

March 9, 2021

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Municipal Water District

OTHER
REPRESENTATIVE

County of San Diego

VIA EMAIL AND U.S. MAIL

Mr. Adam Wilson, Moderator
San Diego County LAFCO
(adwilson858@yahoo.com)

Re: Additional Response to Questions from Dr. Hanemann

Dear Mr. Wilson:

On February 22 the San Diego County Water Authority (the “Water Authority”) responded to the questions Dr. Michael Hanemann presented at the February 1 Ad Hoc Committee meeting. On that same day LAFCO was sent submissions by Metropolitan Water District of Southern California (“MWD”), Fallbrook Public Utility District (“Fallbrook”), and Rainbow Municipal Water District (“Rainbow”). The Rainbow/Fallbrook letter was a joint submission which also included a technical memorandum from Eastern Municipal Water District (“Eastern”). Per previously set LAFCO guidelines, responses to those submittals were required to be made by March 1. However, Eastern asked for some additional time, and so did the Water Authority. MWD then submitted further comments on March 1.

This letter is the Water Authority’s response to the above submittals by other agencies. Given there was a short period for review, this response is abbreviated, and only focuses on certain main issues.¹ At the end of this letter we also bring to LAFCO and Dr. Hanemann’s attention certain very recent litigation events which have an impact on previous submittals by all parties. We ask that you provide this letter to Dr. Hanemann and to all Committee members and to LAFCO staff.

Additionally, before getting to the Water Authority responses, we note that the Water Authority has just released its public Draft 2020 Urban Water Management Plan. It may be reviewed at this web page: [Water Authority Releases Three Water Planning Documents for Public Review and Comment - San Diego County Water Authority \(sdwca.org\)](http://www.sdcwa.org/Water-Authority-Releases-Three-Water-Planning-Documents-for-Public-Review-and-Comment)

A. MWD February 22 and March 1 Submittals

In this section we respond to MWD’s February 22 and March 1 submittals.

The February 22 MWD submittal covers three general topic areas: (1) issues related to MWD reliability and reliance on Bay-Delta water; (2) general information on MWD rates and water supply shortage plans; and (3) comments on the reports submitted by Water Authority expert consultant Dr. Rodney Smith of Stratecon.

¹ The Water Authority disagrees with many of the allegations presented by the reorganization proponents in their recent submittals, but does not go through them all in this letter. The limited coverage of this letter should not be construed as agreement with any of the positions taken by the reorganization proponents.

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Each topic area is addressed by the Water Authority. In the final section of this letter the Water Authority provides new information relevant to the issue of rates. Additionally, Dr. Smith responds directly to some of the MWD Stratecon comments in the attached Exhibit “A” document.

MWD’s central argument pertains to MWD’s water supply reliability and dependence on Bay-Delta water. The Water Authority’s prior submittals to LAFCO show how the reorganizations can cause extra demand on MWD and on the Bay-Delta. We summarize the key points below, all of which refute MWD’s central contention. However, we first address MWD’s oft-repeated “molecules of water” argument, an MWD talking point that is parroted by Fallbrook, Rainbow, and Eastern. It is stated again in MWD’s cover letter to LAFCO: “[T]he molecules of water Eastern would deliver to Rainbow and Fallbrook will be exactly the same in quantity and quality, and would be delivered through the exact same Metropolitan infrastructure whether they are in Eastern’s or SDCWA’s service area.”

MWD has made this “molecules of water” argument regarding the MWD-Water Authority Exchange Agreement for many years, including (unsuccessfully) before the trial court and the Court of Appeal. MWD persists in its argument here, even though the Court of Appeal found expressly that MWD’s contention lacks relevance, because any water transfer through intermediary infrastructure necessarily results in commingled water:

As the Water Authority's assistant general manager testified, a direct water delivery could be accomplished only with an empty aqueduct and pipeline from source to buyer, which does not occur in California where water from different sources is intermingled as it moves through an array of reservoirs, aqueducts, and pipelines to reach multiple agencies. Metropolitan cannot deliver “the same molecules” of Colorado River water the Water Authority acquires from Imperial because that water is commingled with “other water Metropolitan has taken off the Colorado River” at Lake Havasu for sale to other member agencies.²

The Water Authority has never disputed that its QSA water goes into MWD’s system for delivery, or that MWD then delivers a like amount of water to the Water Authority under the Exchange Agreement. But the issue is not about the molecules of water, it is about which account the delivered water is drawn from and whether there is sufficient water available to ensure the delivery. At a bank, if a customer with multiple accounts makes a withdrawal, that customer will get the same physical dollar bills from the teller no matter which account the funds are drawn from. However, the bank still charges a particular account with the withdrawal, and that can be very significant: if taken from one account the cash disbursement may cause an overdraft, while if from another there may be sufficient funds.

It does not require a fanciful “water molecules analysis” to understand the issue here. If Rainbow/Fallbrook are Water Authority members, their water deliveries are charged against the Water Authority’s “account.” That account includes water from the QSA transfers, desalination, and (only when needed) MWD supplies. If, however, Rainbow and Fallbrook become Eastern members, all their water must come solely from MWD supplies, which is the only water “account” Eastern gives them access to in exchange for its \$11 an acre-foot payment.

² *SDCWA v. MWD* 12 Cal. App. 5th 1124 (2017), at 1135-36.

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A look at the basic facts shows how this works. Attached as Exhibit “B” is an updated spreadsheet of Water Authority deliveries through January. One can see that in January of this year Fallbrook and Rainbow were delivered a total of 1,189 acre-feet of treated water. Only 297 acre-feet of this water was purchased by the Water Authority from MWD, while the remaining 892 acre-feet was drawn from the Water Authority’s QSA water supply. If Fallbrook and Rainbow had been Eastern members in January, demand on MWD water supplies would increase from the 297 acre-feet the Water Authority bought to the full 1,189 acre-feet that would have been purchased from MWD by Eastern, an 892 acre-foot increase for that month.³

It is thus incorrect for MWD to assert to LAFCO that “there will not be any increase in demands on the Delta and no changes to Metropolitan’s reliability.” In just January of 2021 alone, MWD would have had to deliver from its own supplies that 892 acre-feet. That water would be charged to either MWD’s Colorado River entitlement, or to its State Water Project entitlement. If the latter, it is from the Bay-Delta. If the former, that is 892 acre-feet of Colorado River water that MWD could not deliver to other member agencies, thus increasing pressure on water from the Bay-Delta, MWD’s other water source.

MWD also claims in its cover letter to LAFCO that, “The revenues to Metropolitan will also be unchanged by this reorganization because Metropolitan’s postage-stamp rate structure will remain the same.” The first part of this statement is incorrect, and the latter is irrelevant.⁴ In actuality MWD management is seeking to poach customers from one of MWD’s own member agencies,⁵ *and there is clear and immediate financial benefit to MWD in doing so.* Here are the actual facts:

- For treated QSA water, MWD is paid only transportation and treatment charges.
- For treated MWD supplies, member agencies such as the Water Authority and Eastern pay MWD not only the above identical transportation and treatment charges, but they also pay MWD the following: (a) a \$243 Tier 1 supply charge; (b) a rolling charge based on water sales called a “Readiness to Serve Charge” or “RTS”; and (c) a rolling charge based on peaked day demand called a “Capacity Charge.”⁶

³ Exhibit “B” also shows similar use of QSA water for Fallbrook and Rainbow for many earlier months as well, which has been covered in prior submittals to LAFCO by the Water Authority.

⁴ No one has ever asserted that the reorganizations will cause MWD to change its rate structure.

⁵ MWD management does not appear to have copied the MWD Board of Directors on its communications in this matter. Further, the MWD Board of Directors has taken no public action to approve the current advocacy by MWD management at San Diego LAFCO in support of the reorganizations. Though Eastern and MWD management constantly posture that they have “no skin in the game,” they clearly are seeking to facilitate the reorganizations so as to undermine the Water Authority.

⁶ See [Financial Information Home \(mwdh2o.com\)](http://mwdh2o.com) for MWD rates and charges.

MWD has a clear financial stake in promoting the reorganizations⁷ in order to increase its own revenues by acquiring extra payments “for the same molecules of water.” If Fallbrook and Rainbow move to Eastern, MWD’s water sales indisputably increase, boosting its revenues at the expense of its own member agency, the Water Authority.

The Water Authority has provided extensive detail to LAFCO on the following issues raised (again) by MWD’s February 22, 2021 submittal:

- Fallbrook and Rainbow are currently served with QSA water, and will be in the future as Water Authority members: See Water Authority September 18, 2020, Response, pp.97-99.
- If the reorganizations occur, Fallbrook and Rainbow would be served only with MWD water: See Water Authority September 18, 2020, Response, pp.76-77.
- MWD water is not as reliable as that of the Water Authority: See Water Authority September 18, 2020, Response, pp.78-85.
- The reorganizations would increase demands on MWD supplies, and thus on the Bay-Delta: See Water Authority September 18, 2020, Response, pp.95-100, and the various submittals by Stratecon, Inc.
- Because of extra demands on MWD and the Bay-Delta, proper CEQA review is required: See Water Authority September 18, 2020, Response, pp.170 *et seq.*

In addition to the above issues, MWD also submitted comments on March 1 pertaining to MWD preferential rights. These are discussed in the Water Authority’s September 18 Response at pp. 82-85, but a few clarifying points to the Kightlinger letter on this issue may be helpful.

There is an extensive record and history regarding preferential rights of which LAFCO and Dr. Hanemann are no doubt unaware, and which cannot practically be gone into in detail in this letter.⁸ However, this history includes a Court of Appeal decision⁹ stating that, “[T]he general purpose of section 135 is to set forth a formula by which Metropolitan’s members will be entitled to preference based on the amount each member contributes to Metropolitan’s capital

⁷ A near-term financial stake that is in addition to the political and long-term financial stake MWD management has in seeking to disrupt the Water Authority and gain its customer base, a mission that it has a long history of promoting with Eastern as its partner, as extensively detailed in the Water Authority’s September 18, 2020, Response to LAFCO at pp.68-72. The Editorial Board of the *Los Angeles Times* has just issued an editorial, attached as Exhibit "F," which notes MWD management's longstanding abuses of power, stating: "Member agencies such as the San Diego Water Authority have long complained of mistreatment by the mighty MWD. Environmentalists and people living and working in the Sacramento-San Joaquin Delta bristle at disrespect exhibited at MWD board meetings and in negotiations over projects such as the proposed tunnel to bring Sacramento River water around, rather than through, the delta on its journey south. The link between that mistreatment and the abuse of female employees was described in an extraordinary post by Restore the Delta Executive Director Barbara Barrigan-Parrilla."

⁸ Additional briefing and documentation are available upon request.

⁹ *San Diego County Water Authority v. Metropolitan Water Dist.* (2004) 117 Cal.App.4th 13

costs and operating expenses.”¹⁰ That Court also acknowledged that the statute would apply even if the resulting water apportionment created disputes: “[T]he fact that a statute may be harsh, unfair, inequitable or create hardships does not show that the Legislature did not mean what it said.”¹¹ In 2017 the California Court of Appeal upheld the Water Authority’s right to additional preferential rights at MWD due to the Water Authority’s Exchange Agreement payments.¹²

Preferential rights are statutory vested rights held directly by MWD member agencies based on each agency’s proportionate share of certain financial payments. Accordingly, the MWD Board of Directors does not have discretion or authority to modify or change preferential rights. To the Water Authority’s knowledge, no MWD member agency has ever executed any waiver of its preferential rights. Indeed, MWD member agencies have sought to protect these important rights.

To try and minimize the import of preferential rights, the Kightlinger letter states that, “No such right has been invoked by any member agency in the past” This is not accurate. On October 31, 2014, Central Basin Municipal Water District demanded that MWD deliver groundwater replenishment water, stating its “demand is made with full invocation of Preferential Rights under Section 135 of the Metropolitan Water District Act and all other rights available to Central Basin.”¹³ (Emphasis added.) After first forcing changes from MWD by its assertion of preferential rights, Central Basin then later rescinded the demand. However, it shows that the MWD member agencies will seek to utilize their preferential rights when necessary.

The Water Authority is not alone in being concerned about preferential rights at MWD. For example, in 1988 the Los Angeles City Attorney’s office concluded -- after request by the Los Angeles City Council to carefully examine the preferential rights held by the City -- that the provisions of Section 135 were valid and fully enforceable by the City of Los Angeles to acquire its vested rights share of MWD water even though such might short other member agencies.¹⁴

The Kightlinger letter, and earlier submittals by Eastern, Rainbow, and Fallbrook, all cite to MWD’s Water Supply Allocation Plan (“WSAP”) for water shortages, but it is noteworthy that even Mr. Kightlinger acknowledges in his letter to LAFCO that the WSAP program does not impair preferential rights: “In 2008, Metropolitan’s Board adopted a Water Supply Allocation Plan (WSAP), which does not limit the agencies’ preferential rights to purchase water.” (Emphases added.)

In short, Mr. Kightlinger’s brief March 1 letter belies the complex history and circumstances involving preferential rights and ignores that differing opinions and disputes remain to this day. However, the real question for LAFCO as to Fallbrook and Rainbow’s reorganization request isn’t, “what’s the answer?” regarding preferential rights, but “is there risk?” As demonstrated by prior Water Authority filings, there are significant risks associated with MWD’s long-term water supplies, including regulatory limitations in the Bay-Delta and drought on the Colorado River, all

¹⁰ *Id.* at 26.

¹¹ *Id.* at 28.

¹² *SDCWA v. MWD* 12 Cal. App. 5th 1124 (2017)

¹³ See attached Exhibit “C.”

¹⁴ See attached Exhibit “D.”

of which may implicate preferential rights. While all MWD member agencies including the Water Authority are committed to the success of MWD programs, the best case scenario may not reasonably be assumed for planning purposes. Thus, while it is *possible* that preferential rights may not prove to be an issue in the future with the sought reorganizations, the facts and circumstances certainly create a material risk for Fallbrook and Rainbow customers should the reorganizations be approved.

B. Fallbrook/Rainbow Joint Submittal

There are numerous issues raised in the Fallbrook/Rainbow joint submittal of February 22, 2021, with the significant ones all having been covered by prior Water Authority responses. Additionally, the Water Authority notes to LAFCO certain misstatements in the Fallbrook/Rainbow submittal via the attached Exhibit “E” document. In Exhibit “E” portions of the Fallbrook/Rainbow submittal are provided, and the Water Authority then provides comments in the yellow highlighted portion of the text.

There is one particular issue, however, that the Water Authority believes LAFCO should note, because Rainbow, Fallbrook and Eastern all focus on it: that issue is the “additional new projects” argument. The general idea is that LAFCO and Fallbrook/Rainbow customers should not worry about any extra demand on MWD, or potential MWD water shortages or lack of reliability, because Eastern has already signed up with Rainbow and Fallbrook to do future projects that will deliver new water to Eastern, and thus free up more (“in lieu”) MWD water for Fallbrook and Rainbow. Here is an example in the new submittals of this repeated theme:

“Further, under Section 10.d of the Memorandum of Understanding entered into between Fallbrook, Rainbow and EMWD on August 7, 2019, both Fallbrook and Rainbow have the option of participating in future planned local supply development projects by EMWD. [Citation.] The participation in such projects would be through in-lieu water deliveries in which Fallbrook and/or Rainbow would participate in developing the local supply and in turn receive a base amount of equivalent MWD water. Contrary to suggestions by SDCWA, any such water would not be wheeled through the EMWD system and assessed an additional wheeling charge. An example of some of the local supply projects that Rainbow and/or Fallbrook could look to participate in the future are summarized in the Technical Memorandum prepared by EMWD (Exhibit 1). The groundwater supply projects available through EMWD tend to provide lower cost water supply options if Fallbrook and/or Rainbow determines an added layer of reliability is necessary.”¹⁵

There are three key points that the Water Authority notes to LAFCO and the public about this argument: (1) there would be no need for any new projects to free up MWD water for Rainbow and Fallbrook *unless MWD faces a shortage*. The very fact that Fallbrook, Rainbow, and Eastern all repeatedly emphasize this “future project” scenario is a clear admission that MWD water supplies are not as reliable as those at the Water Authority and may be subject to shortage; (2) there is *no identification of any actual new projects*. None of the submittals spell out for LAFCO and the public what these mystery new projects may be, where they will be located, what if any environmental impacts there might be from them, or what water will be produced and

¹⁵ Second page of combined Fallbrook/Rainbow February 22, 2021, submittal.

when; and (3) there is no indication what the costs of these new projects will be. Rainbow and Fallbrook make the general statement that the projects “tend to provide lower cost water supply options,” but no per acre-foot cost information is provided even as to Eastern’s existing projects, let alone any future conceptual ideas.

Basically, Rainbow, Fallbrook and Eastern are saying to LAFCO and the public: *We know MWD may not be reliable, but don’t worry because we have entered into a contract that someday we might work together to build something that might generate some water at some sort of cost.*

Fallbrook and Rainbow try to get around the entirely speculative nature of what they are presenting by stating that these future supply projects are detailed in the Exhibit 1 Technical Memorandum from Eastern. But what does that document say? The first four pages are all about MWD, and about Eastern’s own already-developed local supplies. It is not until page 5 that we get purported information on the supposed future projects with Fallbrook and Rainbow. Here is what Eastern says:

“EMWD plans to continue the development of local supply and water banking projects similar to those described in earlier portions of this technical memorandum. Future programs may allow for FPUD and/or RMWD participation in which supplies developed or banked would most likely be delivered to FPUD and/or RMWD on an in-lieu basis.”

No specifics are given as to any such projects. Not a single actual project is identified by Eastern. Thus, Rainbow and Fallbrook claim they will have access to extra supplies, all as explained by Eastern, but then Eastern provides a generic “maybe” as to the future. This is not a reasonable basis on which to plan for a region’s water supply.

As to cost, Eastern ends its memorandum by stating that cost is a factor for doing any new project, and would be considered. It hints that maybe such costs could be less than an MWD supply. However, no details are given as to anything. If Eastern had local supplies available to it for less than MWD supply costs, it may reasonably be assumed that such projects would have already have been developed -- Eastern would not be waiting for Fallbrook and Rainbow to annex into the district in order to act.

C. Important Litigation Updates Affecting Rate Analyses

There have been some recent developments in the MWD rate litigation which should be brought to LAFCO and Dr. Hanemann’s attention, as they pertain to rate matters that are before LAFCO.

First, in February of 2021 MWD paid the Water Authority \$44,373,872.29 pursuant to a Judgment issued by the Superior Court.¹⁶ This payment represented damages and interest for unlawful Water Stewardship Rate charges which MWD had imposed on the Water Authority for four calendar years, 2011 through 2014. The Water Authority Board then voted on February 25

¹⁶ The Judgment can be read here:

[https://www.sdcwa.org/sites/default/files/2020.08.13%20Judgment%20\(CPF-10-510830\).pdf](https://www.sdcwa.org/sites/default/files/2020.08.13%20Judgment%20(CPF-10-510830).pdf) . MWD has appealed the Judgment, but it is not challenging the monetary award, and has paid it without any reservation of rights.

to distribute the money to its member agencies, including \$1,343,382.03 for Rainbow and \$909,412.67 for Fallbrook.¹⁷ Those payments were issued on March 4.

Why does the Water Authority raise this issue? Because the rate comparisons previously submitted to LAFCO by the reorganization proponents ignore the fact that the Water Authority is engaged in litigation with MWD to recover hundreds of millions of dollars in previously paid charges, and to prevent such charges going forward. Those claims are now reaching fruition. All such recoveries directly affect the Water Authority's past and future rates and charges, decreasing them because the amounts the Water Authority pays to MWD are reduced.

In addition to the recent payment by MWD, the following pending litigation items are important for LAFCO and Dr. Hanemann to consider:

- The Water Authority has close to \$30 million in Water Stewardship Rate overpayments and interest claims for years 2015-17 that are identical to the 2011-2014 claims recently paid by MWD. Should those payments arrive they also will effectually reduce the Water Authority's past rates.
- The result of the Superior Court's rulings in the Judgment and in the appellate decision (*SDCWA v. MWD* 12 Cal.App.5th 1124 (2017)) mean that the Water Authority's QSA purchases are not subject to demand management costs imposed by MWD. This is significant because such charges are material. For example, the MWD Water Stewardship Rate charged in 2017 was \$52 per acre-foot, which the Water Authority had to pass on to its customers, member agencies such as Fallbrook and Rainbow. As the Water Authority has noted in the past to LAFCO, most of its rate increases are pass-throughs of MWD rate increases.
- In addition, the Water Authority has made a claim against MWD to provide it "offsetting benefits" for the QSA transportation pricing. Basically, MWD tallied up all its alleged costs to charge the Water Authority for Exchange Agreement transportation under the "fair compensation" requirements of Water Code Section 1811, but then refused to do the second half of the analysis: provide credits required by the statute for any benefits MWD received. This claim is potentially in the hundreds of millions of dollars. MWD asserted that it was not subject to this requirement, but the trial court stated in a recent ruling on February 16, 2021,¹⁸ that the Water Authority's claim is proper:

"As the Court of Appeal concluded, Metropolitan is bound by the Wheeling Statutes. (*See SDCWA*, 12 Cal.App.5th at 1150-51.) The Wheeling Statutes include a statutory obligation to credit offsetting benefits. (*See Water Code* §§ 1810, 1811(c).) Furthermore, because, as already determined by the Court of Appeal, the Exchange Agreement incorporates Metropolitan's 'fair compensation' obligations under the Wheeling Statutes as a part of its price term, Metropolitan's violation of

¹⁷ See news release with a chart of all agency payments here: <https://www.sdcwa.org/44-4-million-in-mwd-overcharges-being-returned-to-local-water-agencies-2/>

¹⁸ Which can be read here (*see* page 12): [CaseInfo.dll \(sftc.org\)](https://www.sftc.org/CaseInfo.dll)

the Wheeling Statutes is also a breach of contract. (*SDCWA*, 12 Cal-App.5th at 1154.) San Diego's claims are properly pleaded."

The point being made here is not to predict the future. Litigation is not decided until it is over. However, the key point that LAFCO and Dr. Hanemann should understand is that one cannot yet truly compare the Water Authority and MWD's rates, past and future, because they do not yet take into account damages MWD has paid, and should pay, to the Water Authority, nor how MWD's future rates will increase when it is no longer able to impose illegal, extra costs on QSA water as it has done in the past. The above recent litigation developments show that it is premature for Fallbrook and Rainbow to be making any assertions about MWD water being "cheaper" than that of the Water Authority. Once MWD has had to pay the bills for past unlawful charges, for future fixes in the Bay-Delta, and to repair California Aqueduct subsidence, and once it may no longer overcharge the Water Authority for the Exchange Agreement water, then one may more easily predict and calculate impacts on water rates.

D. Conclusion

The Water Authority is appreciative of the efforts by LAFCO and Dr. Hanemann to grapple with these very significant and complex issues. If there are any questions, LAFCO and Dr. Hanemann should feel free to contact our General Manager Sandy Kerl and she will have appropriate staff answer any questions.

Sincerely,



Mark J. Hattam
General Counsel

Enclosures

cc via email:

Susan Tatayon, Chair, Delta Stewardship Council
Jeffrey Kightlinger, General Manager, MWD
Jack Bebee, General Manager, Fallbrook PUD
Paula C. P. de Sousa, Counsel, Fallbrook PUD
Nick Kanetis, Deputy General Manager, Eastern MWD
Tom Kennedy, General Manager, Rainbow MWD
Alfred Smith, Counsel, Rainbow MWD
Water Authority Board of Directors
Kristina Lawson, Counsel, Water Authority
Sandra L. Kerl, General Manager, Water Authority

EXHIBIT A



March 9, 2021

VIA Email

Mark J. Hattam
General Counsel
San Diego County Water Authority
4677 Overland Avenue
San Diego, CA 92123

Dear Mr. Hattam:

RE: Metropolitan Water District of Southern California's Comments on Stratecon's Letters on the Fallbrook and Rainbow Detachment Materials

The San Diego County Water Authority ("Water Authority") asked *Stratecon Inc* to respond to the Metropolitan Water District of Southern California ("Metropolitan") comments on Stratecon's Letter dated September 1, 2020 "Impact of Fallbrook and Rainbow Detachment on Southern California's Reliance on the Bay Delta" and Stratecon's Letter dated December 31, 2020, "Comments on Proposals by Rainbow Municipal Water District and Fallbrook Public Utility District, Reference Nos. RO20-04 and RO20-05 by the Metropolitan Water District of Southern California."¹

As outlined below, Stratecon does not find any of Metropolitan's comments informative about the actual impacts of the detachment proposal for the issues raised in Stratecon's letters.² The discussion addresses each of Metropolitan's specific comments.

Impact of Fallbrook and Rainbow Detachment on Southern California's Reliance on the Bay Delta

Many of Metropolitan's comments are derivative of Metropolitan's narrative that "Exchange Water delivered to SDCWA is comprised of the same molecules as Metropolitan's Full

¹ Metropolitan's Comments are in Attachment 4A and 4B of letter from Jeffrey Klightlinger, General Manager Metropolitan to Mr. Keene Simonds, Executive Officer and Mr. Robert Barry, Project Manager San Diego Local Formation Commission, dated February 22, 2021.

² See Attachment A for professional qualifications.

Service delivery to SDCWA and Eastern.”³ Metropolitan’s “only distinction is a billing distinction in SDCWA’s invoices.”⁴

Starting with the structure of the underlying agreements is instructive.⁵ First, the long-term water conservation and transfer agreement between the Imperial Irrigation District and the Water Authority makes conserved water available at Imperial Dam. The canal lining agreements also make canal lining water available at Imperial Dam. As part of the regulatory approvals of these agreements, the Water Authority moved the diversion points of Colorado River water made available at Imperial Dam to Lake Havasu. Under the Exchange Agreement between the Water Authority and Metropolitan, the latter accepts the Colorado River water available at Lake Havasu and agrees to deliver the same quantity of water to the Water Authority. Therefore, notwithstanding Metropolitan’s comment to the contrary, the source of Exchange Water at Lake Havasu originates from the volume of Colorado River water available at Imperial Dam under the Water Authority’s various agreements with the Imperial Irrigation District (“IID”).

Metropolitan’s discussion confuses how it chooses to operate its water delivery system with the foundation and economics of the Exchange Agreement under which the Water Authority pays for the majority of water Metropolitan delivers to the Water Authority. Regarding the foundation of agreements, as I stated in my December 31, 2020 letter,⁶

To the extent Metropolitan mixes State Water Project (“SWP”) water and its own Colorado River water to meet its exchange obligation to the Water Authority, the delivery of exchange water has a priority claim on Metropolitan’s own Colorado River and SWP water supplies. The SWP water and Metropolitan’s own Colorado River water used to meet Metropolitan’s exchange obligation to the Water Authority is offset by the amount of QSA water not used in the direct delivery of exchange water to the Water Authority.

The Water Authority’s QSA water (conserved water from IID under its transfer agreement and canal lining water) underwrites the amount of water Metropolitan delivers under the Exchange Agreement. If Metropolitan failed to deliver the full amount of the Exchange Water, it would not meet its delivery obligation under the Exchange Agreement. Metropolitan’s specific first comment that “All Metropolitan deliveries to SDCWA are comprised of Metropolitan blended supplies from these sources”⁷ neglects the different sources of claims on Metropolitan’s water supplies.

The underlying structure and economics of the Exchange Agreement belies Metropolitan’s comment that “Metropolitan’s water and its operation of its system is not and cannot be separated

³ See Attachment 4A at p. 2 of Metropolitan’s Letter.

⁴ *Ibid.*

⁵ As a consultant for the Imperial Irrigation District in drafting and negotiating the QSA and related agreements, I am familiar with how the agreements are structured.

⁶ p. 13 (emphasis added).

⁷ Attachment 4A, p. 1.

to identify the Exchange Water billed to SDCWA.”⁸ This statement is adrift of underlying contractual arrangements regarding the source of water supplies.

Metropolitan says it does not understand the basis for Stratecon’s conclusion regarding the volume of QSA water versus purchases from Metropolitan.⁹ The answer is that the Exchange Agreement specifies a monthly schedule for delivery of Exchange Water to the Water Authority. Metropolitan’s billing clearly separates between volumes delivered under the Exchange Agreement from any additional volume of water delivered to the Water Authority.

In sum, Metropolitan’s narrative about “the same molecules of water” is fiction adrift of underlying contractual provisions and economics.

Metropolitan’s fourth comment is again discussion devoid of underlying contractual provisions. Metropolitan correctly observes that only member agencies are its customers. However, Metropolitan ignores that under the proposed terms of the detachments, Fallbrook and Rainbow will only receive water ordered by Eastern Municipal Water District (“Eastern”) from Metropolitan on behalf of Fallbrook and Rainbow.

Therefore, Stratecon’s initial statement is correct: Fallbrook and Rainbow will only be served by available Metropolitan water. The Water Authority’s QSA water supplies are no longer available to back water service by Fallbrook and Rainbow. While the location of Fallbrook and Rainbow within Metropolitan’s service area would not change, the water supply portfolios supporting water service in Fallbrook and Rainbow before and after detachment are not the same.

Metropolitan’s assertion that water supply reliability is irrelevant is remarkable.¹⁰ Water supply reliability (or avoiding the frequency and economic cost of water shortages) is a key driver of water projects in western water, including the various renditions of proposed tunnel projects in Northern California. Stratecon believes that a full analysis of the detachment proposals should address the relative supply reliability (or shortage risks and shortage costs) of the Water Authority’s and Metropolitan’s water service.

In its fifth comment, Metropolitan argues that Stratecon was inaccurate to compare Metropolitan’s reliance on SWP versus the Water Authority.¹¹ Metropolitan ignores that the Quantification Settlement Agreement and related agreements includes a federal water delivery contract for Colorado River water for the Water Authority, in addition to the canal lining agreements recognized by Metropolitan. While the Water Authority receives its QSA water via an Exchange Agreement with Metropolitan, Metropolitan neglects how the Exchange Agreement represents a priority claim on Metropolitan’s own Colorado River and SWP water supplies.

⁸ *Ibid*, p. 2.

⁹ *Ibid*, p. 3.

¹⁰ *Ibid*, p.4.

¹¹ *Ibid*, p.5.

Metropolitan’s fifth comment also discusses sources of available data on Metropolitan’s use of Colorado River water and SWP water. Stratecon’s analysis relied upon data based on cited Metropolitan sources of water used to provide water service in any year. Given the variability in the availability (especially) of SWP water, Stratecon used an average of a historical period to calculate Metropolitan’s historical dependency on Northern California water (62.9%).

Metropolitan has identified a methodological discrepancy in the data used by Stratecon for the period calendar years 2015 through 2019.¹² Table 1 tabulates Metropolitan staff’s calculation of “corrected” amounts of Total Colorado River water (e.g., including the Water Authority’s Exchange Water) “moved by MWD” and “MWD State Water Project.” Using Metropolitan’s “corrected data”, SWP water accounted for 60% of Metropolitan’s total water supplies.

Table 1
Metropolitan Staff’s Calculations of Sources of Metropolitan Water Service
Adjusting for Storage

<i>Calendar Year</i>	<i>Total Colorado River</i>	<i>State Water Project</i>
2015	1,178,000	593,000
2016	961,000	1,009,000
2017	282,000	1,473,000
2018	757,000	845,000
2019	298,000	1,232,000
Cumulative	3,476,000	5,152,000
Share	40%	60%

Metropolitan argues that the data misinterpretation reflects an alleged lack of awareness by Stratecon that the Water Authority’s QSA water made available to Metropolitan “is managed at Metropolitan’s complete discretion along with its other available imported supplies in conjunction with its 5.3 million acre-foot storage capacity to ensure reliability for all of its member agencies.”¹³ Notwithstanding this rhetoric, Metropolitan’s staff data identifies a 60% dependency on Northern California versus Stratecon’s estimated dependency of 62.9%. Moreover, Metropolitan’s data understates its dependency on Northern California water because Metropolitan staff used “Total Colorado River water”, which improperly for these purposes, includes the Water Authority’s QSA water.

Stratecon believes that a full analysis on the detachment proposals should assess the sources and uses of Metropolitan’s water sources, including storage activity and attendant risks, to

¹² *Ibid*, p. 6.

¹³ *Ibid*, p. 7.

support analysis of the reliability of the Fallbrook and Rainbow’s water service before and after detachment.

Metropolitan’s sixth statement continues its reliance on the fictitious “same molecules” narrative. Regarding Stratecon’s reliance on “outdated” projections, Metropolitan’s complaint is that Stratecon is not clairvoyant. Stratecon’s letter dated September 1, 2020 was based on available information as of that date. To the extent that Metropolitan is arguing that analysis should be updated as additional information becomes available, Stratecon agrees. In fact, Stratecon’s letter dated December 31, 2020 incorporates the updated information the Water Authority released in November 2020.¹⁴

Metropolitan’s seventh statement simply restates the fictional “same molecules” narrative. Stratecon does not state that no SWP water is included in Metropolitan’s delivery of Exchange Water to the Water Authority. Instead, Stratecon’s analysis is based on the composition of the Water Authority’s water supply portfolio relative to Metropolitan’s and the claims on Metropolitan’s own water supply portfolio to meet its obligations under the Exchange Agreement.

Metropolitan’s LAFCO Comments on the Detachment Proposals

Attachment 4B continues with Metropolitan’s misplaced reliance on the fictional “same molecules” narrative.

The first comment doubles down on the fiction. Like the Water Authority’s Colorado River water supplies, the San Luis Rey settlement water originates from agreements and federal law involving canal lining that makes Colorado River water available at Imperial Dam. As part of regulatory approvals, the diversion point for San Luis Rey water was moved to Lake Havasu. The same structure for the availability of the Water Authority’s Colorado River water supplies applies to the San Luis Rey parties.

The second comment focuses on that Metropolitan’s exchange obligation is 277,700 acre-foot per year, not 278,700-acre feet per year.¹⁵ The 1,000 acre-foot per year discrepancy is not material to Stratecon’s analysis.

Metropolitan’s “re-do” of Stratecon’s table on page 3 of Attachment 4B falls prey again to the fictitious “same molecules” narrative and, once again, includes the Water Authority’s QSA water as Metropolitan water.

The third comment replicates the comment regarding data sources included in Attachment 4A. As discussed above, Metropolitan staff’s “corrected data” suggests a 60% dependency on Northern California, rather than Stratecon’s estimate of 62.9%.¹⁶ Metropolitan’s data understates

¹⁴ See Stratecon’s letter dated December 31, 2020, p. 8.

¹⁵ Attachment 4B, p. 3.

¹⁶ The data in Attachment 4B is identical to the data in Attachment 4A.

its dependency on Northern California water because Metropolitan staff used “Total Colorado River water”, which includes the Water Authority’s QSA water.

Metropolitan’s fourth comment is double-speak. Metropolitan references its “same molecules” narrative it submitted on September 17, 2020. Stratecon did not ignore Metropolitan’s statement in its December 31, 2020 letter. In fact, the letter expressly addresses the fictional “same molecules” narrative. Stratecon stands by its statement that Metropolitan asserts supply reliability; Metropolitan does not demonstrate supply reliability.

Metropolitan’s fifth comment is a collection of statements about “Stratecon’s Review of Metropolitan’s Storage is Incorrect and Irrelevant.”¹⁷ The narrative is extensive (see Table 2).

Table 2
Metropolitan’s Narrative on Storage and Stratecon’s Response

<i>Metropolitan’s Narrative</i>	<i>Stratecon Response</i>
Comparing the Water Authority’s supply reliability with Metropolitan’s is not appropriate	<p>It is because:</p> <ul style="list-style-type: none"> • Water Authority’s QSA water and desalinated seawater is its base supply supplemented by purchases from Metropolitan which has its own water supply portfolio • Under the terms of the proposed detachments, Fallbrook and Rainbow will only have available Metropolitan water ordered through Eastern
Metropolitan discusses historical data on Metropolitan storage. Metropolitan complains that Stratecon dismisses the present storage level as “the result of a single event.”	<ul style="list-style-type: none"> • Stratecon agrees with Metropolitan that the amount of water in storage depends on the variability and level of water demands relative to the variability and level of annual water supplies. • Ironically, Metropolitan’s discussion confirms Stratecon’s key observations: <ul style="list-style-type: none"> ○ High SWP allocations increase storage ○ Low water sales, such as in 2020, also offsets the decline in SWP allocations and results in higher storage levels • Stratecon agrees that unused Priority 3 agricultural water is another short-term water supply for Metropolitan¹⁸ In fact, the cumulative additional Colorado River

¹⁷ Attachment 4B, pp. 7-10.

¹⁸ See Stratecon letter dated December 31, 2020, p.20.

<i>Metropolitan’s Narrative</i>	<i>Stratecon Response</i>
	water cited by Metropolitan, 450,389 acre-feet, is close to Stratecon’s estimate of the average annual amount of unused Priority 3 water (88,929 acre feet) which, over five years, would total 444,649 acre feet. Stratecon does not find the difference of 5,744 acre feet over five years, or about 1,148 acre feet per year, material.
Metropolitan has not experienced a “decade long decline in water sales.”	<ul style="list-style-type: none"> • Stratecon address sales while Metropolitan shifts to the broader use of “Total Transactions” that includes the Water Authority’s QSA water since 2003. • Metropolitan water sales (inclusive or exclusive of QSA water) were above 2 million acre-feet per year in 2007-2009; Metropolitan water sales are now at least 500,000 acre-feet per year lower by 2017-2019 ¹⁹
“Metropolitan is not aware of any <u>pending</u> call on Metropolitan storage by non-Metropolitan parties.” ²⁰	<ul style="list-style-type: none"> • This statement does not address potential future calls. • Stratecon finds the Bureau of Reclamation annual reports to the U.S. Supreme Court in <i>Arizona v. California</i> a source for potential calls

Other than what constitutes proper analysis of Metropolitan’s water sales, Stratecon does not see any conflict between Metropolitan’s and its analysis of storage. From this perspective, the title to Metropolitan’s fifth comment is puzzling. Even more puzzling is Metropolitan’s assertion that storage is “irrelevant”. Storage is a critical tool in the management of the variability and level of water demands versus the variability and level of annual water supplies to provide supply reliability to avoid the frequency and economic costs of water shortages.

Metropolitan’s sixth comment incorporates once again the fictional “same molecules” narrative and ignores that, under the terms of the proposed detachments, Fallbrook and Rainbow would only have available Metropolitan water ordered through Eastern.

Metropolitan’s seventh comment involves a series of specific observations about the Colorado River (see Table 3).

¹⁹ *Ibid*, p. 27, Figure 18.

²⁰ Attachment 4B, p. 10 (emphasis added).

Table 3
Metropolitan’s Narrative on Colorado River and Stratecon’s Response

<i>Metropolitan’s Narrative</i>	<i>Stratecon Response</i>
California’s apportionment of Colorado River water equals 4.4 million plus one-half any surplus Colorado River water available to the Lower Basin	Agree. Stratecon’s discussion focuses on the 4.4 million acre foot entitlement due to the lack of surplus Colorado River water in the Lower Basin for almost 20 years and expectations about climate change that even less Colorado River water will be available in the future
Most present perfected rights are incorporated into the first three priorities of California’s Seven Party Agreement. Those are not “Indian and miscellaneous Present Perfected Rights	According to Article 2(2) of the Quantification Settlement Agreement Among the Imperial Irrigation District, Metropolitan and the Coachella Valley Water District, “Miscellaneous and Indian PPRs” are deducted from Imperial’s and Coachella’s annual Priority 3 rights up to a maximum of 11,500 acre feet per year for Imperial and 3,000 acre feet per year for Coachella
“Palos Verde Irrigation District” is actually “Palo Verde Irrigation District”	Stratecon agrees that there is a typo
Updated discussion of Drought Contingency Plan	Stratecon agrees that changing circumstances on the Colorado River should be monitored and analysis continuously updated.
Analysis of PVID Land Following—“every acre foot of reduced consumptive use by PVID is an acre-foot of Colorado River water that is made available to Metropolitan	<p>Stratecon agrees that every acre-foot of reduced consumptive use by PVID either</p> <ul style="list-style-type: none"> • reduces Metropolitan’s liability for over-runs by Priorities 1, 2, or 3b, or • increases the amount of Colorado River water actually available to Metropolitan if there are no overruns by Priorities 1, 2 and 3b. <p>Metropolitan had no comment on Stratecon’s analysis of Bureau of Reclamation data submitted annually to the U.S. Supreme Court in <i>Arizona v. California</i></p>
Metropolitan disputes Stratecon’s accounting of Metropolitan Colorado River water supplies	Stratecon concludes that the Water Authority’s QSA water is not Metropolitan’s water. Stratecon compiles data from the Bureau of Reclamation annual reports to the U.S. Supreme Court in <i>Arizona v. California</i> .
Impact of 2009 Delta Reform Act on SWP Allocations	The data in Figure 14, p. 21 in Stratecon’s letter dated December 31, 2020 speaks for itself.

<i>Metropolitan's Narrative</i>	<i>Stratecon Response</i>
Priority 5 water available to Metropolitan	Stratecon is unaware that the Secretary of the Interior declared a surplus condition in the Lower Colorado River Basin in 2009 or 2010. Perhaps Metropolitan's discussion might focus instead on the availability of unused Priority 3 water in 2009 and 2010

Metropolitan's eight comment reiterates its fictional "same molecules" narrative.

Conclusion

In its letter dated December 31, 2020, Stratecon concluded:²¹

Metropolitan's submission to San Diego LAFCO misstates the impact of the detachment on water service reliability for Fallbrook and Rainbow customers and misstates the impact on the Bay Delta. Metropolitan provides no analysis or data in support of its assertions. It neglects to acknowledge how the Water Authority's sources of supply used to provide service to Fallbrook and Rainbow differ from the water supply sources available to Metropolitan which will be used to serve Fallbrook and Rainbow via Eastern MWD if the reorganizations are approved.

In response, Metropolitan relies on the fictional "same molecules" narrative. Instead of analysis based on an analytical framework that incorporates the structure of underlying agreements and economics, Metropolitan commentary provides a recitation of disjointed facts and unsubstantiated assertions.

My earlier conclusions remain unchanged:²²

Our state has struggled with the south's reliance on the north for decades. Southern California's water demands stress the local economies and ecosystems in the north. The Fallbrook and Rainbow detachment proposal would intensify the conflict, reduce the reliability of water service of Fallbrook and Rainbow water customers, and increase their exposure to Metropolitan's record of rapidly increasing water rates historically that may be expected to accelerate in the future.



Rodney T. Smith, Ph.D.
President

²¹ p. 27.

²² Stratecon letter dated December 31, 2020, pp. 27-28.

Attachment A
Rodney T. Smith, Ph.D.

Rodney Smith is President of *Stratecon Inc* (www.stratwater.com), an economics and strategic planning consulting firm specializing in the economics, finance, and policy of water resources, President of *Baja Norte Water Resources, LLC*, a project developer of bi-national water projects.

Dr. Smith is involved as an advisor in the acquisition of water rights throughout the western United States and in the sale and leasing of water rights and water supplies to public and private sector water users. This first-hand experience in the decades long development of water markets provides industry expertise to identify the best candidate locations for electronic water markets, proper market design and navigate related public policy issues.

He has consulted extensively for public and private sector clients, including high net worth investors, on business and public policy issues concerning water resources, including California's Drought Water Bank, the government of New South Wales, Australia's effort to privatize irrigation organizations, and the economic, financial, legal, and political dimensions of water transactions in many western states. Rod worked on the IID/San Diego County Water Authority Agreement, the settlement of Colorado River disputes on behalf of the Imperial Irrigation District, and the acquisition of 42,000 acres from the United States Filter Corporation, a unit of Veolia Environment. He is routinely involved in economic valuation of water rights, water investments, and negotiation of water acquisition and transportation agreements. He also performed studies on the economic risk of water shortages and valuation of surface water and groundwater storage. He has also served as an expert witness in the economic valuation of groundwater resources, disputes over the economic interpretation of water contracts, economics of water conservation and water use practices, and the socio-economic impacts of land fallowing. He served as an outside advisor and author of *Water Transfers in the West: Projects, Trends and Leading Practices in Voluntary Water Trading*, by the Western Governors Association and the Western States Water Council (2012).

Dr. Smith has written extensively on the law, economics, and finance of water resources and water policy. In 1987, he created and became co-editor of Stratecon's paid-circulation publication *Water Strategist: A Quarterly Analysis of Water Marketing, Finance, Legislation, and Litigation*. In January 1999, the publication became a monthly web-based publication (www.waterstrategist.com) and information service, *Water Strategist*, which extended its coverage to include developments in the emerging private corporate participation in western water matters. In addition, Stratecon, Inc. introduced *The Water Strategist Community*, (www.waterchat.com), a web-based news portal providing free access to the direct press releases and important reports from over 300 public agencies, water firms and bond rating agencies. In 2011, Stratecon stopped publishing *Water Strategist* and replaced it with a contract research service based on its proprietary database. Earlier in 2013, Stratecon introduced prediction markets to the water industry (www.waterpolicymarkets.com), and in 2014, Stratecon introduced Journal of Water (www.journalofwater.com).

Rod is also known for his books *Troubled Waters: Financing Water in the West* and *Trading Water: A Legal Framework for Water Marketing*, sponsored by the Ford Foundation through grants to the Council of Governors' Policy Advisors. Former Secretary of the Interior Bruce Babbitt wrote forwards for both books.

Dr. Smith received his Ph.D. in Economics from the University of Chicago and a Bachelor of Arts in Economics from the University of California at Los Angeles. Prior to making a full time commitment to the private sector, he was a professor of economics at Claremont McKenna College for fifteen years, Director of the *Lowe Institute of Political Economy*, and a member of the editorial board of *Economic Inquiry*, the professional economics research journal of the *Western Economics Association*. In 1989, he was the John M. Olin Visiting Professor of Law and Economics at Columbia Law School. In the late 1970s and early 1980s, he was also a visiting assistant professor of economics at the Graduate School of Business, University of Chicago, where he also served as the Associate Director of the *Center for the Study of the Economy and the State*, founded by the late Nobel Prize winner in economics, George Stigler. Rod started his career after graduate school as an economist at the RAND Corporation, where he participated in a study commissioned by the California Legislature on the role of markets to address California's water problems.

EXHIBIT B

Estimated Monthly MWD Supplies ¹ (AF)

MWD Supply

Water Authority Sales to Fallbrook PUD and Rainbow MWD ¹

Date	Total MWD Meter Deliveries			Deliveries Through SCWD ²	QSA Deliveries			SLR Deliveries	Fallbrook Wheeled Deliveries	Mexico Emergency Deliveries
	Treated	Untreated	Total	Treated	Treated	Untreated	Total	Untreated	Treated	Treated
7/31/2017	9,648	30,423	40,071	9		14,808	14,808	2,917	-	-
8/31/2017	10,182	33,752	43,934	8		14,808	14,808	2,059	-	-
9/30/2017	8,983	30,022	39,004	8		14,808	14,808	501	-	-
10/31/2017	6,676	28,299	34,975	8		14,808	14,808	915	-	-
11/30/2017	4,761	26,447	31,208	9		14,808	14,808	-	-	-
12/31/2017	4,130	24,127	28,257	8		16,435	16,435	-	-	-
1/31/2018	3,293	19,996	23,289	8		17,308	17,308	2,339	-	-
2/28/2018	3,136	20,499	23,635	8		17,308	17,308	2,443	-	-
3/31/2018	2,897	19,325	22,222	8		17,308	17,308	1,970	-	-
4/30/2018	3,745	28,190	31,935	9		17,308	17,308	3,110	-	-
5/31/2018	3,566	30,343	33,909	10		17,308	17,308	3,294	-	-
6/30/2018	4,682	32,927	37,609	11		17,308	17,308	2,480	-	-
7/31/2018	5,155	38,662	43,817	13		17,308	17,308	364	-	-
8/31/2018	7,712	40,149	47,861	13		17,308	17,308	-	-	-
9/30/2018	6,288	35,808	42,097	12		17,308	17,308	-	-	206
10/31/2018	3,417	31,949	35,366	11		17,308	17,308	-	-	87
11/30/2018	9,823	16,364	26,187	10	944	16,364	17,308	-	-	-
12/31/2018	4,238	17,374	21,612	7		17,355	17,355	-	-	-
1/31/2019	4,742	16,155	20,896	8	217	14,570	14,787	1,584	-	-
2/28/2019	2,246	13,730	15,976	7	524	12,776	13,300	955	-	-
3/31/2019	2,926	17,283	20,209	8		14,487	14,487	1,078	207	-
4/30/2019	4,909	22,117	27,025	11	1,124	20,557	21,680	1,560	-	-
5/31/2019	3,003	22,481	25,484	12	431	21,249	21,680	1,232	-	-
6/30/2019	4,173	24,141	28,314	12		21,680	21,680	1,863	-	-
7/31/2019	4,929	29,903	34,832	14		21,681	21,681	2,293	-	217
8/31/2019	5,924	34,882	40,807	12		21,681	21,681	2,460	-	217
9/30/2019	5,922	31,079	37,000	10		21,681	21,681	1,461	-	220
10/31/2019	6,005	30,535	36,540	9		21,681	21,681	1,514	-	-
11/30/2019	4,465	21,509	25,974	8	172	21,509	21,681	-	-	-
12/31/2019	2,120	19,971	22,091	5	1,711	19,971	21,681	-	-	-
1/31/2020	3,743	20,426	24,170	5	3,593	18,923	22,517	1,503	-	-
2/29/2020	4,058	21,037	25,094	8	3,532	18,985	22,517	2,052	-	-
3/31/2020	2,868	21,708	24,576	9	2,624	19,892	22,517	1,815	-	-
4/30/2020	5,072	13,700	18,772	11	4,341	12,805	17,146	895	-	-
5/31/2020	7,851	18,326	26,177	11	6,491	16,026	22,517	2,300	-	-
6/30/2020	4,455	20,340	24,795	12	4,241	18,276	22,517	2,064	-	-
7/31/2020	5,997	25,360	31,357	11	5,675	22,213	27,888	3,147	-	-
8/31/2020	5,390	28,532	33,922	14		22,517	22,517	2,023	-	434
9/30/2020	5,660	27,863	33,523	11		22,517	22,517	20	-	637
10/31/2020	4,475	24,078	28,553	9		22,517	22,517	30	-	217
11/30/2020	3,882	23,091	26,973	8		22,517	22,517	50	-	105
12/31/2020	3,513	24,300	27,813	7		22,517	22,517	100	-	-
1/31/2021	2,848	23,303	26,151	7	2,558	21,000	23,558	2,303	-	-

MWD Supply			FY Total	FY Total from MWD Website
Treated	Untreated	Total		
9,657	12,698	22,355		
10,190	16,885	27,075		
8,991	14,712	23,703		
6,684	12,576	19,260		
4,770	11,639	16,409		
4,138	7,693	11,831		
3,300	349	3,649		
3,144	747	3,892		
2,905	47	2,952		
3,754	7,772	11,526		
3,576	9,740	13,316		
4,694	13,139	17,832	173,799	173,822
5,167	20,989	26,157		
7,725	22,840	30,565		
6,095	18,500	24,594		
3,341	14,641	17,982		
8,888	-	8,888		
4,244	20	4,264		
4,533	-	4,533		
1,728	-	1,728		
2,726	1,718	4,445		
3,796	-	3,796		
2,584	0	2,584		
4,185	598	4,782	134,319	134,684
4,725	5,929	10,655		
5,719	10,741	16,460		
5,712	7,937	13,648		
6,014	7,341	13,355		
4,301	-	4,301		
415	-	415		
156	-	156		
535	-	535		
253	-	253		
742	-	742		
1,372	-	1,372		
226	-	226	62,115	62,852
334	-	334		
4,970	3,992	8,962		
5,033	5,326	10,360		
4,268	1,531	5,799		
3,785	524	4,309		
3,520	1,683	5,203		
297	-	297		

Sales to Fallbrook PUD	Sales to Rainbow MWD
1,264	1,841
873	2,298
1,042	1,774
824	2,285
859	1,250
847	1,857
600	887
638	1,161
419	732
987	1,438
632	1,722
1,283	1,984
1,220	2,168
892	2,531
859	1,725
725	1,732
762	1,129
383	702
341	362
223	244
391	424
669	1,337
302	1,074
834	1,227
962	2,189
820	1,986
1,063	1,538
786	1,956
920	852
158	531
414	536
491	779
365	416
483	723
587	1,479
774	1,494
1,246	2,090
779	1,731
1,074	2,441
778	1,405
614	1,158
620	1,123
488	701

1. Source: DAIS database
 2. Deliveries to Water Authority customers transported through South Coast Water District's system

EXHIBIT C



Central Basin

Municipal Water District

October 31, 2014

6252 Telegraph Road
Commerce, CA 90040-2512

Phone: 323.201.5500
Fax: 323.201.5550
www.centralbasin.org

Jeffrey Kightlinger
General Manager, Metropolitan Water District
P.O. Box 54153
Los Angeles, CA 90054-0153

RE: Delivery of Replenishment Water to CENB-48

Board of Directors

Division I
James B. Roybal

Division II
Robert Apodaca

Division III
Arturo Chacon

Division IV
Leticia Vasquez

Division V
Phillip D. Hawkins

Dear Mr. Kightlinger,

On February 19th of this year, Central Basin placed an order with your staff for 60,000 acre-feet to be delivered to the Rio Hondo spreading grounds in response to the purchase agreement approved by both Central Basin's and WRD's Board of Directors on February 13th. Immediately following, your staff contacted us to request that Central Basin not take State Project water but Colorado water due the supply limitations stemming from the 5% State Project allocation for 2014.

Central Basin was assured that every effort would be made to develop an acceptable treatment plan for the Los Angeles County Flood Control and other pertinent agencies to deal with the Quagga Mussel so that the Colorado water could be delivered via the County's waterways. Part of this assurance was the understanding that this process could take some time and consequently the timetable for expected deliveries was moved to October of 2014 when the Capacity Charge window would cease for the year and enough time provided to finalize and have the treatment plan accepted to account for new conditions.

Central Basin agreed to try to take Colorado Water and delay delivery under the same premise and attitude as has been shared by the other MWD member agencies during this historic time. We will do what we can as individual agencies to be flexible for the overall good of the region to meet the unique supply limitations we are faced with while not jeopardizing our own region in the process. This was choice made in trust of MWD as it prolonged delivery of crucial water into our Basin into an uncertain future where the water supply situation would likely be worsened by a continuing drought.

Through numerous meetings and discussions with MWD staff it is now abundantly clear that despite best efforts Colorado Water is not a viable option for the near future and certainly not an option for our present order.

Serving the Cities of

- | | |
|------------------|------------------|
| Artesia | La Mirada |
| Bell | Lynwood |
| Bellflower | Maywood |
| Bell Gardens | Montebello |
| Carson | Monterey Park |
| Cerritos | Norwalk |
| Commerce | Paramount |
| Compton | Pico Rivera |
| Cudahy | Santa Fe Springs |
| Downey | Signal Hill |
| East Los Angeles | South Gate |
| Florence-Graham | Walnut Park |
| Hawaiian Gardens | Whittier |
| Huntington Park | Willowbrook |
| La Habra Heights | Vernon |
| Lakewood | |

The long distance between CENB 48 and 28 to the Spreading Grounds, through County waterways as well as natural habitats, provides a unique set of circumstances that takes all normal Quagga treatment options off the table. As such, we are left with only State Project water as an immediate and certain option to arrest the drawing down on the Central Basin aquifer from going further into historic lows. Such water is crucial to help leverage the recycled water deliveries that are being made in the Spreading Grounds by WRD. Recycled water that is currently the only major source of replenishment for the Basin and that would otherwise have to be curtailed in the future due the 45% ratio cap should similar circumstances continue. These recent drought years have drastically reduced the natural replenishment the Basin relies on and placed greater reliance on MWD as our safety net. Our Basin's adjudication and thus our District's entire supply system is built around MWD being apply to supply replenishment water. It should not be forgotten that the normal level of replenishment water not taken in calendar year 2013 was water available to put into your reserves. Reserves that have been key in getting us through the present crisis.

Our water purveyors through the Central Basin Water Association petitioned you on September 19th for a good faith effort of beginning deliveries of 25,000 acre-feet from the 60,000 acre-feet order. Such a reduction was done again with the spirit of trying to be flexible and cooperative to help to entire region deal with the shortage. No response was given. In my personal meeting with Debra Man, a petition of 15,000 acre-feet was made and I was told that Central Basin would have to prove emergency conditions in that our pumpers ability to draw water was being impeded. Although I can understand the supply limitations of present circumstances and having to deal with practical operational realities, it is not my understanding that it is necessary to be in emergency shortages for a Member Agency to be able to receive full-service water deliveries from MWD. This is especially true when our demand on MWD is currently a third of historical levels and well within purchase agreement and Preferential Rights allowances.

As the District held responsible for providing imported water to our region, it would be irresponsible and a dereliction of our core duty to jeopardize the pumpers' ability to access water through the Central groundwater basin and put at risk what little supply of regional water they have to protect themselves against an all too likely continuing drought. Too much is at risk to wait based on promises and a hope of rain. As such, Central Basin is left without choice but to demand that CENB 48 be turned on at 100 cfs with State Project water immediately upon clearance from LA County Flood Control. This meter is to be left on at this flow until it is directed to be closed and may only be shut off per LA County Flood Control to manage rain and water operations in their waterways. Flow is to resume at 100 cfs immediately upon clearance of the LA County Flood Control from any of their interruptions.

The objective is to deliver 25,000 acre-feet to the Rio Hondo spreading grounds with any percolation losses to the Main Basin being accounted toward water orders placed by the Upper San Gabriel Valley Municipal Water District. Such a demand is made with full invocation of Preferential Rights under Section 135 of the Metropolitan Water District Act and all other rights available to Central Basin. Central Basin makes this demand without

further reserves its right to pursue legal action should any good faith effort not follow and this demand be denied.

Please contact me at (323)-201-5514 or richarda@centralbasin.org should you need to contact me regarding this matter.

Sincerely,



Richard R. Aragon, CPFO
Interim General Manager, Chief Financial Officer

cc: CBMWD Board of Directors
 CBWA Directors
 WRD Directors
 USGVMWD Directors
 Long Beach Department of Water, General Manager

EXHIBIT D

M E M O R A N D U M

March 21, 1988

TO: Honorable Members of the Energy
and Natural Resources Committee

FROM: William R. McCarley *WRM*
Chief Legislative Analyst

Keith Comrie *KC*
City Administrative Officer

Metropolitan Water District: Preferential Water Rights

On February 9, 1988 a report of your Committee was considered by the City Council concerning the 1987-88 property tax levy by the Metropolitan Water District (MWD) (C.F. 86-1645). A Motion (Farrell-Bernardi) was introduced referring the file to the City Attorney to determine the City's ability to exercise its preferential right to purchase MWD water. The Chief Legislative Analyst (CLA) and the City Administrative Officer (CAO) were instructed to coordinate the review and report back to the City Council through your Committee.

The City Attorney has reviewed the Farrell-Bernardi Motion and has indicated that the City could exercise its preferential water rights under Section 135 of the MWD Act. The Attorney has also indicated that the MWD's General Counsel concurs with this view. A copy of his opinion and MWD's General Counsel's opinion are attached. State law does permit the District to alter its water distribution formula in times of drought to meet drinking water needs, and to provide for sanitation and fire protection. Once these needs have been met, Section 135 would govern the distribution of the remaining water supply. No court challenge has been made to test this position.

If the City fully exercised its preferential water rights, the estimated increase in rates to City water users would range from 32 percent for small users to 37 percent for large users such as refineries. Decreasing the amount of DWP water used by the City would also decrease the amount of available hydroelectric power. The shortfall would have to be purchased elsewhere. The estimated increase to electric users for the purchase of additional power would be about 3 percent or approximately \$0.92 per month to a residence using 400 KWH per month.

Recommendation

That the City Council:

Receive and file the Motion (Farrell-Bernardi) inasmuch as no further action is required.

Background

The Metropolitan Water District of Southern California was created by State law in 1927. The District is composed of 27 member agencies within the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura. Each member has at least one representative on the 52-member Board of Directors. Additional Board representation is based upon the assessed property valuation within the member public agency. The City of Los Angeles has eight representatives on the MWD Board.

MWD Act: Section 135

The MWD Act grants to member agencies a preferential right to purchase water from the district. Section 135 of the Act reads as follows:

"Sec. 135. Each member public agency shall have a preferential right to purchase from the district for distribution by such agency, or any public utility therein empowered by such agency for the purposes, for domestic and municipal uses within the agency a portion of the water served by the district which shall, from time to time, bear the same ratio of all of the water supply of the district as the total accumulation of amounts paid by such agency to the district on tax assessments and otherwise, excepting purchase of water, toward the capital cost and operating expense of the district's works shall bear to the total payments received by the district on account of tax assessments and otherwise, excepting purchase of water, toward such capital costs and operating expense."

Thus, the preferential right to purchase water granted by Section 135 is based upon the relative amounts paid by the member agency to the district in the form of property tax assessments.

Until recently, the City has paid a higher percentage of the total MWD operating expenses, excluding water purchases, due to the amount of high valued property in the City in proportion to all properties in the District. However, the City has continued to use only a portion of its preferential water rights.

Currently the City's entitlement is approximately 26 percent. The long-term average use of MWD water by the City is less than 3 percent.

In 1983, changes were made to the MWD Act which, in effect, froze the maximum amount that could be levied through property taxation. The result has been a gradual shifting of the financial burden to operate the MWD from property tax payers to the water users. However, as the City's property tax share to MWD decreases, its percentage of water subject to Section 135 preferential water rights is also diminished.

Motion (Farrell-Bernardi)

On February 9, 1988, the City Council considered a report of your Committee regarding MWD Resolution 8160 levying a tax for FY 1987-88 upon taxable property within the City. A Motion (Farrell-Bernardi) was introduced which recommended that the file be referred to the City Attorney to determine whether the City can invoke its preferential right to purchase MWD water.

City Attorney Response

The City Attorney has reviewed the subject Motion and has concluded that the City can invoke its preferential water rights under Section 135 of the MWD Act. The Attorney also indicated that the General Counsel of the MWD concurs with this view in a memorandum to the Chairman of the MWD dated May 30, 1984 (copy attached). Section 135 has not been challenged in court. If the City invoked its preferential water rights, it would decrease the water supply to other member agencies that have no alternative water supply. It is, therefore, likely that any action taken by the City to exercise its water rights would be challenged in court.

The MWD can change the prorata distribution formula set forth in Section 135 when the region is experiencing drought conditions as provided in Section 350 of the State Water Code. This provides that if a drought is declared by the District, the MWD Board could change the water distribution formula to first meet the needs for drinking water and to provide for sanitation and fire protection. Once these needs have been met, distribution of the remaining water would be governed by Section 135.

Impact on Water Rates

The City consumes approximately 618,000 acre feet of water each year. Of this total amount, the Los Angeles Aqueduct provides an average of 470,000 acre feet; MWD provides about 45,000 acre feet; and, the remaining 103,000 acre feet comes from local

groundwater sources. The City's full entitlement of MWD water is 428,000 acre feet. If the City purchased its full entitlement, it would cost an additional \$88.2 million. The estimated increase costs to City water users would be about 32 percent for residential users (from \$18 to \$24 per month) up to 37 percent for the largest users such as refineries (from \$66,400 to \$91,000 per month).

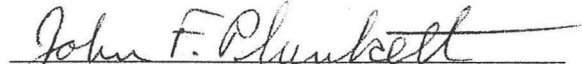
If a decision is made to take the City's entitlement of MWD water, and to continue to use the same amount of local groundwater, 86,000 acre feet would still have to come from the L.A. Aqueduct.

Impact on Power Rates

Exercising the City's preferential water rights would have a direct financial impact on the City. Assuming the City reduces its consumption of L.A. Aqueduct water by 383,800 acre feet as in the above scenario, about 882.7 million kilowatt hours of power would not be generated along the aqueduct and would have to be purchased elsewhere. This would cost the Power System approximately \$48.5 million, which would mean 3 percent rate increase (92¢) to a residential customer with an average monthly bill of \$30.00 using approximately 400 KWH per month.



Ted Rogers
Analyst



John Plunkett
Analyst

Attachment: City Attorney Report
MWD General Counsel Report

The Metropolitan Water District of Southern California

May 30, 1984

To: Chairman Ibbetson
From: General Counsel
Subject: Preferential Rights

As you requested, herewith is a summary of the oral remarks I made at the Legal and Claims Committee meeting on May 4 on the question of whether Section 135 of the Metropolitan Water District Act, the so-called preferential rights section, has any validity or viability in light of Water Code Sections 350 et seq. (water shortage emergencies).

In my view, Water Code Sections 350 et seq. are statutory authority enabling all water agencies, including the Metropolitan Water District, to handle and distribute the available supply of water in a water shortage emergency. These sections set forth the procedure and the priorities for distribution of the available supply after an agency's governing body has found a shortage to exist. Such a shortage would exist if there were "insufficient water for human consumption, sanitation, and fire protection." Unless and until such a shortage is declared, Section 135 would be the governing basis for the distribution of Metropolitan's water supply. After a shortage has been declared by our Board, the regulations adopted by the Board would govern the distribution of water needed for domestic use, sanitation, and fire protection (Section 353); and while I believe, for the reasons set forth below, that any water not needed for such purposes is subject to Section 135 of our Act, it is possible that under Sections 354 and 357 of the Water Code our Board could adopt for the period of the shortage a different system of priorities.

My preferred view is that Section 135 will continue to have effect even during a shortage to the extent that water is not needed for domestic use, sanitation, or fire protection. My reasoning for this is that Sections 350 et seq. are health and welfare regulations enacted by the Legislature, which constitutionally can prevail over any contract or property rights. Once the health and welfare aspects of the emergency have been handled, however, there remains the question of the distribution of the remaining water. Under the California Constitution, the Legislature is empowered to determine the priority of beneficial uses, and in my judgment Section 135 has done that for purposes of distributing water obtained by the Metropolitan Water District.

Chairman Ibbetson

-2-

May 30, 1984

Section 135, being a special statute, would prevail over any more general statute. Even though Water Code Section 354 gives authority to the water agency to establish priorities for uses of water over and above that necessary for domestic use, sanitation and fire protection, in my opinion the specific allocation procedure in Section 135 would prevail.

I recognize that other attorneys have a contrary view as to whether Section 135 has any validity today. I respectfully disagree with those opinions.

Warren J. Abbott

WJA:mj

bcc: Carl Boronkay
Robert A. Gough
Richard W. Balcerzak
Myron B. Holburt
Victor E. Gleason
Fred Vendig

EXHIBIT E

Question 4b. What water sources are utilized and how is that determined?

SDCWA has a Water Shortage Contingency Plan that was adopted by the Board in 2017 (see link below).

<https://www.sdcwa.org/sites/default/files/Water%20Shortage%20Contingency%20Plan%20August%202017.pdf>

The Water Shortage Contingency Plan (WSCP) largely sets an allocation based on drought condition and a percentage of the historical municipal and industrial (M&I) demand. The WSCP also sets up customer water restriction requirements through drought ordinance requirements for each member agency. See Table 5 below.

Response to paragraph above: The Water Authority Contingency Plan’s allocation methodology is more complex than just being based on drought conditions and historical M&I demand. The allocation methodology begins with a determination of each agency’s base period M&I demands. From this base, adjustments are added to account for an agency’s growth in demand, local projects development, and compliance with water use efficiency requirements. The calculation results in an adjusted base period demand for each member agency. The amount of supplies available from the Water Authority is then determined. This includes the Water Authority’s own supplies (excluding Carryover Storage) and supplies available from MWD. An individual member agency’s percent share of the total regional adjusted base period M&I demand is then calculated. The percentages are multiplied by Water Authority supplies available to derive an initial M&I allocation for each member agency. To calculate agencies’ final M&I supply allocations, additional adjustments are made for allocation-year local supply loss and for MWD WSAP alignment, if needed. If the Board elects to utilize carryover storage, a separate allocation for this supply is performed and results in a final total wholesale allocation. In the unlikely event of severe imported supply shortages, a regional reliability adjustment will be applied to avoid large uneven retail impacts. With regard to the drought ordinance, the Water Authority’s WSCP provides a model ordinance. Member agencies can use the model as the basis for their drought ordinance or craft their own ordinance based on their needs.

Table 5 – Drought Ordinance Requirements

Table 11-2. Correlation between WSDRP Stages and Model Drought Ordinance Levels

WSDRP STAGE	DROUGHT RESPONSE LEVEL	USE RESTRICTIONS	CONSERVATION TARGET
Voluntary (Stage I)	1 - Drought Watch	Voluntary	Up to 10%
Supply Enhancement (Stage II)	1 - Drought Watch	Voluntary	Up to 10%
	2 - Drought Alert	Mandatory	Up to 20%
Mandatory Supply Cutback (Stage III)	2 - Drought Alert	Mandatory	Up to 20%
	3 - Drought Critical	Mandatory	Up to 40%
	4 - Drought Emergency	Mandatory	Above 40%+

Source: SDCWA Urban Water Management Plan

In the last drought (2015/2016) even though many agencies and wholesalers had developed allocation plans, the State established water use regulations based on each agencies gallons per capita per day (gpcd) usage (see link below) (Emergency Regulations).

https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/docs/emergency_reg/020717_9_final_emerg_regs.pdf

These regulations required both Fallbrook and Rainbow to reduce usage by 36%, even though the SDCWA WSCP would have allocated both Districts more water--99% of our needs according to SDCWA.

Below, Table 6, shows the drought conservation of both Districts during implementation of the Emergency Regulations and the impacts of implementing a Stage 2 restriction on water use by our customers. It compares monthly water use for the summer of 2015, at the height of the last drought and imposition of the most severe restrictions, with pre-drought water use for the same months in 2013. This table shows the additional flexibility that agencies with primarily outdoor irrigation (such as Fallbrook and Rainbow) have when it comes to drought restrictions – unlike more urban areas.

Table 6 – Fallbrook Monthly Water Production in 2015 versus 2013

Supplier Name	Stage Invoked	Mandatory Restrictions	Reporting Month	REPORTED Total Monthly Potable Water Production	REPORTED Total Monthly Potable Water Production 2013	Reduction in Water Use
Fallbrook Public Utility District	Stage 2	Yes	Sept-15	960.8	1454.2	51%
Fallbrook Public Utility District	Stage 2	Yes	Aug-15	1097.5	1514.9	38%
Fallbrook Public Utility District	Stage 2	Yes	Jul-15	1006.9	1513	50%
Fallbrook Public Utility District	Stage 2	Yes	Jun-15	945.5	1307	38%

Supplier Name	Stage Invoked	Mandatory Restrictions	Reporting Month	REPORTED Total Monthly Potable Water Production	REPORTED Total Monthly Potable Water Production 2013	Reduction in Water Use
Rainbow Municipal Water District	Level 2	Yes	Oct-15	1547.3	1870.2	-21%
Rainbow Municipal Water District	Stage 2	Yes	Sep-15	1802.7	2503.3	-39%
Rainbow Municipal Water District	Level 2	Yes	Aug-15	2057	2568.9	-25%
Rainbow Municipal Water District	Level 2	Yes	Jul-15	1652.7	2411.9	-46%
Rainbow Municipal Water District	Level 2	Yes	Jun-15	1870.7	2360.1	-26%
Rainbow Municipal Water District	Level 2	Yes	May-15	1265	2128.3	-68%

Source: https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/docs/2019sept/uw_supplier_data090319.xlsx

During this same period, MWD implemented a 15% cutback which would have provided sufficient supply to meet the Districts' demands during the drought because our customers achieved a low of 21% and a high of 68% cutback for Rainbow, and low of 38% and high of 51% for Fallbrook, as shown in Table 6, above. Urban agencies under the state order had much lower water use reduction requirements and they would see some benefit from the additional water supplies secured by SDCWA. However, given the water use profile of both Fallbrook and Rainbow, both with significant outdoor water use, SDCWA supplies provide little benefit, in addition to the MWD supplies the Districts receive.

Response to paragraph above: Water Authority supplies provided a benefit to not only Fallbrook and Rainbow, but to the entire region. Under the SWRCB's May 2015 emergency regulation, the Water Authority's member agencies were required to reduce their monthly water use on a cumulative basis starting June 2015 through February 2016, by 12% to 36% compared to 2013 water-use levels, for a total aggregate region-wide reduction in water use of 20%. The San Diego region effectively reduced its cumulative potable water use by 21% from June 2015 through February 2016, outperforming the state's aggregate regional target of 20% during the initial phase of unprecedented state water-use mandates. In February 2016, the SWRCB amended its emergency regulation to allow for adjustments to

the conservation standards, including for new local drought-resilient supplies developed after 2013. In March 2016, the SWRCB certified supply from the Lewis Carlsbad Desalination Plant as drought-resilient, which lowered the range of member agencies' conservation standards to between 8% and 28%, with the regional aggregate water conservation goal reduced from 20% to approximately 13%. Fallbrook and Rainbow's conservation standards were reduced from 36% to 28% due to the drought-resilient supplies from the Lewis Carlsbad Desalination Plant.

In May 2016, the SWRCB amended its emergency water conservation regulation to change from a mandated conservation standard to a supply-based approach that recognized the unique water supply conditions of each water supplier. The new regulation required individual urban water agencies – or a region as a whole, if all of that region's urban water agencies agreed – to self-certify the sufficiency of available water supplies using a calculation methodology prescribed in the amended regulation. The SWRCB also approved allowing wholesalers, such as the Water Authority, to certify supply sufficiency for their service areas, if every retail agency in the service area agreed. Water Authority staff held a conference call with the member agencies to discuss the amended SWRCB emergency conservation regulation and, specifically, the proposed regional self-certification of water supply by the Water Authority. The member agencies, including representatives from Fallbrook and Rainbow, supported a regional water supply self-certification by the Water Authority. **The Water Authority was able to document to the State that through the use of its QSA and Lewis Carlsbad Desalination supplies, along with its water in storage and member agency supplies, any supply deficit would be reduced to zero, thereby ensuring that the aggregated conservation standard for the region was zero and none of the Water Authority's member agencies would be subject to mandatory conservation standards.**

The state of California, in 2018, passed additional legislation on Water Conservation and Drought Planning (Senate Bill 606 and Assembly Bill 1668) that will establish additional requirements for water use efficiency. A summary of the requirements of both pieces of legislation can be found at the following link:

<https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Water-Use-And-Efficiency/Make-Water-Conservation-A-California-Way-of-Life/Files/PDFs/Final-WCL-Primer.pdf?la=en&hash=B442FD7A34349FA91DA5CDEFC47134EA38ABF209&hash=B442FD7A34349FA91DA5CDEFC47134EA38ABF209>

One of the key aspects of the 2018 legislation is the strengthening local drought resilience by implementing “[a]mendments to existing urban water management reporting and enforcement.” We anticipate an outcome of this effort will be to maintain some of the requirements from the above referenced Emergency Regulations that tied the amount of water use reduction in a drought to gpcd and require higher reductions for agencies with higher gpcd levels. The overall impact of higher cutbacks on higher gpcd water use agencies is that they will see much less of a benefit of supply projects that are designed to reduce the impact of MWD cutbacks.

A bottom line summary of the allocation of SDCWA supplies to Fallbrook and Rainbow is:

- The Districts do not need or benefit from the allocated SDCWA high cost water supplies based on the experience from the 2015/16 drought and the anticipated impact of pending state regulations.

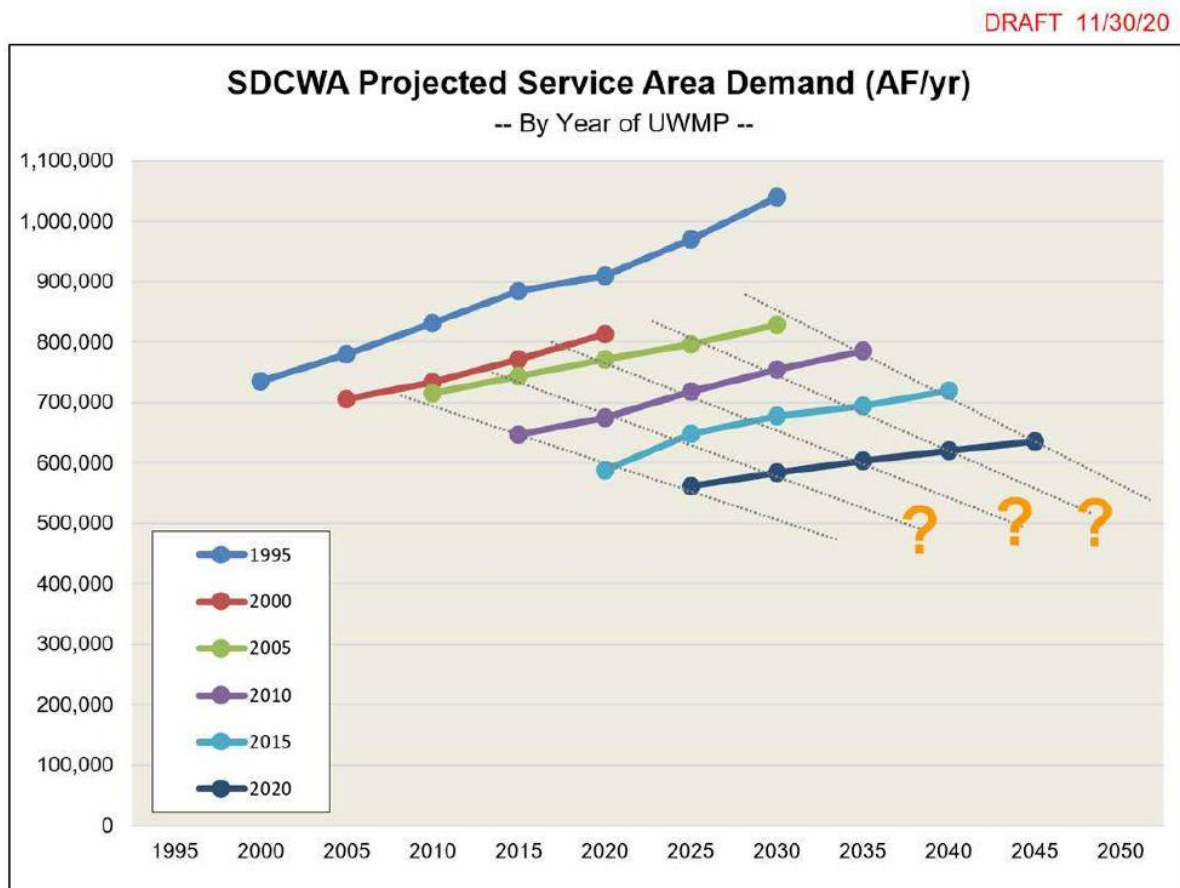
Response to bullet point above: Fallbrook and Rainbow have benefitted from Water Authority supplies in the past. See previous two responses for additional information.

Question 8a. Procedurally, how are those investments decided?

SDCWA staff develops and proposes the CIP, which is included in the bi-annual budget process. Some water supply projects have been recently removed from the CIP (such as an additional Desalination Plant at Camp Pendleton) due to a continued decline in water demands. A summary of the continued decline in UWMP water demand projections is shown in Figure 2.

Response to paragraph above: The UWMP is prepared every five years and adjustments are made to the demand forecast based on unforeseen changing conditions. That is the purpose of preparing an updated demand forecast every five years. For the draft 2020 UWMP demand forecast shown in Table 8 and in Figure 2, the demand forecast is about 14% lower than the demand forecast for the same periods in the 2015 UWMP. Because the process is repeated on a regular five-year cycle, the process to recalculate the numbers for the 2025 UWMP will begin in approximately three years and will account for any changes in demands that occur between now and completion of the 2025 UWMP.

Figure 2 – Summary of Water Demand Projections from SDCWA UWMP 1995-2020



Source: SDCWA Urban Water Management Plans 1995-2015; SDCWA Draft Forecast Nov. 2020

It should be noted that SDCWA’s ongoing forecasts of increasing demands, despite the clear pattern of decreasing demands could result in future challenges related to the quantity of “take or pay” contracts such as the QSA and Desalination sources. SDCWA uses MWD supplies to make up the difference between their take or pay contracts and total demand. It should go without saying that an agency never wants take or pay contracts to exceed total demands as this raises the cost per acre foot because the cost stays the same but the volume decreases.

Table 8, below, shows the current forecast in SDCWA’s 2020 UWMP that will be presented to the SDCWA Board on February 25, 2021. It is important to remember as shown in Figure 2, that the UWMP represents a conservatively high estimate of total water demands with a high probability that actual demands could be much less. Given the trend from past SDCWA UWMPs, there is a high probability that actual demands will be 10-15% lower than what was projected. Due in large part to the City of San Diego’s Pure Water project (which will roll off significant demands), by 2035 SDCWA will be using only a bit over 17,000 Acre Feet per year of MWD supplies, which is well within the margin of error of previous projections. This forecast of MWD supplies is about the same as the projected amount FPUD and RMWD forecast for their combined demands to be in 2035. The overestimations present in previous SDCWA forecasts indicate that irrespective of detachment SDCWA should focus on having an option ready to reduce the amount of take or pay water as part of their overall water supply portfolio.

Table 8 – SDCWA 2020 UWMP Forecast

	2025	2030	2035	2040	2045
Water Authority Supplies					
IID Water Transfer	200,000	200,000	200,000	200,000	200,000
ACC and CC Lining Transfers	78,700	78,700	78,700	78,700	78,700
Seawater Desalination	50,000	50,000	50,000	50,000	50,000
Sub-Total	328,700	328,700	328,700	328,700	328,700
Member Agency Supplies					
Surface Water	43,957	43,957	44,659	44,659	44,659
Water Recycling	42,993	46,493	46,593	46,693	46,793
Groundwater	21,900	23,100	23,100	19,600	19,600
Brackish Groundwater Recovery	8,400	8,400	8,400	8,400	8,400
Seawater Desalination	6,000	6,000	6,000	6,000	6,000
Potable Reuse	33,042	53,202	112,562	112,562	112,562
San Luis Rey Water Transfers	15,800	15,800	15,800	15,800	15,800
Sub-Total	172,092	196,952	257,114	253,714	253,814
MWD Supplies	59,824	57,613	17,676	36,788	53,401
Total Projected Supplies	560,616	583,265	603,490	619,202	635,915
Total Demands with Water Efficiency Savings	560,616	583,265	603,490	619,202	635,915

Table 8 depicts a continuing increase in overall demands, although diminished through the presence of potable reuse projects such as Pure Water. Should the past be prologue, this forecast may overestimate actual demands in the future. Thankfully, SDCWA has options within the QSA agreement, including a price reset period that will occur right around that same time that their MWD buffer is smallest in 2035, during which SDCWA will have the opportunity to renegotiate the volume of deliveries. SDCWA should monitor actual demands carefully so that they can avoid having all of its water supplies bound up in take or pay contracts.

Response to paragraphs above: The Water Authority utilizes SANDAG’s growth forecasts in its water demand forecasts. The above claim that demands will decrease into the future is not supported by SANDAG data. In fact, the increase in demands over time that is shown in Table 8 is consistent with the change in demand that is forecasted by other large water suppliers, including the City of San Diego and the Metropolitan Water District of Southern California. In addition, the claim that demands on the

Water Authority will drop below the contracted amount is also not supported by data. Demands on the Water Authority exceed contracted water supplies under all scenarios presented in the draft 2020 UWMP. With regard to the volume of MWD supplies forecasted for 2035, the lowest projected demand (17,676 AF) shows annual use of MWD water under all scenarios. At the high end, demands on MWD are forecasted to be 152,579 AF in the fifth year of a multi-dry year period in 2045. However, as explained in various Water Authority submittals, there may of course be months in any scenario where little or no MWD water is taken irrespective of overall annual supply usage. Additionally, the assertion that in 2035 the Water Authority will have an “opportunity to renegotiate the volume of deliveries” under its transfer agreement with IID is incorrect. The latter part of the contract period changes the contractual pricing method, but makes no changes in water volume. There is no special renegotiation period.

EXHIBIT F



Editorial: Sexual misconduct at the Metropolitan Water District hints at deeper problems

By THE TIMES EDITORIAL BOARD

MARCH 8, 2021 3 AM PT



What does sexual harassment have to do with our water supply? Far more than you might think.

The Metropolitan Water District of Southern California imports, stores and sells the drinking water used by nearly half of the people in this state. As a consequence, the MWD is at the center of the state's battle with ongoing drought, the agricultural sector's demands for irrigation water and the degrading natural environment's inability to sustain iconic species such as migrating salmon.

On top of those challenges, the organization is in the midst of a rare leadership change, as a search to replace departing General Manager Jeffrey Kightlinger moves closer to a conclusion and as the MWD approaches its second century.

The final ingredient in this stew is the employee abuse meticulously reported and [laid out in The Times on Feb. 12](#). The story by staff writer Adam Elmahrek recounts the mistreatment of women in the MWD's trades apprenticeship program, which gives workers an entree into careers long dominated by men.

Trainees' allegations of unwanted touching and noxious comments were compounded by an apparent lack of action — or outright retaliation — by management.

Outside investigations have been demanded by several state lawmakers and by the union that represents water district employees. Los Angeles City Council President Nury Martinez even floated the idea of [severing ties with the MWD](#).

At issue is the water district's workplace culture, but there's more to it than that.

If the MWD has been too slow in addressing abuse of women in its ranks, it's in plentiful and shameful company. The term #MeToo was around a decade before [allegations against Harvey Weinstein](#) turned it into a movement that forced attention on sexual misconduct and discrimination in the entertainment industry. Meanwhile, public employers such as the MWD, which by rights should have taken the lead in identifying and correcting toxic and abusive work environments, were instead laggards. Sexual misconduct and discrimination against women — separate but intertwined injustices — continue in city halls, statehouses and Congress.

Where such abuse persists, mistreatment of and disrespect toward LGBTQ people, communities of color and different socioeconomic classes — among employees, constituents, contractors — is generally close at hand.

ADVERTISEMENT

A similar sort of mistreatment and disrespect is embedded in California's monumental water system, alongside engineering genius, willpower and arrogance. The original Los Angeles Aqueduct that transported water from the Owens Valley is an engineering marvel built in part on underhanded treatment of water rights owners early in the 20th century, and later disregard for distant neighbors (as well as the environment) in the Mono Lake Basin.

The [MWD was created in 1928](#) to bring water north and west from the Colorado River, and 30 years later it became the leading force behind the State Water Project that brings Northern California water south. Member agencies such as the San Diego Water Authority have long complained of mistreatment by the mighty MWD.

Environmentalists and people living and working in the Sacramento-San Joaquin Delta bristle at disrespect exhibited at MWD board meetings and in negotiations over projects such as the proposed tunnel to bring Sacramento River water around, rather than through, the delta on its journey south. The link between that mistreatment and the abuse of female employees was described in an [extraordinary post](#) by Restore the Delta Executive Director Barbara Barrigan-Parrilla.

The Times story notes that three MWD directors who demanded an independent investigation of the sexual abuse were removed from the board.

As the organization seeks a new leader and a new direction, it should acknowledge the sexual abuse that has been inappropriately tolerated in its ranks, and that is rooted in the sort of arrogance that was admired in the 20th century but is out of place in the 21st. Southern California's water future is no longer tied to concrete marvels that can be seen from space. It is tied now to agreements that can be forged among people who negotiate in good faith and mutual respect over storing, transporting and sharing water for the benefit of all. There's no better place to begin constructing that respect than in the diverse ranks of employees trying valiantly to make careers quenching our collective thirst.

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