



San Diego County Water Authority

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(858) 522-6600 FAX (858) 522-6568 www.sdcwa.org

March 13, 2012

John V. Foley, Chairman
and Members of the Board
Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, CA 90054-0153

Re: San Diego County Water Authority's Annexation

Chairman Foley and Members of the Board:

At yesterday's Finance and Insurance Committee meeting, a question was asked about annexation fees paid by the Water Authority, and was answered with the suggestion by staff that the Water Authority did not pay its "fair share" of Metropolitan costs when it annexed. There is no basis for this suggestion. Here are the facts.

The terms and conditions of the Water Authority's annexation to Metropolitan were set by resolution of the Metropolitan board of directors (Resolution no. 3216). The terms of annexation as required by MWD and accepted by the Water Authority were as follows:

1. The Water Authority was required to pay a special tax of \$13.045 million to MWD. That figure was determined by the amount of taxes attributable to the Water Authority and payable to MWD as if the Water Authority had been a member from the date of MWD's incorporation, including interest at the rate of 4% from the date the taxes would have accrued. The special tax also included \$300,000, which was the estimated value of lost power generation at Parker Dam due to the change in point of diversion of San Diego's Colorado River contract water from Imperial Dam to Lake Havasu. As required by MWD's resolution, the Water Authority paid the \$13.045 million in equal annual installments over 30 years, with no additional interest during those 30 years. In addition to payment of this special tax, after annexation the Water Authority territory was subject to the same future MWD taxes just as any other member agency.
2. The City of San Diego was required to assign to Metropolitan its fifth-priority Colorado River water right of 112,000 acre-feet per year. MWD provided no compensation for the water right and required that the San Diego water be

A public agency providing a safe and reliable water supply to the San Diego region

MEMBER AGENCIES

Carlsbad
Municipal Water District

City of Del Mar

City of Escondido

City of National City

City of Oceanside

City of Poway

City of San Diego

Fallbrook
Public Utility District

Helix Water District

Lakeside Water District

Olivenhain
Municipal Water District

Otay Water District

Padre Dam
Municipal Water District

Camp Pendleton
Marine Corps Base

Rainbow
Municipal Water District

Ramona
Municipal Water District

Rincon del Diablo
Municipal Water District

San Dieguito Water District

Santa Fe Irrigation District

South Bay Irrigation District

Vallecitos Water District

Valley Center
Municipal Water District

Vista Irrigation District

Yuima
Municipal Water District

**OTHER
REPRESENTATIVE**

County of San Diego

considered a MWD water supply in determining the Water Authority's Preferential Right as a member agency.

3. MWD would pay for half the cost of the San Diego Aqueduct (approximately \$7.5 million, the Water Authority paid the other \$7.5 million). In return, Metropolitan obtained the aqueduct north of the designated and current Point of Delivery (approximately 6 miles south of the Water Authority's northern boundary).

The history of the annexation is summarized in the attached excerpts of Water Authority and Metropolitan annual reports and letters from Metropolitan explaining the calculation of the payment obligation. The Water Authority has paid this obligation in full.

Also, at yesterday's meeting there was a question asked suggesting that certain areas of San Diego County outside of the Metropolitan and Water Authority service areas are receiving Metropolitan water without having been annexed to either agency. There is no truth to this suggestion. The boundary of Metropolitan within San Diego County is co-terminus with the Water Authority boundary. Metropolitan, pursuant to the Metropolitan Water District Act, limits service of Metropolitan water to use within its service territory, except for certain supply contracts authorized by section 131 or surplus water sales authorized by section 132.

Sincerely,



Daniel S. Hentschke
General Counsel

Attachment

SAN DIEGO COUNTY WATER AUTHORITY

SECOND ANNUAL REPORT

For Period

July 1, 1946 to June 30, 1948

J. L. BURKHOLDER

GENERAL MANAGER AND CHIEF ENGINEER



SAN DIEGO, CALIFORNIA

1948

SECTION II

THE METROPOLITAN WATER DISTRICT

Negotiations leading to an agreement on the terms and conditions under which the Authority might annex its corporate area to The Metropolitan Water District of Southern California have been described in the First Annual Report. On April 19, 1946, the Authority Board of Directors formally accepted the principles and conditions governing the proposed annexation as set forth in the District's communication of April 5, 1946. Steps were then taken to complete the many legal procedures required to effect the annexation. The Authority electors on November 5, 1946, by more than a 14 to 1 majority voted to annex the corporate area of the Authority to The Metropolitan Water District of Southern California. The results of the election were deposited with the Secretary of State, and on December 17, 1946, the Authority area became the fifteenth agency to hold membership in the District.

Annexation of Authority to District

Under the terms of annexation, the Authority will pay the District, over a period of thirty years, a sum of \$13,045,000, in approximate equal installments, without interest, and pay the future assessments levied by the District. The District in turn will reimburse the Authority for the true cost of the northerly one-half of the San Diego Aqueduct, estimated at \$7,250,000, at the rate of \$250,000 annually, and will assume the operation and maintenance of this section of the aqueduct, and increase its capacity when the water demand makes this necessary. Ownership of this section of the aqueduct will be transferred by the Authority to the District when the United States is reimbursed for the cost and title thereto is received by the Authority.

Annexation of the Authority to the District was conditioned upon the merger of the Colorado River water rights of the City and/or County of San Diego with the water rights of the Metropolitan Water District. The contract providing for the merger was executed on behalf of the United States, The City of San Diego, the San Diego County Water Authority, and the Metropolitan Water District as of October 4, 1946, and was approved by a vote of a majority of the electors of the City and the Authority on November 5, 1946. Under its terms the District will administer the combined water rights of 1,212,000 acre-feet per annum to be diverted from the Colorado River at the intake of the Colorado River Aqueduct above Parker Dam.

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

REPORT FOR THE FISCAL YEAR


July 1, 1946 to June 30, 1947

JULIAN HINDS
GENERAL MANAGER AND CHIEF ENGINEER



LOS ANGELES, CALIFORNIA

1 9 4 7



CHAPTER 6

LEGAL

THE legal department works with the Board of Directors and with the other District departments in supervising the legal features of contracts, purchases, annexations, tax levies, and other legislative and administrative functions. A large part of the time and effort of the legal staff thus is reflected in the work performed by the other departments.

Personnel

There has been no change in the personnel of the legal department during the fiscal year last past. The staff consists of four professional men, that is, the general counsel, assistant general counsel and two deputies. The secretarial staff includes four women, one of whom acts as the District representative in its relations with its industrial accident insurance carrier, and supervises all cases still held over from the time during which the District carried its own risk in workmen's compensation cases. Outside the office, the District regularly retains a part-time legal representative for legislative work with the California State Legislature. Riverside counsel is regularly employed for work, particularly litigation, in that county. Special counsel in pending litigation is retained and used as required on a per diem basis.

Annexation of San Diego County Water Authority

During the fiscal year, proceedings were completed for the annexation to the Metropolitan Water District of the San Diego County Water Authority. The City of San Diego in 1933 had entered into a contract with the United States, through the Secretary of the Interior, for the delivery of Colorado River water up to 112,000 acre feet per annum for use in the City and in the County of San Diego. The United States, without making any arrangement for a water supply, had undertaken the construction of an aqueduct extending from the west portal of the District's San Jacinto tunnel to the San Vicente reservoir near San Diego, for the protection of its naval and military installations in the San

Diego area. The City of San Diego had entered into a lease-contract with the United States, under which the city had agreed to assume possession and control of the aqueduct so constructed, upon its completion, and to pay to the United States as rental the sum of \$500,000 per annum. Upon completion of payment of such rental in an amount equal to the true cost (estimated to be \$14,500,000), exclusive of interest, title was to pass to the city. The city also agreed to "diligently pursue * * * legal steps * * * to secure an adequate supply of water from the Metropolitan Water District." Contingent upon annexation to the Metropolitan Water District, the lease-contract was assigned to the San Diego County Water Authority.

The conditions of annexation fixed by the Board of Directors of the District (Resolution 3612) required the merger of the San Diego water delivery contract with that of the District. This, in turn, involved a change in the point of diversion from the place fixed in the San Diego water delivery contract (Imperial Dam) to a point above Parker Dam power plant. To the extent of the diversion of water for use in the San Diego area, the change impaired the power privilege at Parker Dam now exercised in full by the United States, but in which, after 1952, the United States will have a half interest. It was agreed that the power privilege of the United States at Parker Dam should be kept intact. A contract was made between the District and the Southern California Edison Company for the furnishing of the replacement energy required prior to the time when units 3 and 4 at Parker power plant shall be placed in District service (1952). After that time the United States will have the right to one half the falling water, determined as though the water diverted for the San Diego area were a part of the water passing Parker Dam. The estimated capitalized cost to the District of protecting the power privilege at Parker Dam was added to the amount to be raised by the levy of a special tax in the area of the Authority.

The District agreed to deliver water to the San Diego County Water Authority by means of the aqueduct under construction by the United States. The point of delivery was fixed as in the San Diego aqueduct at the half-way point (measured by cost, not by distance). The aqueduct northerly of the point of delivery of water is to be operated and maintained by the District, and the District will contribute \$250,000 per annum toward the repayment of its cost, and ultimately will take title to the northerly one half. The special tax to be levied on taxable property within the Author-

ity (including the capitalized cost of replacement energy as hereinabove mentioned) was fixed at \$13,045,000. That amount will be raised by substantially equal annual levies over a period of thirty years. Under these conditions the annexation was completed, effective as of December 17, 1946.

Annexations to Coastal Municipal Water District

At the commencement of the fiscal year proceedings were pending for the annexation to Coastal Municipal Water District and thereby to the Metropolitan Water District, of the unincorporated area in the vicinity of Costa Mesa known as Fairview Farms, of the corporate area of the City of Brea, and of the corporate area of the City of Newport Beach (excepting those portions included within Coastal Municipal Water District at the time of its incorporation in 1941 and subsequently annexed to the City of Newport Beach). Elections were held in these areas on September 10, 1946, resulting in the annexation of the Fairview Farms and the City of Brea areas upon the terms and conditions fixed by the Board of Directors of the Metropolitan Water District in granting consent to such annexations pursuant to the request of the Board of Directors of Coastal Municipal Water District. The annexation proposition was defeated in the City of Newport Beach.

Litigation

The District has been relatively free from litigation during the past fiscal year. There are five cases pending in which injunctive relief is sought against the District because of seepage into the San Jacinto tunnel (Hemet Packing Co. vs. Metropolitan Water District; Leland D. Houk vs. Metropolitan Water District; Nuevo Water Company vs. Metropolitan Water District; Centinela Land Company vs. Metropolitan Water District; and Charles Elman vs. Metropolitan Water District). It is alleged that such seepage has an adverse effect on ground water in the valley lying westerly of the San Jacinto mountain block. In two of the cases, judgment for money damages also is sought. The District entered demurrers to the complaints in all five cases, but the demurrers have not been set for hearing. The complainants are awaiting the outcome of grouting operations now in progress in the tunnel. The District denies that its operations have affected the valley ground water.

A sixth case (Elsinore Naval and Military School vs. Temescal Water Company, Metropolitan Water District, et al.), in which it was alleged that Lake Elsinore had been adversely affected by the District operations, was dismissed on motion of the complainants.

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

306 WEST THIRD STREET
LOS ANGELES, CALIFORNIA

April 5, 1946



W. P. WHITSETT, CHAIRMAN
FRANKUN THOMAS, VICE-CHAIRMAN
SECRETARY
E. P. HARGOOD

ANAHEIM
BEVERLY HILLS
BURBANK
COMPTON
FULLERTON
GLENDALE
LONG BEACH
LOS ANGELES
PASADENA
SAN MARINO
SANTA ANA
SANTA MONICA
TORRANCE
COASTAL MUNICIPAL
WATER DISTRICT

RECEIVED

APR 9 1946

J. L. BURKHOLDER

San Diego County Water Authority
314 Union Building
San Diego 1, California

Gentlemen:

The Board of Directors of The Metropolitan Water District of Southern California acknowledges receipt of your letter of April 3, 1946, over the signature of Mr. Heilbron, enclosing a copy of your Resolution No. 14 entitled "A Resolution Applying to the Board of Directors of The Metropolitan Water District of Southern California for Consent to Annex."

This Board will be pleased to consent to the proposed annexation upon the conditions hereinafter indicated.

In the formal statement of the terms and conditions which will form the basis of the required annexation election, it will be necessary to specify the aggregate amount to be raised by special tax as described in item 2 hereof. It will be impossible to complete annexation proceedings at a time early enough to permit levy of District taxes in the area of the Authority during the fiscal year 1946-47. For that reason the amount of the special tax ordinarily referred to as "back taxes" must be ascertained with reference to the 1946-47 assessed valuation. These figures are not yet available. It will also be necessary to secure execution of a definitive contract arranging for the merger of rights under water delivery contracts, as more fully described in item 3 hereof. It is, therefore, impossible at this date to fix, in the manner provided by law, the conditions of annexation. However, this Board is in a position to indicate the basic principles of such conditions as follows:

1. Annexation shall be completed during the fiscal year 1946-47 and prior to January 1, 1947.

2. In addition to the regular District tax, there shall be levied by the District upon taxable property in the Authority a special tax, computed to equal the amount which would have been levied on the area of the Authority, had the area been a part of the Metropolitan Water District from the date of its incorporation (including interest at the rate of 4% from the respective dates of delinquency to date of annexation). On the basis of information now

available, the aggregate amount of such special tax will approximate \$13,000,000. This figure is believed to be substantially correct, but is subject to revision when the assessed valuations for the fiscal year 1946-47 shall be available, or in the event that, prior to the final fixing of conditions, there shall be any substantial change in the area included within the Authority.

The amount of this special tax so determined will be payable, without interest, in substantially equal annual installments over a period of 30 years, commencing with the fiscal year 1947-48. On the basis of the foregoing estimate, such annual installments will approximate \$433,000 per annum. With the exception of the 30-year period of payment of the special tax which has heretofore been fixed as 20 years, this condition is the same as has been required of other areas previously annexed.

3. The rights to Colorado River water which the City of San Diego holds for the benefit of its own area and area within the County of San Diego under contract with the United States, dated February 15, 1933, made pursuant to the terms of the Boulder Canyon Project Act, shall be merged with the rights of the Metropolitan Water District under a similar contract.

The contract providing for the merger should be in definitive form prior to the formal fixing of conditions of annexation, so that it could be therein referred to. It is estimated that such contract can be completed prior to the time when the assessed valuations of the fiscal year 1946-47 will be available.

4. The City of San Diego is party to a contract dated October 17, 1945, under which the United States has agreed to construct an aqueduct from a point near the west portal of the San Jacinto tunnel in Riverside County to San Vicente reservoir in San Diego County, and under which the City is obligated to pay to the United States, without interest, the true cost of said aqueduct as defined in said contract (estimated to be \$15,000,000), at the rate of \$500,000 per year. Upon completion of payment to the United States of the true cost, title to the aqueduct is to be transferred to the City or its successors in interest. It is assumed that by appropriate contractual arrangements the Authority will become the successor of the City. At the end of the repayment period, title to the northerly portion of said aqueduct (fixed as stated in item 5 hereof) shall be transferred to the District and, in consideration of such transfer, the District will pay to the

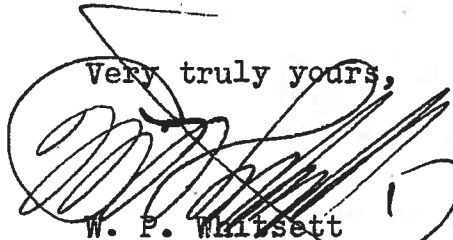
Authority one-half of the true cost of said aqueduct, determined as provided in Article 3 of said contract of October 17, 1945. Such payment shall be made at the rate of \$250,000 per year, commencing concurrently with the commencement of payment by the City or the Authority to the United States under said contract, and continuing until an amount equal to one-half of such true cost shall have been paid.

5. By means of the said San Jacinto-San Vicente aqueduct, the District will deliver water to the Authority at a convenient point on said aqueduct, which will be specified in the conditions of annexation, such point being so placed that the cost of that part of the aqueduct lying northerly therefrom will represent substantially one-half of the total cost of the said aqueduct. The District, under these circumstances, will be responsible for the enlargement or paralleling of the aqueduct northerly of said point when, in the future, increased capacity shall be required. In the event that for any reason beyond the control of the District said aqueduct shall cease to be available for delivery of water to said point, delivery shall be made at or near the west portal of the San Jacinto tunnel.

If the conditions hereinabove indicated are acceptable to the Authority, immediate advice to that effect will be appreciated, whereupon work will be started, looking toward the preparation of the required contracts and the definitive statement of the conditions herein outlined, which statement will form the basis for the proposed annexation election.

This Board is deeply appreciative of the sincerity and earnestness with which the representatives of the Authority and of the City of San Diego have worked with representatives of the Metropolitan Water District in preliminary phases of annexation negotiations. It is hoped that the conditions herein outlined will be acceptable and that the cordial relations which have developed will continue.

Very truly yours,



W. P. Whitsett

Chairman, Board of Directors
The Metropolitan Water District
of Southern California

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

306 WEST THIRD STREET
LOS ANGELES 13, CALIFORNIA

OFFICE OF
CONTROLLER

9 March 1953

Mr. J. L. Burkholder
314-321 Land Title Bldg.
San Diego 1, California

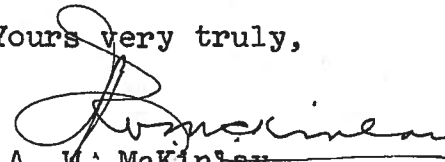
Dear Mr. Burkholder:

Attached is a copy of a memorandum in the files relating to annexation of the Authority to this District.

I am also attaching photostat of letter on the subject by the Chief Electrical Engineer to the General Manager and Chief Engineer dated October 2, 1946, to which is attached the tables by which the power loss revenue was determined.

I believe these will complete your history on the subject.

Yours very truly,


A. W. McKinlay
Controller

Enc.-2

RECEIVED
MAR 10 1953

San Diego County Water Authority

RSH; CLR. RSH 3/11/53

Board files D.P.M.

CITIES OF THE METROPOLITAN WATER DISTRICT
ANAHEIM BEVERLY HILLS BURBANK COMPTON FULLERTON GLENDALE LONG BEACH LOS ANGELES PASADENA
SAN MARINO SANTA ANA SANTA MONICA TORRANCE

MUNICIPAL WATER DISTRICTS
CHINO BASIN COASTAL EASTERN ORANGE COUNTY POMONA VALLEY WEST BASIN
AND
SAN DIEGO COUNTY WATER AUTHORITY

SAN DIEGO COUNTY WATER AUTHORITY

Assessments 1929-1930 to 1945-1946, incl.

Secured		\$ 8,700,128.11
Unsecured		<u>769,227.92</u>
		9,469,356.03

Interest on Assessments @ 4% to 7/1/46

1/2 Secured		\$876,631.56
1/2 Secured		811,381.25
Unsecured		<u>100,457.70</u>
		1,788,470.51

Assessment 1946-47

Secured - \$238,148,600 @ 48¢		1,143,113.28
Unsecured - 30,254,420 @ 50¢		151,272.10

Interest on \$9,469,356.03 @ 4% from 7/1/46 to 1/1/47		189,387.12
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Additional for increase in Assessed Valuation Lakeside area		<u>3,340.00</u>
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Total		\$12,744,939.04
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Plus charge for diversion of water at Parker Dam		<u>300,000.00</u>
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		<u>\$13,044,939.04</u>
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Say		\$13,045,000.00
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