



San Diego County Water Authority

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October 9, 2016

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

MEMBER AGENCIES

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Municipal Water District

City of Del Mar

City of Escondido

City of National City

City of Oceanside

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City of San Diego

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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

RE: Board Agenda Item 8-2: Adopt CEQA determination and adopt Policy Principle on Watershed Management - OPPOSE UNLESS AMENDED

Dear Chairman Record and Board Members:

We believe it is important that MWD have strong legislative policy principles supporting watershed management; however, we must oppose Board Memo 8-2, unless amended to address the issues listed below, after presentation of a more complete staff report and board deliberation. Staff states in the last paragraph of Board Memo 8-2 that this "update" is "consistent with the substance" of the principles adopted in 2000, going on to suggest that only five modest changes have been made. But review of Attachment 3, which is a redline of the existing and "updated" language, shows that material changes are being made that have not been explained or even noted by staff in Board Memo 8-2.

- 1. Board Memo 8-2 changes "Legislative Policy Principles" to "Policy Principles":** Existing board policy was developed as legislative policy principles, not as general "policy principles" that could apply in many contexts and have implications beyond the scope of proposed state and federal legislation. See the two prior board memos referenced and attached to Board Memo 8-2, namely, April 11, 2000 Board Memo 8-4 RE: *Legislative Policy Principles* on Watershed Management and January 10, 1995 Board Memo 8-3 RE: *Legislative Policy Principles* on Watershed Management (emphasis added). It's clear that a fundamental change is being made from the existing Legislative Policy Principles to a set of criteria for MWD's direct engagement in the funding and implementation of watershed management programs (in fact, a whole new section with this title is included in the proposed Policy Principles). Board Memo 8-2 is highly misleading in failing to identify, let alone explain the many implications of the fundamental changes that are being proposed by staff, some of which are discussed below.
- 2. The proposed Policy Principles include blind support for more regulation.** Existing board policy addresses legislative proposals, not support for implementing or even independent regulatory action affecting not only MWD member agencies, but all of the many other water agencies and cities in MWD's service territory.
- 3. The proposed Policy Principles have deleted historical language recognizing the primary role of local agencies in groundwater management and land-use planning.** The "Policy Principles" have changed the requirement to recognize "local primacy in basin management

and land-use" to one recognizing "local and regional primacy in the management of surface and ground water resources in basin management and land-use planning." See bullet #4 at Attachment 3, Page 1 of 3. We doubt groundwater management agencies and cities in MWD's service territory would agree with this change and characterization.

4. The proposed Policy Principles inexplicably delete the current requirement that watershed management plans address all sources of pollutants within a watershed and consider the relative impacts of each source when developing and implementing control measures.

There is no reasonable explanation for deleting this requirement, which is consistent with federal law and a sensible prioritization of funding obligations in the development and implementation of watershed management plans by the appropriate parties in each watershed.

5. The existing Legislative Policy Principles do not include or authorize creation by MWD of "partnership-based programs" or use of MWD ratepayer dollars to pay costs that should rightfully be borne by polluters. It is impossible to derive from Board Memo 8-2 exactly what funding prioritization MWD staff is recommending; however, the Policy Principles clearly eliminate a "polluter pays first" model or even a goal of obtaining public (i.e., state and federal) funding before MWD offers ratepayer revenues to fund such "partnerships."

6. The proposed Policy Principles have eliminated all references to "fees" (and Government Code Section 66001) and substituted in its place the term "funding," to include the planned use of MWD ratepayer dollars. MWD is not a general purpose government and it is not authorized to collect revenue from its member agencies that exceed the cost of services provided to those agencies. Board Memo 8-2 includes absolutely no consideration or discussion of this fundamental limitation on the use of MWD revenues. We understand MWD's litigation position is that Proposition 26 and other cost-of-service laws and Constitutional limitations do not apply to MWD. For this reason, we will not belabor the point; however, if the Water Authority's rate litigation is not reversed on appeal, MWD will need to revisit Board Memo 8-2 and any plans it has to spend regional revenues on specific watershed-related activities that benefit some, but not all MWD member agencies. The Water Authority reserves any and all rights to challenge any unlawful MWD expenditures, charges, or other MWD actions or omissions.

In closing, we support review of the existing Legislative Policy Principles, which have not been updated for almost 20-years, and would certainly consider changes to the Legislative Policy Principles that are actually designed to update, rather than fundamentally change the nature of current board policy.



Michael T. Hogan
Director



Keith Lewinger
Director



Fern Steiner
Director