



San Diego County Water Authority

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October 8, 2012

Gary Breaux
Assistant General Manager/Chief Financial Officer
Metropolitan Water District of Southern California
P. O. Box 54153

Los Angeles, CA 90065-0153

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Carlsbad
Municipal Water District

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City of Escondido

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City of Poway

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OTHER REPRESENTATIVE

County of San Diego

RE: Your September 4, 2012 Letter – Comments on Appendix A to Remarketing Statement and Official Statement

Dear Mr. Breaux:

We have reviewed the edits you made to the attachment to your September 4, 2012 letter (Revised Appendix A), which you represented as responding to the comments we provided in our letter to you dated August 20, 2012 (San Diego Comment Letter) and “other comments.” We request to be provided with a copy of any other comments you received that you took into account in making the edits to the Revised Appendix A. If we do not receive any response from you, we will understand that no other comments were submitted and that the edits were made by Metropolitan management.

While some of the edits respond to our comments, others clearly do not; and, many of our comments were not addressed in the Revised Appendix A. We also note that many of the changes you made to the final Revised Appendix A could have been made prior to the draft being distributed to the board for review (i.e., were not based on new developments). We would have commented on these edits at that time had the opportunity been provided. The following are our additional comments on Revised Appendix A, including some important issues we request be brought back to the board for discussion. All references are to the page numbers as in the Revised Appendix A attachment to your September 4, 2012 letter.

A-12: We presume your deletion of reference to the “commitment” by Metropolitan and the Santa Clara Valley Water District to *surpass* the 2009 Delta Reform Act water savings targets by 700,000 acre-feet per year based on predicted future demands was made in response to the San Diego Comment Letter (page 3, A-11 – BDCP). Our request, however, was not to delete the comment, but only to make clear that the board of directors has not made any such “commitment,” as described. Since this representation has apparently been made as part of the BDCP process and widely circulated in the media, we would still ask that you provide information to the board of directors regarding the details of the proposal, i.e., what share of the 700,000 acre-feet of *additional* conservation MWD staff has indicated a

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willingness to implement and how that will be factored into Metropolitan's water resources plans and cost projections.

A-18: The edits you made to the section describing the *Sale of Water by the Imperial Irrigation District to San Diego County Water Authority* misrepresent the language of the QSA and Exchange Agreements. The edits appear to be calculated to be more consistent with MWD's recently constructed interpretation of the Exchange Agreement to support its claim that the Water Authority is in default under the Exchange Agreement. It is noteworthy the very language which has been used in past Official Statements is only now being edited (and as noted, without any opportunity having been provided to the board of directors to review the language in advance of the changes being made). We specifically object to the following changes on the grounds that the edits are inconsistent with the QSA and Exchange Agreements:

- Deletion of "delivered to" and substitution of "that is conserved within"
- Deletion of "deemed" and substitution of "that has been"
- All edits to the sentence that formerly began as, "Metropolitan makes no payment" and now begins, "In consideration for the conserved water."
- Deletion of the sentence at the bottom of page A-18 through the first two lines of page A-19.
- Addition of the first sentence to the first full paragraph of page A-19.
- Addition of the last three sentences of the first full paragraph of page A-19, except the language, "Metropolitan served SDCWA with a Notice of Default" and "has invoiced SDCWA for its higher water rate."

In addition, the Revised Appendix A is misleading in that you failed to make any changes to describe the substantial risks to Metropolitan and its ratepayers if the QSA agreements are interrupted, specifically, reduced availability of Colorado River water supplies, reduced water supply reliability, increased chances of water shortages and likelihood of increased water rates for MWD ratepayers.

A-30: MWD should delete the words, "if any," from the sentence that begins, "Future reliance on Metropolitan supplies." Given all of the local projects already being developed and planned to be developed within the Metropolitan service territory, it is unreasonable to suggest the possibility that, in the future, *no amount* of water will be derived from sources other than Metropolitan.

A-31: Regarding the turnout agreement between the California Department of Water Resources, Antelope Valley-East Kern Water Agency (AVEK) and Metropolitan, we request a full board report on the edit made deleting the word "limits" and substituting the words "allows for." This agreement was the subject of significant controversy at the time it was executed by then General Manager, Ron Gastelum, without the knowledge or approval of

the Metropolitan board of directors. One of the representations that was made was that the turnout would be *strictly limited*. Please explain why this edit was made. Also, please explain why you moved the following sentence from the Revised Appendix A from A-31 to A-30: "The City's future reliance on Metropolitan supplies will be dependent on these projects and the amount of water, if any, that may be derived from sources other than Metropolitan." The original disclosure following the LA-AVEK agreement is a more logical location than the revised.

Our concerns about these edits are exacerbated by your failure to correct a major deficiency in the Official Statement, namely, that it contains a great deal of information about the plans of the City of Los Angeles to buy less water from Metropolitan in the future, based on its Urban Water Management Plan, but does not disclose the same information for the Water Authority and other agencies who also have plans described in their Urban Water Management Plans to purchase less water from Metropolitan in the future. We again ask that you make all of the edits suggested in the San Diego Comment Letter **RE A-28 – Regional Water Sources** so that the Official Statement reports *all* of Metropolitan's member agency plans to develop local water supplies. You may also wish to add a disclosure that Metropolitan has mounted a public affairs campaign in San Diego and elsewhere to try to convince local elected officials and water ratepayers to abandon these plans and instead rely upon Metropolitan's imported water supplies which it alleges will be available to replace local supplies and can be obtained at a lower cost.

A-33 and A-52: The edits made regarding replenishment service are misleading in that they appear to be designed to suggest that MWD's flawed business model of buying "high" and selling "low" has been addressed by elimination of replenishment service. As noted in the San Diego Comment Letter, Metropolitan has refused to disclose how much of its "demand" is only for discounted water (i.e., sales that will only occur at a discount). When one agency buys water at a discount, another agency has to pay for that discount. While it is accurate that no replenishment sales are budgeted (or included in Metropolitan's cost of service) for Metropolitan's fiscal years 2012-13 and 2013-14 budgets, Metropolitan and the member agencies have identified the continued sale of discounted water as a "priority" using new lingo ("incentive-based") that has the same net effect to Metropolitan's revenues and fiscal stability. The edits you made do not address the issues presented in the San Diego Comment letter. See San Diego Comment Letter, **A-50 – Replenishment**.

A-40: You did not make any of the edits requested to reflect the real reason why actual and projected pay-as-you-go funding has consistently been less than budgeted. Here again, your edits have made the Revised Appendix A more misleading, by changing the word "budgeted" to "projected." Recent actual pay-as-you-go has consistently been less than *budgeted* and it is misleading to state otherwise.

A-50: You made edits changing the following sentence: "If Metropolitan's rates are revised

in the manner proposed by SDCWA in the complaint, other member agencies would pay higher rates,” to, “If Metropolitan’s rates are revised in the manner proposed by SDCWA in the complaint, other member agencies may pay higher rates unless other actions are taken by the Board.” What is the reason for this change and what is the basis of the revised statement? Metropolitan and the member agencies have widely published in the litigation and elsewhere the premise that if the water rates were revised in the manner proposed by SDCWA, it would result in a commensurate increase in the water rates of other member agencies. If management has developed alternatives under which the member agencies would not pay more if the Water Authority litigation is successful, we request these be brought back to an upcoming Finance and Insurance Committee for review and discussion. Those alternatives should also be fully disclosed in Metropolitan’s Official Statement Appendix A.

A-72: The edit made to eliminate the reference to “water purchase estimates” associated with DWR’s annual billing for State Water Project Water are noted as self-serving and another late attempt to shore up Metropolitan’s own arguments in the SDCWA litigation.

With the exception of your response to **A-4 – State Water Project** and **A-53 – Wheeling and Exchange Charges**, and parts of **A-18 – Sale of Water by the Imperial Irrigation District** and **A-50 – Interim Agricultural Water Program (IAWP)**, none of the concerns raised in the San Diego Comment Letter have been addressed by your edits to the Revised Appendix A.

Sincerely,



Keith Lewinger
Director



Fern Steiner
Director



Doug Wilson
Director

cc: Jeff Kightlinger, MWD General Manager
San Diego County Water Authority Board of Directors and Member Agencies

Miyashiro, Jody M

From: Chin, Dawn
Sent: Monday, October 08, 2012 8:24 AM
To: Scully, Marcia L; Bennion, Sydney B; Miyashiro, Jody M
Subject: FW: Comments on Official Statement
Attachments: 2012-1008 Comments on OS Response.pdf

-----Original Message-----

From: Espe, Debra [<mailto:DEspe@sdcwa.org>]
Sent: Monday, October 08, 2012 6:59 AM
To: Breaux, Gary M
Cc: John Foley (jvfoley@cox.net); agrunfeld@grunfeldlaw.com; Kightlinger, Jeffrey; Chin, Dawn; Steiner, Fern; Lewinger, Keith; Wilson, Doug
Subject: Comments on Official Statement

Dear Mr. Breaux,

Please find attached a letter from the Water Authority Delegates to MWD responding to your September 4, 2012 letter (Revised Appendix A).

Thank you.

Debbie S. Discar-Espe
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