 2-145

Monday, May 11, 2015

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* The Metropolitan Water District’s Finance and Insurance Committee meeting is noticed as a joint committee meeting with the Board of Directors for the purpose of compliance with the Brown Act. Members of the Board who are not assigned to the Finance and Insurance Committee may attend and participate as members of the Board, whether or not a quorum of the Board is present. In order to preserve the function of the committee as advisory to the Board, members of the Board who are not assigned to the Finance and Insurance Committee will not vote on matters before the Finance and Insurance Committee.

1. Opportunity for members of the public to address the committee on matters within the committee's jurisdiction (As required by Gov. Code Section 54954.3(a))

2. Approval of the Minutes of the meeting of the Finance and Insurance Committee held April 13, 2015

3. CONSENT CALENDAR ITEMS — ACTION

None

4. OTHER BOARD ITEMS — ACTION

8-1 Adopt resolution to continue Metropolitan’s Water Standby Charge for fiscal year 2015/16. (F&I)
Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is not defined as a project and is not subject to CEQA, and adopt the resolution to continue collecting the Standby Charge for fiscal year 2015/16.

5. BOARD INFORMATION ITEMS

9-1 Renewal status of Metropolitan’s Property and Casualty Insurance Program. (F&I)

6. COMMITTEE ITEMS

a. Oral report on investment activities

7. MANAGEMENT REPORT

a. Chief Financial Officer’s report

8. FOLLOW-UP ITEMS

None

9. FUTURE AGENDA ITEMS

10. ADJOURNMENT

NOTE: At the discretion of the committee, all items appearing on this agenda, whether or not expressly listed for action, may be deliberated and may be subject to action by the committee.

This committee reviews items and makes a recommendation for final action to the full Board of Directors. Final action will be taken by the Board of Directors. Agendas for the meeting of the Board of Directors may be obtained from the Board Executive Secretary. This committee will not take any final action that is binding on the Board, even when a quorum of the Board is present.

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Requests for a disability related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting should be made to the Board Executive Secretary in advance of the meeting to ensure availability of the requested service or accommodation.

Date of Notice: April 30, 2015
REVISED AGENDA

Water Planning and Stewardship Committee

Meeting with Board of Directors

May 11, 2015

9:30 a.m. – Room 2-456

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Meeting Schedule

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The Metropolitan Water District’s Water Planning and Stewardship Committee is noticed as a joint committee meeting with the Board of Directors for the purpose of compliance with the Brown Act. Members of the Board who are not assigned to the Water Planning and Stewardship Committee may attend and participate as members of the Board, whether or not a quorum of the Board is present. In order to preserve the function of the committee as advisory to the Board, members of the Board who are not assigned to the Water Planning and Stewardship Committee will not vote on matters before the Water Planning and Stewardship Committee.

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1. Opportunity for members of the public to address the committee on matters within the committee’s jurisdiction (As required by Gov. Code Section 54954.3(a))

2. Approval of the Minutes of the meeting of the Water Planning and Stewardship Committee held April 13, 2015

Added 3. Update on Bay-Delta issues by Charlton Bonham, Director of California Department of Fish and Wildlife

4. CONSENT CALENDAR ITEMS — ACTION

   None

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REVISED: Date of Notice: May 1, 2015
5. OTHER BOARD ITEMS — ACTION

8-2 Authorize: (1) $150 million in additional funding for conservation incentives from the Water Stewardship Fund and the Water Management Fund; and (2) Implementation of modifications to the Turf Removal Program. (WP&S)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is not defined as a project and is not subject to CEQA, and

a. Authorize an increase in the biennial FY 14/15 and FY 15/16 budget of $150 million for conservation incentives from the Water Stewardship Fund and the Water Management Fund; and

b. Authorize the implementation of Turf Removal Program modifications as described in the board letter.

8-3 Authorize payment of up to $9.975 million from the Water Management Fund to purchase water transfer supplies from Yuba County Water Agency. (WP&S)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action has been previously addressed in the certified 2007 Final EIR, FOF, SOC, and MMRP, and authorize the General Manager to pay up to $9.975 million from the Water Management Fund to purchase up to 15,000 acre-feet of groundwater substitution supplies from YCWA.

6. BOARD INFORMATION ITEMS

None

7. COMMITTEE ITEMS

a. Oral report on Water Surplus Drought Management

b. Oral report on State Water Resources Control Board’s action in support of Governor’s Executive Order
8. MANAGEMENT REPORTS

   a. Bay-Delta Matters
   b. Colorado River Matters
   c. Water Resource Management Manager's report

9. FOLLOW-UP ITEMS

   None

10. FUTURE AGENDA ITEMS

11. ADJOURNMENT

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REVISED: Date of Notice: May 1, 2015
Engineering and Operations Committee

Meeting with Board of Directors*

May 11, 2015
12:00 p.m. -- Room 2-145

Date of Notice: April 30, 2015

MWD Headquarters Building • 700 N. Alameda Street • Los Angeles, CA 90012

* The Metropolitan Water District’s Engineering and Operations Committee meeting is noticed as a joint committee meeting with the Board of Directors for the purpose of compliance with the Brown Act. Members of the Board who are not assigned to the Engineering and Operations Committee may attend and participate as members of the Board, whether or not a quorum of the Board is present. In order to preserve the function of the committee as advisory to the Board, members of the Board who are not assigned to the Engineering and Operations Committee will not vote on matters before the Engineering and Operations Committee.

1. Opportunity for members of the public to address the committee on matters within the committee's jurisdiction (As required by Gov. Code Section 54954.3(a))

2. Approval of the Minutes of the meeting of the Engineering and Operations Committee held April 13, 2015

3. CONSENT CALENDAR ITEMS — ACTION

7-1 Appropriate $1.41 million; and award $989,215 contract to Kaveh Engineering & Construction, Inc. to replace the HVAC system at Metropolitan’s Water Quality Laboratory (Approp. 15477). (E&O)
Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is categorically exempt, and
a. Appropriate $1.41 million; and
b. Award $989,215 contract to Kaveh Engineering & Construction, Inc. to replace the southern HVAC system at Metropolitan’s Water Quality Laboratory.

7-3 Authorize extension of the boat ramp at the Diamond Valley Lake East Marina (Approp. 15334). (E&O)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action has been previously addressed and that no further environmental analysis or documentation is required, and authorize final design and construction to extend the East Marina boat ramp at Diamond Valley Lake.

4. OTHER BOARD ITEMS — ACTION

8-4 Appropriate $2.74 million; award $1,120,810 contract to CSI Electrical, Inc. for installation of an Emergency Radio Communication System; and authorize increase of $134,000 to an agreement with Advanced Electronics, Inc. for a new not-to-exceed total of $6.72 million (Approp. 15376). (E&O)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is categorically exempt, and
a. Appropriate $2.74 million;
b. Award $1,120,810 contract to CSI Electrical, Inc. for installation of an Emergency Radio Communication System; and
c. Authorize increase of $134,000 to an agreement with Advanced Electronics, Inc., for a new not-to-exceed total of $6.72 million.

5. BOARD INFORMATION ITEMS

None
6. COMMITTEE ITEMS
   a. Capital Investment Plan (CIP) Quarterly report for the period ending March 2015

7. MANAGEMENT REPORTS
   a. Water System Operations Manager’s report
   b. Engineering Services Manager’s report

8. FOLLOW-UP ITEMS
   None

9. FUTURE AGENDA ITEMS

10. ADJOURNMENT

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REVISED AGENDA

Communications and Legislation Committee

Meeting with Board of Directors*

May 11, 2015

1:00 p.m. -- Room 2-456

Monday, May 11, 2015

Meeting Schedule

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1. **Opportunity for members of the public to address the committee on matters within the committee’s jurisdiction** (As required by Gov. Code Section 54954.3(a))

2. **Approval of the Minutes of the meeting of the Communications and Legislation Committee held April 13, 2015**

3. **CONSENT CALENDAR ITEMS — ACTION**

   None
4. OTHER BOARD ITEMS — ACTION

8-6 Express support for H.R. 212 (Latta, R-Ohio) and S. 460 (Portman, R-Ohio) – Drinking Water Protection Act; and express support, if amended, for H.R. 243 (Kaptur, D-Ohio) and S. 462 (Brown, D-Ohio) – Safe and Secure Drinking Water Protection Act of 2015. (C&L)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is not subject to CEQA, and authorize the General Manager to express support for H.R. 3123 and S. 460; and express support, if amended, for H.R. 243 and S. 462.

Added 8-8 Express support, if amended, for SB 485 (Hernandez, D-San Gabriel Valley) – County of Los Angeles: Sanitation Districts. (C&L)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is not subject to CEQA, and authorize the General Manager to express support for SB 485, as proposed to be amended.

5. BOARD INFORMATION ITEMS

None

6. COMMITTEE ITEMS

a. Report on activities from Washington, D.C.

b. Report on activities from Sacramento

c. Update on Water Awareness and Conservation Campaign—Research Findings

d. Preview of Metropolitan’s new website

e. Oral report by CORO Fellows, “31 Days of Water Awareness” Project
7. MANAGEMENT REPORT
   a. External Affairs Management report

8. FUTURE AGENDA ITEMS

9. ADJOURNMENT

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L&C Committee
J. Quiñonez, Chair
L. McKenney, V. Chair
R. Atwater
M. Camacho
D. Dear
L. Dick
J. Murray
F. Steiner
Y. Tu
R. Wunderlich

Legal and Claims Committee
Meeting with Board of Directors*
May 12, 2015
8:30 a.m. -- Room 2-145

Tuesday, May 12, 2015
Meeting Schedule

<table>
<thead>
<tr>
<th>Time</th>
<th>Room</th>
<th>Session</th>
</tr>
</thead>
<tbody>
<tr>
<td>7:00-8:00 a.m.</td>
<td>Rm. 2-413</td>
<td>Dirs. Computer Training</td>
</tr>
<tr>
<td>8:30 a.m.</td>
<td>Rm. 2-145</td>
<td>L&amp;C</td>
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<tr>
<td>10:00 a.m.</td>
<td>Rm. 2-456</td>
<td>RP&amp;AM</td>
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<tr>
<td>10:30 a.m.</td>
<td>Rm. 2-145</td>
<td>OP&amp;T</td>
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<tr>
<td>12:00 p.m.</td>
<td>Board Room</td>
<td>Board Meeting</td>
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MWD Headquarters Building • 700 N. Alameda Street • Los Angeles, CA 90012

* The Metropolitan Water District’s Legal and Claims Committee meeting is noticed as a joint committee meeting with the Board of Directors for the purpose of compliance with the Brown Act. Members of the Board who are not assigned to the Legal and Claims Committee may participate as members of the Board, whether or not a quorum of the Board is present. In order to preserve the function of the committee as advisory to the Board, members of the Board who are not assigned to the Legal and Claims Committee will not vote on matters before the Legal and Claims Committee.

1. **Opportunity for members of the public to address the committee on matters within the committee’s jurisdiction** (As required by Gov. Code Section 54954.3(a))

2. **Approval of the Minutes of the meeting of the Legal and Claims Committee held April 14, 2015**

3. **CONSENT CALENDAR ITEMS — ACTION**

   None

4. **OTHER BOARD ITEMS — ACTION**

   **8-5** Report on *In Re Tronox Incorporated, et al.*, Chapter 11, United States Bankruptcy Court, Southern District of New York, Case No. 09-10156 (MEW), and authorize increase in maximum amount payable under contract with Manatt, Phelps and Phillips, LLP for legal services by $100,000 to a maximum amount of $540,000. (L&C)
Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is not subject to the provisions of CEQA, and authorize amendment of the contract for legal services with Manatt, Phelps and Phillips, LLP for the In Re Tronox Incorporated, et al. matter to increase the maximum amount payable by $100,000 to a maximum amount of $540,000. The $100,000 is to be shared equally with CAWCD.

8-7 Report on Peter E. Von Haam v. Metropolitan Water District of Southern California, et al., Los Angeles Superior Court Case No. BC555560; and authorize an increase in the maximum amount payable under contract with Seyfarth Shaw LLP for legal services by $200,000 to an amount not to exceed $300,000. (L&C)
[Conference with legal counsel—existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1)]
(To be mailed separately)

5. BOARD INFORMATION ITEMS

None

6. COMMITTEE ITEMS

a. General Counsel’s report of monthly activities

b. Report on San Diego County Water Authority v. Metropolitan Water District of Southern California, et al., San Francisco County Superior Court Case Nos. CPF-10-510830 and CPF-12-512466, and CPF-14-514004. [Conference with legal counsel—existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1)]

c. Home committee discussion of Department Head Performance and Expectations [Public employee’s performance evaluations – General Counsel; to be heard in closed session pursuant to Gov. Code Section 54957]

7. FOLLOW-UP ITEMS

None
8. FUTURE AGENDA ITEMS

9. ADJOURNMENT

NOTE: At the discretion of the committee, all items appearing on this agenda, whether or not expressly listed for action, may be deliberated and may be subject to action by the committee.

This committee reviews items and makes a recommendation for final action to the full Board of Directors. Final action will be taken by the Board of Directors. Agendas for the meeting of the Board of Directors may be obtained from the Board Executive Secretary. This committee will not take any final action that is binding on the Board, even when a quorum of the Board is present.

Writings relating to open session agenda items distributed to Directors less than 72 hours prior to a regular meeting are available for public inspection at Metropolitan’s Headquarters Building and on Metropolitan’s Web site http://www.mwdh2o.com.

Requests for a disability related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting should be made to the Board Executive Secretary in advance of the meeting to ensure availability of the requested service or accommodation.
Real Property and Asset Management Committee

Meeting with Board of Directors*

May 12, 2015

10:00 a.m. -- Room 2-456

1. Opportunity for members of the public to address the committee on matters within the committee's jurisdiction (As required by Gov. Code Section 54954.3(a))

2. Approval of the Minutes of the meeting of the Real Property and Asset Management Committee held April 14, 2015

3. CONSENT CALENDAR ITEMS -- ACTION

7-4 Authorize granting two permanent easements to the city of Los Angeles on Metropolitan-owned property in the county of Los Angeles. (RP&AM)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is categorically exempt, and authorize the General Manager to grant two permanent easements to the city of Los Angeles.
7-5 Authorize entering into an Exclusive Sales Listing Agreement with CBRE, Inc., to market Metropolitan’s Gilman Springs surplus property. (RP&AM)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is not defined as a project and is not subject to CEQA, and enter into an Exclusive Sales Listing Agreement with CBRE, Inc.

7-6 Authorize amending long-term ground lease to Legends Golf Club, LLC on Metropolitan-owned property in the city of Temecula, California. (RP&AM)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is categorically exempt, and authorize the ground lease amendment to Legends Golf Club, LLC.

4. OTHER BOARD ITEMS – ACTION

None

5. COMMITTEE ITEMS

a. Presentation on Real Property and Development Management Quarterly Report ending March 31, 2015

6. MANAGEMENT REPORT

a. Real Property Development and Management Manager's Report

7. FUTURE AGENDA ITEMS

8. ADJOURNMENT

Date of Notice: April 30, 2015
NOTE: At the discretion of the committee, all items appearing on this agenda, whether or not expressly listed for action, may be deliberated and may be subject to action by the committee.

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REVISED AGENDA

Organization, Personnel and Technology Committee

Meeting with Board of Directors*

May 12, 2015

10:30 a.m. -- Room 2-145

REVISED: Date of Notice: May 4, 2015

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1. Opportunity for members of the public to address the committee on matters within the committee’s jurisdiction (As required by Gov. Code Section 54954.3(a))

2. Approval of the Minutes of the meeting of the Organization, Personnel and Technology Committee held April 14, 2015

3. CHAIRMAN’S REPORT

4. COMMITTEE ITEMS

Withdrawn

a. Oral update on the Information Technology Strategic Plan—2014

b. Update on salary negotiations
[Conference with labor negotiators; to be heard in closed session pursuant to Gov. Code Section 54957.6, with Metropolitan representative Stephen Lem, Manager of Labor Relations and EEO Investigations Section]
   [Discussion of threats to public services or facilities to be heard in closed session. Conference with Cheryl Santor, Manager of Information Security and Support Unit; to be heard in closed session pursuant to Gov. Code Section 54957(a)]

5. ADJOURNMENT

NOTE: At the discretion of the committee, all items appearing on this agenda, whether or not expressly listed for action, may be deliberated and may be subject to action by the committee.

This committee reviews items and makes a recommendation for final action to the full Board of Directors. Final action will be taken by the Board of Directors. Agendas for the meeting of the Board of Directors may be obtained from the Board Executive Secretary. This committee will not take any final action that is binding on the Board, even when a quorum of the Board is present.

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REVISED AGENDA

Regular Board Meeting

May 12, 2015

12:00 p.m. – Board Room

MWD Headquarters Building
700 N. Alameda Street
Los Angeles, CA 90012

1. Call to Order
   (a) Invocation: Stacie Takeguchi, Engineer, Water Resources Management Group
   (b) Pledge of Allegiance: Director Robert Wunderlich

2. Roll Call

3. Determination of a Quorum

4. Opportunity for members of the public to address the Board on matters within the Board's jurisdiction. (As required by Gov. Code § 54954.3(a))

5. OTHER MATTERS
   A. Approval of the Minutes of the Meeting for April 14, 2015. (A copy has been mailed to each Director)
      Any additions, corrections, or omissions

REVISED: Date of Notice: May 6, 2015
Board Meeting Agenda
Page 2

B. Report on Directors' events attended at Metropolitan expense for month of April

C. Induction of new Director Donald Galleano, from Western Municipal Water District of Riverside County
   (a) Receive credentials
   (b) Report on credentials by General Counsel
   (c) File credentials
   (d) Administer Oath of Office
   (e) File Oath

D. Approve preparation of Memorial Resolution for past Director Jorge Castro

E. Approve 30-day leave of absence for Director Larry Dick, commencing June 4, 2015

F. Approve committee assignments

G. Chairman's Monthly Activity Report

6. DEPARTMENT HEADS’ REPORTS

A. General Manager's summary of Metropolitan's activities for the month of April

B. General Counsel's summary of Legal Department activities for the month of April

C. General Auditor's summary of activities for the month of April

D. Ethics Officer's summary of activities for the month of April

7. CONSENT CALENDAR ITEMS — ACTION

7-1 Appropriate $1.41 million; and award $989,215 contract to Kaveh Engineering & Construction, Inc. to replace the HVAC system at Metropolitan’s Water Quality Laboratory (Approp. 15477). (E&O)
Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is categorically exempt, and
a. Appropriate $1.41 million; and
b. Award $989,215 contract to Kaveh Engineering & Construction, Inc. to replace the southern HVAC system at Metropolitan’s Water Quality Laboratory.

7-3 Authorize extension of the boat ramp at the Diamond Valley Lake East Marina (Approp. 15334). (E&O)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action has been previously addressed and that no further environmental analysis or documentation is required, and authorize final design and construction to extend the East Marina boat ramp at Diamond Valley Lake.

7-4 Authorize granting two permanent easements to the city of Los Angeles on Metropolitan-owned property in the county of Los Angeles. (RP&AM)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is categorically exempt, and authorize the General Manager to grant two permanent easements to the city of Los Angeles.

7-5 Authorize entering into an Exclusive Sales Listing Agreement with CBRE, Inc., to market Metropolitan’s Gilman Springs surplus property. (RP&AM)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is not defined as a project and is not subject to CEQA, and enter into an Exclusive Sales Listing Agreement with CBRE, Inc.
7-6 Authorize amending long-term ground lease to Legends Golf Club, LLC on Metropolitan-owned property in the city of Temecula, California. (RP&AM)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is categorically exempt, and authorize the ground lease amendment to Legends Golf Club, LLC.

(END OF CONSENT CALENDAR)

8. OTHER BOARD ITEMS — ACTION

8-1 Adopt resolution to continue Metropolitan’s Water Standby Charge for fiscal year 2015/16. (F&I)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is not defined as a project and is not subject to CEQA, and adopt the resolution to continue collecting the Standby Charge for fiscal year 2015/16.

8-2 Authorize: (1) $150 million in additional funding for conservation incentives from the Water Stewardship Fund and the Water Management Fund; and (2) Implementation of modifications to the Turf Removal Program. (WP&S)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is not defined as a project and is not subject to CEQA, and
a. Authorize an increase in the biennial FY 14/15 and FY 15/16 budget of $150 million for conservation incentives from the Water Stewardship Fund and the Water Management Fund; and
b. Authorize the implementation of Turf Removal Program modifications as described in the board letter.
**8-3** Authorize payment of up to $9.975 million from the Water Management Fund to purchase water transfer supplies from Yuba County Water Agency. (WP&S)

Recommendation:

**Option #1:**

Adopt the CEQA determination that the proposed action has been previously addressed in the certified 2007 Final EIR, FOF, SOC, and MMRP, and authorize the General Manager to pay up to $9.975 million from the Water Management Fund to purchase up to 15,000 acre-feet of groundwater substitution supplies from YCWA.

**8-4** Appropriate $2.74 million; award $1,120,810 contract to CSI Electrical, Inc. for installation of an Emergency Radio Communication System; and authorize increase of $134,000 to an agreement with Advanced Electronics, Inc. for a new not-to-exceed total of $6.72 million (Approp. 15376). (E&O)

Recommendation:

**Option #1:**

Adopt the CEQA determination that the proposed action is categorically exempt, and

a. Appropriate $2.74 million;

b. Award $1,120,810 contract to CSI Electrical, Inc. for installation of an Emergency Radio Communication System; and

c. Authorize increase of $134,000 to an agreement with Advanced Electronics, Inc., for a new not-to-exceed total of $6.72 million.

**8-5** Report on *In Re Tronox Incorporated, et al.,* Chapter 11, United States Bankruptcy Court, Southern District of New York, Case No. 09-10156 (MEW), and authorize increase in maximum amount payable under contract with Manatt, Phelps and Phillips, LLP for legal services by $100,000 to a maximum amount of $540,000. (L&C)

Recommendation:

**Option #1:**

Adopt the CEQA determination that the proposed action is not subject to the provisions of CEQA, and authorize amendment of the contract for legal services with Manatt, Phelps and Phillips, LLP for the *In Re Tronox Incorporated, et al.* matter to increase the maximum amount payable by $100,000 to a maximum amount of $540,000. The $100,000 is to be shared equally with CAWCD.
8-6  Express support for H.R. 212 (Latta, R-Ohio) and S. 460 (Portman, R-Ohio) – Drinking Water Protection Act; and express support, if amended, for H.R. 243 (Kaptur, D-Ohio) and S. 462 (Brown, D-Ohio) – Safe and Secure Drinking Water Protection Act of 2015.  (C&L)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is not subject to CEQA, and authorize the General Manager to express support for H.R. 3123 and S. 460; and express support, if amended, for H.R. 243 and S. 462.

8-7  Report on Peter E. Von Haam v. Metropolitan Water District of Southern California, et al., Los Angeles Superior Court Case No. BC555560; and authorize an increase in the maximum amount payable under contract with Seyfarth Shaw LLP for legal services by $200,000 to an amount not to exceed $300,000.  (L&C)

[Conference with legal counsel—existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1)]

Added 8-8  Express support, if amended, for SB 485 (Hernandez, D-San Gabriel Valley) – County of Los Angeles: Sanitation Districts.  (C&L)

Recommendation:

Option #1:

Adopt the CEQA determination that the proposed action is not subject to CEQA, and authorize the General Manager to express support for SB 485, as proposed to be amended.

9.  BOARD INFORMATION ITEMS

9-1  Renewal status of Metropolitan’s Property and Casualty Insurance Program.  (F&I)

10.  FUTURE AGENDA ITEMS
11. ADJOURNMENT

NOTE: At the discretion of the Board, all items appearing on this agenda and all committee agendas, whether or not expressly listed for action, may be deliberated and may be subject to action by the Board.

Each agenda item with a committee designation will be considered and a recommendation may be made by one or more committees prior to consideration and final action by the full Board of Directors. The committee designation appears in parentheses at the end of the description of the agenda item e.g. (E&O, F&I). Committee agendas may be obtained from the Board Executive Secretary.

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Summary Report for
The Metropolitan Water District of Southern California
Board Meeting
May 12, 2015

INDUCTION OF DIRECTORS

Induction of Director Donald Galleano, representing Western Municipal Water District of Riverside County. (Agenda Item 5C)

COMMITTEE ASSIGNMENTS

The Chairman had no committee assignments. (Agenda Item 5F)

FINANCE AND INSURANCE COMMITTEE

Adopted resolution to continue Metropolitan’s Water Standby Charge for fiscal year 2015/16. (Agenda Item 8-1)

WATER PLANNING AND STEWARDSHIP COMMITTEE

Adopted amended motion as recommended by Water Planning and Stewardship Committee to delay action on the conservation incentives program for two weeks and set a Special Board Meeting concurrent with Executive Committee. The Board further voted to condition all rebate applications received following today’s Board meeting to be subject to the rules that are adopted at the May 26, 2015 Special Board Meeting. (Agenda Item 8-2)

Authorized the General Manager to pay up to $9.975 million from the Water Management Fund to purchase up to 15,000 acre-feet of groundwater substitution supplies from Yuba County Water Agency. (Agenda Item 8-3)

ENGINEERING AND OPERATIONS COMMITTEE

Appropriated $2.74 million; awarded $1,120,810 contract to CSI Electrical, Inc. for installation of an Emergency Radio Communication System; and authorized increase of $134,000 to an agreement with Advanced Electronics, Inc., for a new not-to exceed total of $6.72 million. (Approp. 15376) (Agenda Item 8-4)

LEGAL AND CLAIMS COMMITTEE

In connection with the case of In Re Tronox Incorporated, et al., Chapter 11, United States Bankruptcy Court, Southern District of New York, Case No. 09-10156 (MEW), authorized increase in maximum amount payable under contract with Manatt, Phelps and Phillips, LLP for legal services by $100,000 to a maximum amount of $540,000. (Agenda Item 8-5)

In connection with the case of Peter E. Von Haam v. Metropolitan Water District of Southern California, et al., Los Angeles Superior Court Case No. BC5555560, authorized an increase in the maximum amount payable under contract with Seyfarth Shaw LLP for legal services by $200,000 to an amount not to exceed $300,000. (Agenda Item 8-7)
COMMUNICATIONS AND LEGISLATION COMMITTEE

Authorized the General Manager to express support for H.R. 212 (Latta, R-Ohio) and S. 460 (Portman, R-Ohio) — Drinking Water Protection Act. (Agenda Item 8-6)

Authorized the General Manager to express support for SB 485(Hernandez, D-San Gabriel Valley) - County of Los Angeles: Sanitation Districts, as proposed to be amended. (Agenda Item 8-8)

CONSENT CALENDAR

In other action, the Board:

Appropriated $1.41 million; and awarded $989,215 contract to Kaveh Engineering & Construction, Inc. to replace the southern HVAC system at Metropolitan’s Water Quality Laboratory. (Approp. 15477) (Agenda Item 7-1)

Authorized final design and construction to extend the East Marina boat ramp at Diamond Valley Lake. (Agenda Item 7-3)

Authorized the General Manager to grant two permanent easements to the city of Los Angeles on Metropolitan-owned property in the county of Los Angeles. (Agenda Item 7-4)

Authorized entering into an Exclusive Sales Listing Agreement with CBRE, Inc., to market Metropolitan’s Gilman Springs surplus property. (Agenda Item 7-5)

Authorized amending long-term ground lease to Legends Golf Club, LLC on Metropolitan-owned property in the city of Temecula, California. (Agenda Item 7-6)

OTHER MATTERS:

In other action, the Board:

Approved preparation of Memorial Resolution for past Director Jorge Castro. (Agenda Item 5D)

Approved 30-day leave of absence for Director Dick, commencing June 4, 2015. (Agenda Item 5E)

THIS INFORMATION SHOULD NOT BE CONSIDERED THE OFFICIAL MINUTES OF THE MEETING.

Board letters related to the items in this summary are generally posted in the Board Letter Archive approximately one week after the board meeting. In order to view them and their attachments, please copy and paste the following into your browser http://edmsidm.mwdh2o.com/idmweb/home.asp.
May 27, 2015

Attention: Imported Water Committee

Colorado River Board Representative’s Report (Information)

Purpose
The Colorado River Board (CRB) Representative’s Report summarizes monthly activities of the Colorado River Board of California.

Discussion
This report covers activities from the May 13, 2015 CRB meeting held in San Diego, California. The CRB meeting was hosted by the Water Authority and featured special presentations by Neena Kuzmich on the Carlsbad Desalination Project, Director Doug Wilson on the East County Advanced Purification Pilot Project, Director Halla Razak on the City of San Diego’s Pure Water Facility, and San Diego County Farm Bureau Director Eric Larson on San Diego Agriculture.

Special Presentations:
Carlsbad Desalination Project
Neena Kuzmich, Senior Engineer at the Water Authority, provided a presentation and virtual tour of the Carlsbad Desalination Project. Ms. Kuzmich discussed the history of the project, talked about some of the key project components, provided an overview of construction, and showed a flyover video of the desalination plant.

East County Advanced Purification Pilot Project
Director Doug Wilson provided an overview of the new advanced purification pilot facility in east San Diego County. The pilot project is a demonstration facility that provides an example of the water purification process and facilities that could increase the existing capacity of recycled water production in East County from 2,400 acre-feet to around 14,000 acre-feet per year with a phased development approach.

San Diego Pure Water
Director Halla Razak, Director of the City of San Diego Public Utilities Department, presented on the City’s Pure Water program. The Pure Water program provides a cost-effective option to enhance local drought-proof water supplies. The purification process uses the multi-barrier approach of consecutive treatment steps of membrane filtration, reverse osmosis, and ultraviolet light/advanced oxidation, which work together to remove or destroy all unwanted materials. The program will enhance San Diego’s supply reliability by diversifying supply sources, reducing vulnerability to outside sources, and reducing reliance on expensive imported water.

San Diego Agriculture
San Diego County Farm Bureau Director Eric Larson presented on agriculture in San Diego County. Mr. Larson discussed the impacts of drought on San Diego agriculture. Many farmers have made changes to their historic practices to deal with drought including increased efficiency practices, crop changes, and new farming techniques.
**Colorado River Basin Program Updates:**

**Water Supply and Reservoir Conditions**

A water supply and reservoir conditions update was provided with data from May 4 (Table 1). A more detailed water supply report is included as Attachment 1.

### Table 1. Colorado River Reservoir Conditions

<table>
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<tr>
<th>Conditions as of May 4, 2015</th>
<th>Volume (million acre-feet)</th>
<th>Percent of Capacity</th>
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<tbody>
<tr>
<td>Total System Storage</td>
<td>28.32</td>
<td>47%</td>
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<tr>
<td>Lake Powell</td>
<td>10.82</td>
<td>44%</td>
</tr>
<tr>
<td>Lake Mead</td>
<td>9.92</td>
<td>38%</td>
</tr>
<tr>
<td>Unregulated Inflow to Lake Powell for Water Year 2015</td>
<td>6.4</td>
<td>59% of Average</td>
</tr>
</tbody>
</table>

As of May 4, the snowpack was predicted to be 45% of average.

**Basin States Technical Committee**

The Basin States Technical Committee met in Las Vegas on April 28 for updates on Colorado River Basin reservoir operations and hydrology, forecasts, and program status reports. The April update of shortage probabilities in the Lower Basin increased to 33% in 2016 and 74% in 2017. Other updates at the meeting included weather forecast, consumptive use and losses, water census activities, California drought, and drought contingency planning.

**California Drought Update**

The April 28, 2015 Drought Monitor map for California indicates that 47% of the State continues to be classified in “exceptional drought.” On April 1, Governor Brown announced the first ever statewide mandatory cutbacks through Executive Order B-29-15. The Governor also approved legislation for emergency funding to allocate $1 billion in drought relief and infrastructure funding. On May 5, the State Water Board adopted regulations for implementing the April 1 mandatory reductions which establishes reduction tiers for urban water providers of between 8% and 36% based on current per capita water use amounts, and targets a goal of 55 gallons per person per day for indoor water use. As of May 1, the average snowpack was reported to be 2% of average.

**Basin States Drought Contingency Planning**

The Central Arizona Water Conservation District submitted requests for approval of its new program of Intentionally Created Surplus to the Colorado River Contractors who are parties to the Forbearance Agreement.

**Colorado River Basin Water Supply and Demand Study**

The Phase I report as part of the Next Steps process of the Colorado River Basin Water Supply and Demand Study was released on May 12. It provides an analysis of opportunities for additional agricultural and urban conservation.

**Minute 319**

A binational meeting of the U.S. and Mexican Commissioners to review the progress of Minute 319 is scheduled for May 14, 2015 in San Diego.
Colorado River Salinity Control Program
As a cooperating agency for the Paradox Alternative Environmental Impact Statement (EIS) process, CRB staff participated in a conference call on April 27, 2015 where the Bureau of Reclamation (Reclamation) reported that the EIS is on schedule with a draft expected in the summer/fall of 2016. There have been no issues with the current operation of the well and the 18-hour weekly shutdown seems to be effective in reducing pressure.

On April 27, Reclamation released a Funding Opportunity Announcement requesting applications for salinity control projects that reduce salinity contributions to the Colorado River system in the Upper Basin. Approximately every three years, Reclamation solicits, ranks, and selects new salinity control projects based on a competitive process.

During the week of May 4, Executive Director Tanya Trujillo attended Congressional and Administrative meetings in Washington, DC to provide background information regarding the Salinity Control Forum and to request continued support for the program.

Glen Canyon Dam Adaptive Management Program
The Technical Work Group of the Glen Canyon Dam Adaptive Management Program met April 21-22 to discuss the proposed hydrographs for 2016, which are intended to preserve sediment for a potential high flow experiment without impacting hydropower production.

Lower Colorado River Multi-Species Conservation Program (MSCP)
The MSCP Work Group met in Phoenix on May 6-7 to discuss the Draft Implementation Report, Fiscal Year 2016 Work Plan and Budget, and Fiscal Year 2014 Accomplishment Report. The proposed Fiscal Year 2016 budget is $35 million and includes the anticipated acquisition of the Planet Ranch property on the Bill Williams River.

The northern Mexican gartersnake was recently listed by the US Fish and Wildlife Service as a threatened species. At the end of April, a large northern Mexican gartersnake was located at the Havasu National Wildlife Refuge, which is the first recorded occurrence of the species along the mainstream Colorado River in over 100 years. The snake is not currently a covered species in the MSCP so the program will need to determine the best way to proceed in addressing potential regulatory requirements for this threatened species.

Prepared by: Kara Mathews, Assistant Water Resources Specialist
Reviewed by: Dan Denham, Colorado River Program Director
Approved by: Doug Wilson, CRB Representative
Attachment 1: CRB Water Supply Report
May 04, 2015

LOWER COLORADO WATER SUPPLY REPORT
River Operations
Bureau of Reclamation

Questions: BCOOWaterops@usbr.gov
(702) 293-8373
http://www.usbr.gov/lc/region/g4000/weekly.pdf

<table>
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<th>PERCENT</th>
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<td>LAKE HAVASU 94% 582 448.11</td>
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<td>TOTAL SYSTEM CONTENTS ** 47% 28,319</td>
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</table>

As of 05/03/2015

SYSTEM CONTENT LAST YEAR 47% 28,086

* Percent based on capacity of 26,120 kaf or elevation 1219.6 feet.
** TOTAL SYSTEM CONTENTS includes Upper & Lower Colorado River Reservoirs, less Lake Mead exclusive flood control space.

<table>
<thead>
<tr>
<th></th>
<th>Content 1000 ac-ft (kaf)</th>
<th>7-Day mean above</th>
<th>Release (CFS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salt/Verde System 57% 1,311</td>
<td>570.00 0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Painted Rock Dam 0% 0</td>
<td>0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alamo Dam 7% 65 1093.72</td>
<td>25</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Forecasted Water Use for Calendar Year 2015 (as of 05/04/2015) (values in kaf)

| NEVADA | 274 |
| SOUTHERN NEVADA WATER SYSTEM | 241 |
| OTHERS | 33 |
| CALIFORNIA | 4,351 |
| METROPOLITAN WATER DISTRICT OF CALIFORNIA | 828 |
| IRRIGATION DISTRICTS | 3,385 |
| OTHERS | 138 |
| ARIZONA | 2,788 |
| CENTRAL ARIZONA PROJECT | 1,561 |
| OTHERS | 1,227 |
| TOTAL LOWER BASIN USE | 7,413 |

DELIVERY TO MEXICO - 2015 (Mexico Scheduled Delivery + Preliminary Yearly Excess)

| UNREGULATED INFLOW INTO LAKE POWELL - MAY FINAL FORECAST DATED 05/04/2015 |
|-----------------------|------------------|------------------|
| MILLION ACRE-FEET | % of Normal |
| FORECASTED WATER YEAR 2015 | 6.401 | 59% |
| FORECASTED APRIL-JULY 2015 | 3.000 | 42% |
| APRIL OBSERVED INFLOW | 0.639 | 61% |
| MAY INFLOW FORECAST | 1.000 | 43% |

WATER YEAR 2015 PRECIP TO DATE

<table>
<thead>
<tr>
<th>Upper Colorado Basin</th>
<th>Salt/Verde Basin</th>
</tr>
</thead>
<tbody>
<tr>
<td>73% (15.8&quot;)</td>
<td>71% (12.7&quot;)</td>
</tr>
</tbody>
</table>

CURRENT BASIN SNOWPACK

<table>
<thead>
<tr>
<th>Upper Colorado Basin</th>
<th>Salt/Verde Basin</th>
</tr>
</thead>
<tbody>
<tr>
<td>45% (5.9&quot;)</td>
<td>NA (NA)</td>
</tr>
</tbody>
</table>

1 Delivery to Mexico forecasted yearly excess calculated using year-to-date observed and projected excess.
ARIZONA, CALIFORNIA, NEVADA, MEXICO
FORECAST OF END OF YEAR CONSUMPTIVE USE
FORECAST BASED ON USE TO DATE AND APPROVED ANNUAL WATER ORDERS

<table>
<thead>
<tr>
<th>States</th>
<th>Use To Date</th>
<th>Forecast</th>
<th>Approved Use</th>
<th>Excess to Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>980,074</td>
<td>2,788,024</td>
<td>2,799,878</td>
<td>-11,854</td>
</tr>
<tr>
<td>California</td>
<td>1,435,612</td>
<td>4,351,186</td>
<td>4,351,727</td>
<td>-541</td>
</tr>
<tr>
<td>Nevada</td>
<td>52,610</td>
<td>273,872</td>
<td>300,000</td>
<td>-26,128</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>2,468,296</strong></td>
<td><strong>7,413,082</strong></td>
<td><strong>7,451,605</strong></td>
<td><strong>-38,523</strong></td>
</tr>
</tbody>
</table>

**Mexico in Satisfaction of Treaty (including downward delivery)**
- 758,009
- 1,521,830
- 1,500,000

**Mexico in Excess of Treaty**
- 2,072
- 21,830

**Bypass Pursuant to Minute 242**
- 38,539
- 125,321

**Lower Basin & Mexico Total**
- 3,264,844
- 9,060,233

1/ Incorporates Jan-Mar USGS monthly data and 80 daily reporting stations which may be revised after provisional data reports are distributed by the USGS. Use to date estimated for users reporting monthly and annually.

2/ These values reflect adjusted apportionments. See Adjusted Apportionment calculation on each state page.

3/ Includes unmeasured returns based on estimated consumptive use/diversion ratios by user from studies provided by Arizona Department of Water Resources, Colorado River Board of California, and Reclamation.

NOTE: Changes from the April 30, 2015 forecast to May 1, 2015 forecast are due to the update of the March provisional USGS data.

Graph notes: Jan 1 forecast use is scheduled use in accordance with the Annual Operating Plan's state entitlements, available unused entitlements, and over-run paybacks. A downward sloping line indicates use at a lower rate than scheduled, upward sloping is above schedule, and a flat line indicates a use rate equal to schedule. Lower priority users such as CAP, MWD, and Robt.B.Griffith may adjust use rates to meet state entitlements as higher priority use deviates from schedule. Abrupt changes in the forecast use line may be due to a diversion schedule change or monthly updating of provisional realtime diversions.
### Arizona Water Users

#### Forecast of End of Year Consumptive Use

**Forecast Based on Use to Date and Approved Annual Water Orders**

**Arizona Schedules and Approvals**

**Historic Use Records (Water Accounting Reports)**

<table>
<thead>
<tr>
<th>WATER USER</th>
<th>Use to Date</th>
<th>Forecast to Date</th>
<th>Excess to Estimated Use</th>
<th>Diversion to Date</th>
<th>Forecast Diversion</th>
<th>Approved Diversion</th>
<th>Excess to Approved Diversion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona Pumps</td>
<td>5,959</td>
<td>17,561</td>
<td>17,561</td>
<td>9,224</td>
<td>27,181</td>
<td>27,181</td>
<td>0</td>
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<tr>
<td>Lake Mead NRA, AZ - Diversions from Lake Mead</td>
<td>45</td>
<td>159</td>
<td>159</td>
<td>45</td>
<td>159</td>
<td>159</td>
<td>0</td>
</tr>
<tr>
<td>Lake Mead NRA, AZ - Diversions from Lake Mohave</td>
<td>52</td>
<td>183</td>
<td>183</td>
<td>52</td>
<td>183</td>
<td>183</td>
<td>0</td>
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<tr>
<td>Davis Dam Project</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>25</td>
<td>75</td>
<td>75</td>
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<tr>
<td>Bullhead City</td>
<td>2,007</td>
<td>8,113</td>
<td>8,523</td>
<td>9,630</td>
<td>30,064</td>
<td>41,220</td>
<td>-3,156</td>
</tr>
<tr>
<td>Mohave Water Conservation</td>
<td>189</td>
<td>556</td>
<td>556</td>
<td>282</td>
<td>831</td>
<td>831</td>
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<tr>
<td>Brookie Water LLC</td>
<td>70</td>
<td>207</td>
<td>207</td>
<td>106</td>
<td>311</td>
<td>311</td>
<td>0</td>
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<tr>
<td>Mohave Valley IID</td>
<td>5,207</td>
<td>20,266</td>
<td>22,260</td>
<td>9,630</td>
<td>30,064</td>
<td>41,220</td>
<td>-3,156</td>
</tr>
<tr>
<td>Fort Mohave Indian Reservation, AZ</td>
<td>10,771</td>
<td>42,108</td>
<td>42,390</td>
<td>19,946</td>
<td>77,978</td>
<td>76,500</td>
<td>-1,473</td>
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<tr>
<td>Golden Shores Water Conservation District</td>
<td>107</td>
<td>316</td>
<td>316</td>
<td>161</td>
<td>473</td>
<td>473</td>
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<td>Havasu National Wildlife Refuge</td>
<td>1,481</td>
<td>3,866</td>
<td>3,563</td>
<td>12,356</td>
<td>40,347</td>
<td>41,820</td>
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<tr>
<td>Lake Havasu City</td>
<td>2,261</td>
<td>8,510</td>
<td>8,928</td>
<td>3,648</td>
<td>13,727</td>
<td>14,400</td>
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<tr>
<td>Central Arizona Project</td>
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<td>1,560,985</td>
<td>1,548,550</td>
<td>609,269</td>
<td>1,560,985</td>
<td>1,548,550</td>
<td>0</td>
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<tr>
<td>Town of Parker</td>
<td>90</td>
<td>360</td>
<td>352</td>
<td>246</td>
<td>908</td>
<td>920</td>
<td>-12</td>
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<td>Colorado River Indian Reservation, AZ</td>
<td>89,341</td>
<td>357,948</td>
<td>376,964</td>
<td>191,245</td>
<td>664,664</td>
<td>662,402</td>
<td>2,262</td>
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<td>Ehrenburg Improvement Association</td>
<td>87</td>
<td>256</td>
<td>256</td>
<td>123</td>
<td>361</td>
<td>361</td>
<td>0</td>
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<tr>
<td>Cibola Valley Irrigation District</td>
<td>5,752</td>
<td>16,951</td>
<td>16,951</td>
<td>8,045</td>
<td>23,707</td>
<td>23,707</td>
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<tr>
<td>Cibola National Wildlife Refuge</td>
<td>4,324</td>
<td>12,741</td>
<td>12,741</td>
<td>6,973</td>
<td>20,550</td>
<td>20,550</td>
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<tr>
<td>Imperial National Wildlife Refuge</td>
<td>888</td>
<td>2,616</td>
<td>2,616</td>
<td>1,433</td>
<td>4,224</td>
<td>4,224</td>
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<tr>
<td>Yuma Proving Ground</td>
<td>67</td>
<td>495</td>
<td>550</td>
<td>67</td>
<td>495</td>
<td>550</td>
<td>0</td>
</tr>
<tr>
<td>Gila Monster Farms</td>
<td>1,460</td>
<td>4,715</td>
<td>5,244</td>
<td>2,511</td>
<td>8,326</td>
<td>9,156</td>
<td>-830</td>
</tr>
<tr>
<td>Wellton-Mohawk IID</td>
<td>82,544</td>
<td>272,292</td>
<td>278,000</td>
<td>126,676</td>
<td>418,079</td>
<td>424,350</td>
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<tr>
<td>City of Yuma</td>
<td>4,649</td>
<td>16,285</td>
<td>17,051</td>
<td>8,496</td>
<td>26,749</td>
<td>27,318</td>
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<td>Marine Corps Air Station Yuma</td>
<td>424</td>
<td>1,388</td>
<td>1,305</td>
<td>424</td>
<td>1,388</td>
<td>1,305</td>
<td>33</td>
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<tr>
<td>Union Pacific Railroad</td>
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<td>24</td>
<td>24</td>
<td>16</td>
<td>48</td>
<td>48</td>
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<tr>
<td>University of Arizona</td>
<td>142</td>
<td>673</td>
<td>764</td>
<td>142</td>
<td>763</td>
<td>764</td>
<td>0</td>
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<tr>
<td>Yuma Union High School District</td>
<td>20</td>
<td>176</td>
<td>193</td>
<td>27</td>
<td>232</td>
<td>253</td>
<td>-21</td>
</tr>
<tr>
<td>Desert Lawn Memorial</td>
<td>31</td>
<td>91</td>
<td>91</td>
<td>44</td>
<td>129</td>
<td>129</td>
<td>0</td>
</tr>
<tr>
<td>North Gila Valley IID</td>
<td>4,552</td>
<td>10,518</td>
<td>10,099</td>
<td>16,148</td>
<td>43,644</td>
<td>41,000</td>
<td>2,664</td>
</tr>
<tr>
<td>Yuma Irrigation District</td>
<td>15,083</td>
<td>41,672</td>
<td>42,581</td>
<td>25,753</td>
<td>74,411</td>
<td>75,900</td>
<td>-1,489</td>
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<tr>
<td>Yuma Mesa IID</td>
<td>27,768</td>
<td>106,741</td>
<td>111,022</td>
<td>49,997</td>
<td>192,654</td>
<td>204,904</td>
<td>-12,250</td>
</tr>
<tr>
<td>Unit “B” Irrigation District</td>
<td>5,095</td>
<td>18,083</td>
<td>17,330</td>
<td>7,526</td>
<td>27,961</td>
<td>28,050</td>
<td>-89</td>
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<tr>
<td>Fort Yuma Indian Reservation</td>
<td>474</td>
<td>1,396</td>
<td>1,396</td>
<td>729</td>
<td>2,149</td>
<td>2,149</td>
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<tr>
<td>Yuma County Water Users’ Association</td>
<td>98,841</td>
<td>253,362</td>
<td>344,599</td>
<td>145,242</td>
<td>396,081</td>
<td>388,000</td>
<td>8,081</td>
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<td>Cocopa Indian Reservation</td>
<td>982</td>
<td>6,003</td>
<td>6,457</td>
<td>1,093</td>
<td>8,750</td>
<td>9,840</td>
<td>-1,090</td>
</tr>
<tr>
<td>Reclamation-Yuma Area Office</td>
<td>39</td>
<td>116</td>
<td>116</td>
<td>39</td>
<td>116</td>
<td>116</td>
<td>0</td>
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<tr>
<td>Return from South Gila Wells</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Arizona</strong></td>
<td>980,074</td>
<td>2,788,024</td>
<td>2,799,900</td>
<td>1,260,733</td>
<td>3,688,740</td>
<td>3,692,419</td>
<td>8,679</td>
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<tr>
<td><strong>CAP</strong></td>
<td>609,269</td>
<td>1,560,985</td>
<td></td>
<td>1,560,985</td>
<td>1,560,985</td>
<td>1,560,985</td>
<td>0</td>
</tr>
<tr>
<td><strong>All Others</strong></td>
<td>370,805</td>
<td>1,227,039</td>
<td>1,251,350</td>
<td>2,127,755</td>
<td>2,143,869</td>
<td>2,143,869</td>
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</tr>
<tr>
<td><strong>Yuma Mesa Division, Gila Project</strong></td>
<td>47,403</td>
<td>158,931</td>
<td>350,000</td>
<td>-191,069</td>
<td>310,729</td>
<td>310,729</td>
<td>0</td>
</tr>
</tbody>
</table>

### Arizona Adjusted Apportionment Calculation

- Arizona Basic Apportionment: 2,800,000
- Payback of IOPP overruns (Cocopah and Beattie): -122
- CAGRD/YMIDD Pilot Conservation Program: 1
- Total State Adjusted Apportionment: 2,795,878
- Excess to Total State Adjusted Apportionment: -11,854

**Estimated Allowable Use for CAP:** 1,583,168

1/ CAWCD has agreed to forebear 9,000 acre-feet during phase one of the study, during which time CAGRD will refine the estimate of the actual conservation yield of the program.

**Notes:**
- Diversions and uses that are pending approval are noted in red italics.
- Water users with a consumptive use entitlement - Excess to Estimated Use column indicates overrun/underrun of entitlement.
- Water user with a diversion entitlement - Excess to Approved Diversion column indicates overrun/underrun of entitlement. Dash in
**CALIFORNIA WATER USERS**

**FORECAST OF END OF YEAR CONSUMPTIVE USE**

**FORECAST BASED ON USE TO DATE AND APPROVED ANNUAL WATER ORDERS**

<table>
<thead>
<tr>
<th>WATER USER</th>
<th>CY2015 To Date</th>
<th>CY2015 Forecast Use</th>
<th>Excess to Estimated Use</th>
<th>CY2015 Diversion To Date</th>
<th>CY2015 Diversion Forecast</th>
<th>Excess to Approved Diversion</th>
</tr>
</thead>
<tbody>
<tr>
<td>CALIFORNIA PUMPERS</td>
<td>570</td>
<td>1,680</td>
<td>1,680</td>
<td>---</td>
<td>1,034</td>
<td>3,047</td>
</tr>
<tr>
<td>FORT MOJAVE INDIAN RESERVATION, CA</td>
<td>3,210</td>
<td>8,471</td>
<td>8,996</td>
<td>---</td>
<td>5,969</td>
<td>15,747</td>
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<tr>
<td>CITY OF NEEDLES (includes LCWSP use)</td>
<td>655</td>
<td>1,931</td>
<td>1,931</td>
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<td>923</td>
<td>2,720</td>
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<tr>
<td>COLORADO RIVER INDIAN RESERVATION, CA</td>
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<td>3,246</td>
<td>3,246</td>
<td>---</td>
<td>1,825</td>
<td>5,378</td>
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<td>PALO VERDE IRRIGATION DISTRICT</td>
<td>113,889</td>
<td>2,538,090</td>
<td>2,602,481</td>
<td>-64,391</td>
<td>796,347</td>
<td>2,706,070</td>
</tr>
<tr>
<td>YUMA PROJECT RESERVATION DIVISION</td>
<td>22,455</td>
<td>51,134</td>
<td>48,586</td>
<td>---</td>
<td>16,380</td>
<td>47,612</td>
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<tr>
<td>YUMA PROJECT RESERVATION DIVISION - INDIAN UNIT</td>
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<td>---</td>
<td>---</td>
<td>---</td>
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<td>---</td>
</tr>
<tr>
<td>YUMA ISLAND PUMPERS</td>
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<td>4,665</td>
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<td>2,868</td>
<td>8,452</td>
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<tr>
<td>FORT YUMA INDIAN RESERVATION - RANCH 5</td>
<td>229</td>
<td>675</td>
<td>675</td>
<td>---</td>
<td>414</td>
<td>1,221</td>
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<tr>
<td>IMPERIAL IRRIGATION DISTRICT</td>
<td>808,203</td>
<td>2,538,090</td>
<td>2,602,481</td>
<td>-64,391</td>
<td>796,347</td>
<td>2,706,070</td>
</tr>
<tr>
<td>SALTON SEA SALINITY MANAGEMENT</td>
<td>22,302</td>
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<td>354,900</td>
<td>-5,100</td>
<td>796,347</td>
<td>2,706,070</td>
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<td>103,707</td>
<td>355,223</td>
<td>357,000</td>
<td>-1,777</td>
<td>796,347</td>
<td>2,706,070</td>
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<tr>
<td>OTHER LCWSP CONTRACTORS</td>
<td>228</td>
<td>671</td>
<td>671</td>
<td>---</td>
<td>35</td>
<td>103</td>
</tr>
<tr>
<td>CITY OF WINTERHAVEN</td>
<td>23</td>
<td>68</td>
<td>68</td>
<td>---</td>
<td>35</td>
<td>103</td>
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<tr>
<td>CHEMEHUEVI INDIAN RESERVATION</td>
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<td>102</td>
<td>102</td>
<td>---</td>
<td>35</td>
<td>103</td>
</tr>
</tbody>
</table>

**TOTAL CALIFORNIA**

1,435,612  4,351,186  5,012,811  5,076,863

**CALIFORNIA ADJUSTED APPORTIONMENT CALCULATION**

California Basic Apportionment: 4,400,000
Conservation for Salton Sea Restoration - 2010: -23,273
Creation of Extraordinary Conservation ICS (IID): -25,000
Creation of Extraordinary Conservation ICS (MWD): Total State Adjusted Apportionment: 4,351,727
Excess to Total State Adjusted Apportionment: -541

**ISG ANNUAL TARGET COMPARISON CALCULATION**

Priorities 1, 2, 3b Use (PVID+YPRD+Island+PVID Mesa): 491,346
MWD Adjustment: -71,346
Total California Agricultural Use (PVID+YPRD+Island+IID+CVWD): 3,384,659
California Agricultural Paybacks: 23,273
Misc. PPRs Covered by IID and CVWD: 14,500
California ICS Creation (IID ICS): 25,000
Total Use for Target Comparison: 3,376,086
ISG Annual Target (Exhibit B): 3,448,000
Amount over/(under) ISG Annual Target: -71,914

**NOTES:** Click on California Schedules and Approvals above for incoming diversion schedules and approvals.

1/ Pending approval by Imperial Irrigation District’s Board of Directors.
2/ Includes MWD Adjustment, California Agricultural Use and Paybacks, IID-CVWD covered PPRs, and taking out the MWD-CVWD Exchange

**DIAGRAMS:**

- IID Forecast
- CVWD Forecast
- MWD Forecast
- CA Priority's 1&2 Forecast
- YPRD Forecast
- PVID Forecast
### Nebraska Water Users Forecast of End of Year Consumptive Use

#### Forecast Based on Use to Date and Approved Annual Water Orders

**Nevada Schedules and Approvals**

**Historic Use Records (Water Accounting Reports)**

<table>
<thead>
<tr>
<th>WATER USER</th>
<th>Use To Date</th>
<th>Forecast Use</th>
<th>Estimated Use</th>
<th>Excess to Estimated Use</th>
<th>Diversion To Date</th>
<th>Diversion Forecast</th>
<th>Approved Diversion</th>
<th>Excess to Approved Diversion</th>
</tr>
</thead>
<tbody>
<tr>
<td>ROBERT B. GRIFFITH WATER PROJECT (SNWS)</td>
<td>119,010</td>
<td>448,912</td>
<td>467,935</td>
<td>-19,023</td>
<td>119,010</td>
<td>448,912</td>
<td>467,935</td>
<td>-19,023</td>
</tr>
<tr>
<td>LAKE MEAD NRA, NV - Diversions from Lake Mead</td>
<td>105</td>
<td>417</td>
<td>422</td>
<td>---</td>
<td>105</td>
<td>417</td>
<td>422</td>
<td>---</td>
</tr>
<tr>
<td>LAKE MEAD NRA, NV - Diversions from Lake Mohave</td>
<td>53</td>
<td>176</td>
<td>166</td>
<td>---</td>
<td>53</td>
<td>176</td>
<td>166</td>
<td>10</td>
</tr>
<tr>
<td>BASIC MANAGEMENT INC.</td>
<td>1,718</td>
<td>8,016</td>
<td>8,211</td>
<td>---</td>
<td>1,718</td>
<td>8,016</td>
<td>8,211</td>
<td>-195</td>
</tr>
<tr>
<td>CITY OF HENDERSON (BMI DELIVERY)</td>
<td>5,210</td>
<td>19,904</td>
<td>18,878</td>
<td>---</td>
<td>5,210</td>
<td>19,904</td>
<td>18,878</td>
<td>26</td>
</tr>
<tr>
<td>NEVADA STATE DEPT. OF FISH &amp; GAME</td>
<td>4</td>
<td>12</td>
<td>12</td>
<td>0</td>
<td>145</td>
<td>397</td>
<td>363</td>
<td>---</td>
</tr>
<tr>
<td>PACIFIC COAST BUILDING PRODUCTS INC.</td>
<td>297</td>
<td>916</td>
<td>923</td>
<td>---</td>
<td>297</td>
<td>916</td>
<td>923</td>
<td>-7</td>
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<tr>
<td>BOULDER CANYON PROJECT</td>
<td>59</td>
<td>174</td>
<td>174</td>
<td>---</td>
<td>102</td>
<td>302</td>
<td>302</td>
<td>0</td>
</tr>
<tr>
<td>BIG BEND WATER DISTRICT</td>
<td>500</td>
<td>3,709</td>
<td>4,061</td>
<td>---</td>
<td>1,653</td>
<td>8,686</td>
<td>10,000</td>
<td>-1,314</td>
</tr>
<tr>
<td>FORT MOJAVE INDIAN TRIBE</td>
<td>972</td>
<td>3,667</td>
<td>3,866</td>
<td>---</td>
<td>1,452</td>
<td>5,475</td>
<td>5,800</td>
<td>-325</td>
</tr>
<tr>
<td>LAS VEGAS WASH RETURN FLOWS</td>
<td>-75,318</td>
<td>-208,031</td>
<td>-201,668</td>
<td>---</td>
<td>476,000</td>
<td>526,000</td>
<td>543,000</td>
<td>2,000</td>
</tr>
<tr>
<td><strong>TOTAL NEVADA</strong></td>
<td>52,610</td>
<td>273,872</td>
<td>300,000</td>
<td>-19,023</td>
<td>129,745</td>
<td>489,201</td>
<td>510,000</td>
<td>-20,833</td>
</tr>
</tbody>
</table>

**Southern Nevada Water System (SNWS)**

- WATER USER: 43,692
- ALL OTHERS: 8,918
- NEVADA USES ABOVE HOOVER: 51,138
- NEVADA USES BELOW HOOVER: 1,472

**Tributary Conservation & Imported Intentionally Created Surplus**

- Total Requested Tributary Conservation Intentionally Created Surplus: 37,000
- Total Requested Imported Conservation Intentionally Created Surplus: 9,000
- 5% System Cut for creation of Intentionally Created Surplus: -2,300
- Total Intentionally Created Surplus Left in Lake Mead: 43,700

**NEVADA ADJUSTED APPORTIONMENT CALCULATION**

- Nevada Basic Apportionment: 300,000
- Excess to Total State Adjusted Apportionment: -26,128

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**Notes:**

- Diversions and uses that are pending approval are noted in red italics.
- Water users with a consumptive use entitlement - Excess to Estimated Use column indicates overrun/underrun of entitlement.
- Water user with a diversion entitlement - Excess to Approved Diversion column indicates overrun/underrun of entitlement. Dash in this column indicates water user has a consumptive use entitlement.

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**Robert Griffith Forecast**

- Forecast Use, ac-ft

- Jan: 460,000
- Feb: 462,000
- Mar: 464,000
- Apr: 466,000
- May: 468,000
- Jun: 470,000
- Jul: 472,000
- Aug: 474,000
- Sep: 476,000
- Oct: 478,000
- Nov: 480,000
- Dec: 482,000

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**LV Wash Return Forecast**

- Forecast Use, ac-ft

- Jan: 200,000
- Feb: 202,000
- Mar: 204,000
- Apr: 206,000
- May: 208,000
- Jun: 210,000
- Jul: 212,000
- Aug: 214,000
- Sep: 216,000
- Oct: 218,000
- Nov: 220,000
- Dec: 222,000

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**Notes:**

- Click on Nevada Schedules and Approvals above for incoming diversion schedules and approvals.
Upper Colorado River Drainage Basin

Data Current as of:
05/03/2015

Lake Powell
1063221/2432000
44% Full

Flaming Gorge
3218000/3200000
86% Full

Fontenelle
106982/344800
54% Full

Morrow Point
110057/117190
94% Full

Blue Mesa
598863/829500
72% Full

Navajo
1169454/1596000
69% Full

Drainage Area 279,300 Square Kilometers
Upper Colorado Region Snow Conditions as of May 6, 2015

Snow Conditions
Upper Colorado Region
Wednesday, May 06, 2015

Snow Water Equivalent
- Red: Less than 50 Percent of Normal
- Yellow: 50 - 80 Percent of Normal
- Green: 80 - 120 Percent of Normal
- Blue: 120 - 150 Percent of Normal
- Purple: Greater than 150 Percent of Normal

Data Provided by the Natural Resource Conservation Service
Colorado Basin River Forecast Center
Lake Powell Group

Percent Median To Date: 48% (9.0 / 18.7)
Percent Seasonal Median: 45% (9.0 / 20.1)

Melt rate 0.4 in/day averaged over last 3 days.

April 28, 2015
(Released Thursday, Apr. 30, 2015)
Valid 7 a.m. EST

Drought Conditions (Percent Area)

<table>
<thead>
<tr>
<th></th>
<th>D0</th>
<th>D1</th>
<th>D2</th>
<th>D3</th>
<th>D4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current</td>
<td>0.14</td>
<td>69.08</td>
<td>30.11</td>
<td>0.44</td>
<td>0.36</td>
</tr>
<tr>
<td>Last Week</td>
<td>0.14</td>
<td>69.08</td>
<td>30.11</td>
<td>0.44</td>
<td>0.36</td>
</tr>
<tr>
<td>3 Months Ago</td>
<td>0.00</td>
<td>100.00</td>
<td>0.10</td>
<td>3.43</td>
<td>77.45</td>
</tr>
<tr>
<td>Start of Calendar Year</td>
<td>0.00</td>
<td>100.00</td>
<td>0.03</td>
<td>4.35</td>
<td>77.34</td>
</tr>
<tr>
<td>Start of Water Year</td>
<td>0.00</td>
<td>100.00</td>
<td>0.03</td>
<td>4.56</td>
<td>81.92</td>
</tr>
<tr>
<td>One Year Ago</td>
<td>0.00</td>
<td>100.00</td>
<td>0.03</td>
<td>4.56</td>
<td>76.50</td>
</tr>
</tbody>
</table>

Intensity:
- D0 Abnormal Dry
- D1 Moderate Drought
- D2 Severe Drought
- D3 Extreme Drought
- D4 Exceptional Drought

The Drought Monitor focuses on broad-scale conditions. Local conditions may vary. See accompanying text summary for base-aid statements.

Author:
Anthony Atsas
NOAA/NWS/NCEP/CPC

http://droughtmonitor.unl.edu/