



San Diego County Water Authority

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May 9, 2017

Ms. Marcia Scully, General Counsel
Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, CA 90054-0153

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
- Vallejitos Water District
- Valley Center Municipal Water District
- Vista Irrigation District
- Yuima Municipal Water District

RE: **MWD Emergency Water Supply Agreement with LADWP:
NOTICE OF OBJECTION AND INTENT TO RECOVER ILLEGAL RATES AND CHARGES**

Dear Ms. Scully,

The purpose of this letter is to lodge, on behalf of the San Diego County Water Authority (“Water Authority”), an objection to the Emergency Water Supply Agreement (“Agreement”) between Metropolitan Water District of Southern California (“MWD”) and the Los Angeles Department of Water and Power (“LADWP” or “LA”), which was added by MWD as a late "committee item" to the April meeting agenda of the MWD Engineering and Operations Committee (where it is described as the "Los Angeles Emergency Supply Management Program"); and, to put LADWP, MWD, and all MWD member agencies on notice of the Water Authority's intent to recover the share of costs it is being forced to subsidize under the Agreement. Further, we dispute that the General Manager has discretion or authority under MWD's Administrative Code to execute this Agreement without Board approval. Additionally, we believe this Agreement shows yet another example of MWD acting to unfairly cross-subsidize LADWP at the expense of the Water Authority and other MWD member agencies.

Functionally, MWD’s General Manager decided to give LADWP free water wheeling and storage in MWD conveyance and storage facilities that have been paid for by all MWD member agencies. Neither the General Manager nor MWD is allowed to subsidize one customer at the expense of other member agency customers in this manner. Such cross-subsidization is unlawful for all the reasons stated in our rate litigation with MWD¹, and violates MWD’s own Act and Administrative Code.

During the April Engineering and Operations Committee meeting, staff correctly described the Agreement as a water exchange (the audio link and a printed excerpt of the meeting transcript are included as part of the attached Technical Appendix). The General Manager acknowledged under questioning by Board members that MWD staff

¹ And thus not further detailed here.

did not conduct any analysis of the costs or benefits associated with the Agreement. Rather, the explanation provided to the Board -- whose approval of the Agreement was not requested by the General Manager -- was that the General Manager concluded, without any actual analysis, that this is a "fair exchange." However, there are a number of significant and material unlawful actions in regard to such a decision based on MWD's own Act and Administrative Code.

1. *The Agreement violates Section 134 of the MWD Act because the General Manager has failed to impose uniform rates.*

MWD Act Section 134 requires MWD to establish and collect uniform rates for like classes of service throughout the district, including the wheeling rate established in Section 4405 and the Capacity Charge established in Section 4403. The General Manager does not have discretion to charge rates that are not uniform, under a "good neighbor" policy as stated by the General Manager, or otherwise. As a result, the Agreement violates Section 134 of the MWD Act.

2. *The General Manager has not complied with Section 4207(c) of the MWD Administrative Code, applicable to the Exchange of Water.*

MWD Administrative Code Section 4207 governs agreements for the exchange of water; subpart (c) provides as follows (emphases added):

(c) The General Manager is authorized to enter into any economically beneficial water exchange agreement, in form approved by the General Counsel, without prior Board approval upon a determination that the exchange provides water quality benefits. The annual total of all exchanges under this subsection authority shall not exceed 50,000 acre-feet. The annual cumulative net exchange cost of exchanges under this subsection shall not exceed \$500,000. Water exchanges authorized under this subsection are exempt from competitive bidding requirements under the terms of Administrative Code Section 8103. Such agreement shall be reported to the Board at the next meeting after which it is made.

Here, it is clear that the Agreement violates Section 4207 because:

- No determination was made that the Agreement provides water quality benefits; all staff said (without any supporting analysis or data), was that movement of the water under MWD's Article 55 rights "could" result in an improvement in water quality.
- The General Manager stated that he has done other exchanges this year, with Castaic and Central Coast, the volume of which was not described or accounted for in the staff report. The Agreement proposes to exchange 50,000 - 200,000 acre-feet. Given these facts and volumes, it is not possible that the Agreement

complies with Section 4207 (c), limiting the total of all exchanges to 50,000 acre-feet annually.

- Although no determination was made by MWD staff of the exchange costs associated with the Agreement, the Water Authority has calculated the costs at from \$10 million to \$40 million, far in excess of the \$500,000 limitation of Section 4207(c) (see Technical Appendix and further discussion below).

3. *The General Manager has not complied with Section 4405 of the MWD Administrative Code, applicable to provision of Wheeling Service.*

MWD Administrative Code Section 4405 provides as follows (emphases added):

(a) Subject to the General Manager's determination of available system capacity, Metropolitan will offer wheeling service. The determination whether there is unused capacity in Metropolitan's conveyance system, shall be made by the General Manager on a case-by-case basis in response to particular requests for wheeling.

(b) The rates for wheeling service shall include the System Access Rate, Water Stewardship Rate and, for treated water, the Treatment Surcharge, as set forth in Section 4401. In addition, wheeling parties must pay for their own cost for power (if such power can be scheduled by the District) or pay the District for the actual cost (not system average) of power service utilized for delivery of the wheeled water. Further, wheeling parties shall be assessed an administration fee of not less than \$5,000 per transaction.

It is unclear from the record whether the General Manager made any determination of available system capacity under Section 4405 (a). At one point during the Committee presentation, staff stated (again, without any supporting analysis or data), that MWD "does have flexibility in its distribution system to provide assistance to the City of Los Angeles." Later during the presentation, however, staff stated that wheeling and storage of LADWP's water under the Agreement might result in a lost opportunity for MWD to store its own water supplies available from the State Water Project, and that MWD would have the burden to "demonstrate" to LA that it had forgone water supplies available for storage. What is clear from the record is that LA will be wheeling water through MWD facilities, and that Section 4405 requires that it pay the System Access Rate and Water Stewardship Rate (staff has indicated LA will pay the treatment surcharge if it takes treated water) for the transportation of that water.

Therefore, it is clear that the Agreement violates Section 4405.

4. *The General Manager has not complied with Section 4403 of the MWD Administrative Code, providing for imposition of a Capacity Charge.*

Section 4403(a) of the MWD Administrative Code provides that:

(a) Beginning January 1, 2004, the capacity charge shall be payable by each member agency for system capacity based on the maximum summer day demand placed on the system between May 1 and September 30 for the three-calendar year period ending December 31, 2002, and thereafter for a rolling three-calendar year period.

Section 10.1 of MWD's Rate Structure Administrative Procedures Handbook expressly provides that wheeled water is required to be included in the measurement of the peak day flow for the purpose of billing the Capacity Charge to member agencies. The General Manager has failed to account for or impose a Capacity Charge under the Agreement as required by Administrative Code Section 4403(a) and Section 10.1 of MWD's Rate Structure Administrative Procedures Handbook. As a result, LA is not paying a proper share of capacity charges in accordance with the MWD Act, Administrative Code and Cost of Service.

5. The General Manager has also failed to charge LA an appropriate share of costs for the use of MWD's WSDM storage facilities.

The General Manager has failed in the Agreement to account for or charge LA an appropriate share of costs for the use of MWD's Water Surplus and Drought Management ("WSDM") storage facilities, which have been paid for by all of MWD's member agency customers. The attached Technical Appendix calculates these costs are at least \$36 per acre-foot.

6. The General Manager has agreed to compensation that has no value, and may actually be detrimental to MWD and its other member agencies.

First, it is not as though MWD and LA are not well aware of the applicability of wheeling rates and charges for the use of MWD facilities. LA constructed its own connection to receive water via State Water Project facilities at Antelope Valley East Kern precisely in order to avoid these costs. Now, faced with the need to use MWD's facilities after all, due to the extraordinary water supply conditions, LA once again refuses to pay applicable rates and charges, instead concocting another special agreement.

As more fully described in the attached Technical Appendix, based on MWD staff estimates of excess LA water of 50,000-200,000 AF and an equivalent 1 for 2 exchange return of 25,000-100,000 AF, MWD is foregoing recovery of its cost of service under the Agreement ranging between approximately \$10 million and \$40 million based on 2018 calendar rates and higher if returned in calendar year 2019.

In this transaction MWD would be receiving water from LA, either at the 3:2 or 2:1 exchange rate. However, this water has little or no financial or water supply benefit to MWD, assuming, as is very likely, that it has excess supply on both the CRA and SWP in

2017 that already equal or exceed MWD's put capacity in all of its storage accounts. Unless properly accounted for, LA's water could displace MWD supplies from the SWP which MWD stores for the benefit of its member agencies during droughts or emergencies. Additionally, any water MWD commits to deliver to LA in the future creates a future liability for MWD and any potential water quantity MWD may receive from the unbalanced exchange in the future is speculative.

Leaving aside entirely the issues contained in the Water Authority's complaint challenging the rates adopted in 2016², MWD has failed under this Agreement to even impose the rates and charges as established by the MWD Board of Directors. The General Manager does not have discretion to pick and choose whether to apply the rates and charges adopted by the Board; indeed, the Board itself is required to impose uniform rates. The General Manager's actions are arbitrary and capricious; the MWD Board of Directors should reverse them and direct the General Manager to apply rates and charges under the Agreement in full compliance with MWD's Act and Administrative Code. If the Agreement cannot be canceled, the Water Authority intends to seek damages for all losses created by this unlawful Agreement.

Sincerely,

/s/ Mark J. Hattam

Mark J. Hattam
General Counsel

Enclosure
Technical Appendix

cc: SDCWA Board of Directors
MWD Board of Directors

² All of which apply here, in addition to the MWD Act and Code violations addressed above.

Technical Appendix

Revenue Impacts to MWD of Los Angeles Emergency Water Supply Agreement

Technical Appendix
Revenue Impacts to MWD of Los Angeles (LADWP) Emergency Water Supply Agreement

Agreement Details¹

- MWD may accept excess LA runoff water beginning in 2017 and extending through March 31, 2018.
- Excess LA water is estimated at between 50,000 and 200,000 acre-feet, depending upon the local demands within the City of Los Angeles.
- MWD has stated that capacity at the Jensen Plant and on the East Branch of the California Aqueduct is available to accept excess LA water.
- MWD may take LA water at the Jensen Treatment Plant and through the East Branch of the California Aqueduct using MWD's rights in the SWP to transport non-SWP water through SWP facilities.
- Excess LA water will be stored by MWD and returned to LADWP when requested prior to December 31, 2019.
- For every three acre-feet of LA water MWD accepts during 2017, MWD will return two-acre-feet of water by December 31, 2017 if requested by LADWP.
- For every two acre-feet of LA water MWD accepts through March 31, 2018, MWD will return one acre-foot by December 31, 2019 if requested by LADWP.
- Balance of any LA water not returned to LADWP by December 31, 2019 must be purchased by LADWP at MWD's then full service rate.
- Any LA water accepted by MWD that displaces SWP Article 21 water (interruptible water), forces MWD to spill SWP supplies, or interferes with delivery of CRA water reduces on an equivalent basis LA water that MWD must return. (Note: It is unclear if this provision applies to LA water stored in lieu of storing unused portions of MWD's available Table A water.)
- MWD returns water through its distribution system at a MWD service connection with LADWP or at another mutually agreed location. (Note: It is unclear if a mutually agreed location must be within MWD's service area, or if the location is with another MWD member agency, how MWD will account for the potential displaced sales as a result of this "return".)
- If water is returned at a service connection, LADWP will pay MWD's RTS charge and treatment surcharge if returned at a treated water service connection.
- LA is responsible for additional costs such as any modifications to MWD facilities to receive or treat LA supplies, sludge removal costs, and for installation of a temporary meter at the delivery point near Jensen.

MWD's Description of Potential Benefits

- Reduction in runoff into LA's dust mitigation infrastructure at Owens Lake;
- Protect endangered species in Upper Owens River Gorge;
- Provide storage and return for excess LA runoff that would otherwise be lost;

¹ Except as otherwise noted, Agreement terms are as described in LADWP Board Letter, dated March 31, 2017, Approval of Emergency Water Supply Agreement with the Metropolitan Water District of Southern California. MWD staff did not provide any board report or analysis of the Agreement.

- Additional hydroelectric power generation and recovery in SWP East Branch;
- Availability of Metropolitan's storage, interconnected regional delivery network, including Metropolitan's right to use SWP facilities for conveyance of non-SWP water; and
- Potential avoided SWP power charges on exchange water MWD receives and keeps.

Note: All of these are LADWP benefits, not MWD benefits, except additional power generation and avoided SWP power charges.

Applicable MWD Act, Administrative Code and Board Policies²

1) MWD Act

Section 134 [Adequacy of Water Rates; Uniformity of Rates]

The Board, so far as practicable, shall fix such rate or rates for water as will result in revenue which, together with revenue from any water stand-by or availability service charge or assessment, will pay the operating expenses of the district, provide for repairs and maintenance, provide for payment of the purchase price or other charges for property or services or other rights acquired by the district, and provide for the payment of the interest and principal of the bonded debt subject to the applicable provisions of this act authorizing the issuance and retirement of the bonds. Those rates, subject to the provisions of this chapter, shall be uniform for like classes of service throughout the district.

2) Administrative Code

4207. Exchange of Water.

(a) The District's policy is that any exchange of Colorado River water for State Project water between the District and any state water service contractors shall be based upon such contractor paying all of the costs associated with delivery of State water at such contractor's delivery point, or at such other point as may be mutually agreed upon, which would result in the lowest cost to the District under such exchange.

(b) If two or more member public agencies of the District desire to enter into a water exchange arrangement, the District will cooperate in such an arrangement, subject to available capacity in the District's facilities and subject to availability of water for such exchange purposes, as determined by the District.

² All references to the Administrative Code and Administrative Procedures Handbook are solely to identify the relevant provisions and Board policies, not to express any opinion on the propriety, efficacy or legality of MWD's rates and charges.

(c) The General Manager is authorized to enter into any economically beneficial water exchange agreement, in form approved by the General Counsel, without prior Board approval upon a determination that the exchange provides water quality benefits. The annual total of all exchanges under this subsection authority shall not exceed 50,000 acre-feet. The annual cumulative net exchange cost of exchanges under this subsection shall not exceed \$500,000. Water exchanges authorized under this subsection are exempt from competitive bidding requirements under the terms of Administrative Code Section 8103. Such agreement shall be reported to the Board at the next meeting after which it is made.

4405. Wheeling Service.

(a) Subject to the General Manager's determination of available system capacity, Metropolitan will offer wheeling service. The determination whether there is unused capacity in Metropolitan's conveyance system, shall be made by the General Manager on a case-by-case basis in response to particular requests for wheeling.

(b) The rates for wheeling service shall include the System Access Rate, Water Stewardship Rate and, for treated water, the Treatment Surcharge, as set forth in Section 4401. In addition, wheeling parties must pay for their own cost for power (if such power can be scheduled by the District) or pay the District for the actual cost (not system average) of power service utilized for delivery of the wheeled water. Further, wheeling parties shall be assessed an administration fee of not less than \$5,000 per transaction.

3) MWD Rate Structure Administrative Procedures Handbook³

10. Wheeling

Wheeling Service shall mean the use of Metropolitan's facilities, including its rights to use State Water Project facilities, to transport water not owned or controlled by Metropolitan to its member public agencies, in transactions entered into by Metropolitan for a period of up to one year.

Subject to the General Manager's determination of available system capacity, Metropolitan will offer wheeling service. The determination whether there is unused capacity in Metropolitan's conveyance system, shall be made by the General Manager on a case-by-case basis in response to particular requests for wheeling. The rates for wheeling service shall include the System Access Rate, Water Stewardship Rate and, for treated water, the Treatment Surcharge. In addition, wheeling parties must pay for their own cost for power (if such power can be scheduled by the District) or pay the District for the cost (not system average) of power services utilized for delivery of the wheeled water. Further, wheeling parties shall be assessed an administrative fee of not less than \$5,000 per transaction.

³ FY 2015/2016 Rate Structure Administrative Procedures Handbook, page 19.

10.1 Capacity Charge

Wheeled water will be included in the measurement of the peak day flow for the purpose of billing the Capacity Charge to member agencies.

10.2 Readiness to Serve Charge

Wheeled water will be included in the calculation of a member agency's Ten Year Rolling Average demands for allocating the RTS charge among member agencies.

4) Cost of Service Report

Customer Class⁴

Metropolitan, a wholesaler, serves one class of customers: its member agencies. These wholesale customers use Metropolitan's facilities differently and, therefore, receive different services from Metropolitan. These services are used to provide raw water, treated water, or wheeling services. Therefore, Metropolitan's service types are full service treated water service, full service untreated water service, and wheeling service, and the level of rate unbundling is appropriate given Metropolitan's mission to act regionally. By ensuring that charges recover only for functions involved in the applicable service, no cross-subsidy of costs exists. Metropolitan's COS process and resulting unbundled rate structure ensures that its wholesale customers pay for only those services they elect to receive.

System Access Rate⁵

The SAR is a volumetric system-wide rate charged on each acre-foot of water that is conveyed through Metropolitan's interconnected regional delivery network, including Metropolitan's right to use SWP facilities for conveyance of SWP and non-SWP water. All system users (member agency or third party) pay the SAR to use Metropolitan's interconnected regional delivery network.

Water Stewardship Rate⁶

The WSR is a volumetric, system-wide rate charged on each acre-foot of water that moves through the Metropolitan system.

MWD Storage, Water Supply and Demand Balance

- MWD storage assets generally consist of MWD in-region reservoirs and various storage programs in both the Colorado River Aqueduct and State Water Project systems.

⁴MWD FY 2016/17 and 2017/18 Cost of Service Report dated April 2016, page 87.

⁵ Ibid, page 92.

⁶ Ibid, page 95.

- The Net Book Value (NBV) of MWD storage assets for 2017 is approximately \$2 billion or nearly 25% of the NBV of all MWD fixed assets.⁷
- Total capacity in all of MWD's WSDM storage assets and accounts is about 5.3 million acre feet.⁸ As of January 1, 2017, storage levels were at nearly 1.3 million acre feet.⁹
- Under an 85 percent SWP allocation MWD has additional put capacity of about 1.266 million acre feet in all its WSDM storage accounts for 2017.¹⁰
- MWD's SWP allocation for 2017 is 85% of its Table A entitlement which translates to approximately 1,727,000 acre feet of SWP supplies. CRA supplies are 960,000 acre feet (which includes SDCWA's QSA supplies). Other transfers and exchanges are 39,000 acre feet. Total supplies equal 2,726,000 acre feet.¹¹
- Total MWD water supply demands and losses for 2017 equal 1,505,000 acre feet which includes SDCWA's exchange deliveries.¹²
- Total supplies in excess of total demands/losses are projected at 1,221,000 acre feet which is approximately 45,000 acre feet less than the total put capacity available in all of MWD's WSDM storage accounts for 2017.¹³
- Because MWD's 2017 SWP, CRA, and other supplies exceed demands and losses by nearly the same amount as MWD's 2017 put capacity in all its storage accounts, storage of LA water in 2017 would likely reduce MWD's ability to store its own SWP Table A supplies.

MWD Storage Costs

- MWD's FY 2017/18 revenue requirement for its emergency, drought, and regulating storage costs totals approximately \$135.6 million. Approximately \$600,000 is offset with storage power credits producing a net cost of \$135 million.¹⁴
- Total storage revenue requirements are allocated to the rate categories of supply (drought) in the amount of \$54.2 million (40%), RTS (emergency) in the amount of \$57.6 million (42%), and SAR and capacity charge (regulating) in the amount of \$23.8 million (18%).¹⁵

Since the cost of MWD's WSDM storage programs is allocated by MWD to its supply rate, LA should pay a pro rata share of these costs for storage of its water.

⁷ Ibid, page 66.

⁸ Excludes 626,000 acre feet of emergency storage.

⁹ MWD Water Surplus and Drought Management (WSDM) report, dated May 9, 2017, Attachment 2, Exhibit A.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ It should be noted that MWD's 2017 put capacity as described includes 261,000 acre feet of undetermined storage actions which may or may not be available and implemented.

¹⁴ MWD 2016/2017 and 2017/2018 Cost of Service Report dated April 2016, Schedule 17, page 89.

¹⁵ Ibid

Cost/Benefit Analysis¹⁶

- MWD has not provided any cost/benefit analysis of the LA Agreement. Other than an RTS charge, MWD does not collect any rates or charges under the Agreement.
- Based on provisions of the MWD Act, Administrative Code, Administrative Rate Structure Handbook and Cost of Service Report, MWD wheeling charges apply to the transaction. Based on cost of service requirements, storage charges should also apply for water stored beyond an operational storage period (one-year). Finally, Capacity charges should also apply to recover peaking costs.
- At MWD's Engineering & Operations Committee meeting on April 10, 2017,¹⁷ MWD staff stated it is unlikely that LADWP will request return of water in 2017 due to high aqueduct flows and local demand assumptions. However if water is returned in 2017, the wheeling rate should be applied as follows:

○ SAR	\$289/AF returned
○ WSR	\$52/AF returned
○ Power	N/A
Plus	RTS and CC charges Treatment Surcharge (if applicable)
(Less)	Credit for any hydro power recovery in the East Branch
- For water returned to LADWP in 2018 and 2019, the applicable wheeling rate applies, plus an annual storage charge, as follows based on 2018 Calendar Year rates:

○ SAR	\$299/AF
○ WSR	\$ 55/AF
○ Storage	<u>\$ 36/AF¹⁸</u>
Total Rate	\$390/AF
Plus	RTS and CC charges Treatment Surcharge (if applicable)
(Less)	Credit for any hydro power recovery in the East Branch ¹⁹
(Less)	Credit for any net avoided MWD SWP power charges ²⁰

¹⁶ This analysis assumes LADWP is charged according to MWD board wheeling policy, and 2017/18 Cost of Service Report.

¹⁷ http://mwdh2o.granicus.com/MediaPlayer.php?view_id=12&clip_id=5994

¹⁸ Pro rata revenue requirement for drought storage included in the total 2017/18 revenue requirement for supply rate (\$54.2 million/\$312.8 million = 17.5 %) recovered in the Tier 1 Supply Rate (17.5% x \$209/AF = \$36/AF)

¹⁹ All credits for power in the East Branch would be received for water placed into storage in 2017, therefore no credits would be earned in later years.

²⁰ MWD may avoid SWP power charges for excess LA water it receives in lieu of taking surplus SWP water. MWD net avoided SWP power charges include DWR power credits for power recoveries in the state aqueduct. For example, if SWP power charges are \$170/AF and state power credits are \$56/AF (1/3), then net avoided SWP power costs would equal \$114/AF. It should be noted that LA generates additional hydro power on its LA

- Assuming a 4.5 % escalation in 2019 rates, the total rate would increase to \$407/AF plus RTS and CC charges and any applicable treatment surcharge.
- Additional provision for cost of service impacts of water returned at mutually agreed location other than an LA service connection.
- Based on MWD staff estimates of excess LA water of 50,000-200,000 AF and an equivalent 1 for 2 exchange return of 25,000-100,000 AF, MWD is foregoing recovery of its wheeling charges under the current agreement ranging between approximately \$9 million and \$35.4 million plus an additional \$1 million to \$3.6 million WSDM storage costs for a total of \$10 million to \$40 million if returned during 2018 or 2019 based on 2018 Calendar Year rates. These amounts may be partially offset by credits for power generation and net avoided power costs if determined to be applicable.

Conclusion

In this transaction, MWD would be receiving water from LA, either at the 3:2 or 2:1 formula. However, this water has little or no benefit to MWD as it has excess supply on both the CRA and SWP in 2017 that could equal or exceed MWD's put capacity in all of its storage accounts. Under these conditions, if stored, LA's water is likely to displace MWD supplies from the SWP which MWD should store for the benefit of all of its member agencies for use during droughts or emergencies. Additionally, any water MWD commits to deliver to LA in the future creates a future liability for MWD; moreover, any potential water quantity MWD may receive from the unbalanced exchange in the future is speculative.

Aqueduct for excess water delivered to MWD in 3:2 or 2:1 exchange and that these power revenues should be credited to MWD similarly as state power recoveries are credited to MWD.

Los Angeles Department of Water & Power

March 31, 2017 Commissioner Action

**Approval of Emergency Water Supply Agreement with
Metropolitan Water District of Southern California**



RESOLUTION NO. _____

BOARD LETTER APPROVAL

A handwritten signature in black ink, appearing to read 'R. Harasick', written over a horizontal line.

RICHARD F. HARASICK
Senior Assistant General Manager
Water System

A handwritten signature in black ink, appearing to read 'M. Adams', written over a horizontal line.

MARTIN L. ADAMS
Chief Operating Officer

A handwritten signature in black ink, appearing to read 'D. Wright', written over a horizontal line.

DAVID H. WRIGHT
General Manager

DATE: March 31, 2017

SUBJECT: Approval of Emergency Water Supply Agreement With the Metropolitan Water District of Southern California

SUMMARY

On March 21, the Board of Water and Power Commissioners authorized the General Manager to implement actions set forth in Mayor Eric Garcetti's Emergency Proclamation of March 20, pertaining to the Los Angeles Aqueduct (LAA). LADWP is taking extraordinary measures to conserve and maximize the amount of water delivered to Los Angeles, including the reasonable and beneficial use of such water through storage in all available locations. Approval of the Emergency Water Supply Agreement (Agreement) will allow the Metropolitan Water District of Southern California (Metropolitan), on an emergency basis, to take excessive runoff from LADWP's LAA through March 31, 2018, in exchange for their later return of water. Approval of the Agreement will authorize the Senior Assistant General Manager – Water System, to execute on behalf of LADWP.

City Council approval is not required.

RECOMMENDATION

It is recommended that the Board of Water and Power Commissioners (Board) adopt the attached Resolution recommending execution of Agreement with Metropolitan.

ALTERNATIVES CONSIDERED

Other alternatives are to put this year's LAA excessive runoff to beneficial use. LADWP is taking all feasible steps to manage excessive runoff within its system and manage flood waters to the maximum extent possible. This Agreement is part of LADWP's plan to conserve and maximize the water delivered through the LAA.

FINANCIAL INFORMATION

LADWP will reimburse Metropolitan for the costs of any work required to prepare, add, or modify Metropolitan's facilities or processes for receipt and treatment of the LAA excess runoff.

LADWP will be responsible for all solids resulting from the commingling of this water with Metropolitan's supplies at the Jensen Treatment Plant.

BACKGROUND

On March 21, the Board authorized the General Manager to implement actions set forth in Mayor Garcetti's Emergency Proclamation of March 20, pertaining to the LAA. LADWP is taking extraordinary measures to conserve and maximize the amount of water delivered to Los Angeles, including the reasonable and beneficial use of such water through storage in all available locations. The Agreement will allow Metropolitan, on an emergency basis, take excess runoff from LADWP's LAA through March 31, 2018, in exchange for the later return of water by Metropolitan, subject to the following provisions:

- Metropolitan may, in its sole discretion, accept LAA excess runoff on an emergency basis (Emergency Supplies) at a combination of the Jensen Treatment Plant and the East Branch of the California Aqueduct.
- If LADWP requests that Metropolitan return water during 2017, for every three acre-feet of emergency supplies Metropolitan accepts through December 31, 2017, Metropolitan will return to LADWP two acre-feet of water by December 31, 2017.
- If LADWP requests that Metropolitan return water during 2018 or 2019, for every two acre-feet of Emergency Supplies Metropolitan accepts through March 31, 2018, Metropolitan will return to LADWP one acre-foot by December 31, 2019.
- Balance of any Emergency Supplies not returned to LADWP by December 31, 2019, will be purchased by LADWP at Metropolitan's full service rate, plus Metropolitan's treatment surcharge if returned at a treated water service connection, in accordance with Metropolitan's administrative code in effect at the time the water is returned.

- Metropolitan will return water only at times when Metropolitan determines that it has sufficient capacity to return the water through a Metropolitan service connection with LADWP or at another mutually agreed upon location.
- Any Emergency Supplies accepted that cause Metropolitan to lose water that would otherwise be available to Metropolitan is deemed rejected and returned to LADWP.

Agreement terminates after LADWP has purchased the balance of any remaining water after 2019.

ENVIRONMENTAL DETERMINATION

Determine that the water exchange is exempt pursuant to California Environmental Quality Act (CEQA) Guidelines 15269 (c). In accordance with Section 15269 (c) of the CEQA Guidelines, an activity is not subject to CEQA the actions are specific to event or mitigate an emergency. Therefore, in response to the Mayor's proclamation of emergency regarding LAA water, an Agreement to allow Metropolitan, on an emergency basis, to take excess runoff from LADWP's LAA through March 31, 2018, in exchange for the later return of water by Metropolitan is not subject to CEQA.

CITY ATTORNEY

The Office of the City Attorney reviewed and approved the Resolution and Agreement as to form and legality.

ATTACHMENTS

- Resolution
- Agreement

Resolution No. _____

WHEREAS, pursuant to this Emergency Water Supply Agreement (Agreement) between the Los Angeles Department of Water and Power (LADWP) and the Metropolitan Water District of Southern California (Metropolitan), Metropolitan will take, on an emergency basis, excess runoff from LADWP's Los Angeles Aqueduct (LAA) through March 31, 2018, in exchange for the later return of water by Metropolitan; and

WHEREAS, on March 20, 2017, the Mayor of the City of Los Angeles (City) proclaimed and declared a local emergency has arisen based on conditions of extreme peril to the safety of public property, infrastructure and environment and that such peril will impact the LAA, water gathering and delivery facilities, and its air quality mitigation facilities located within Mono, Inyo, Kern, and Los Angeles Counties and the City; and

WHEREAS, on March 21, 2017, the Board of Water and Power Commissioners authorized the General Manager to implement actions set forth in Mayor Eric Garcetti's Emergency Proclamation of March 20, 2017, pertaining to the LAA; and

WHEREAS, LADWP is taking extraordinary measures to conserve and maximize the amount of water delivered to Los Angeles, including the reasonable and beneficial use of such water through storage in all available locations.

NOW, THEREFORE, BE IT RESOLVED that the Agreement between LADWP and Metropolitan, approved as to form and legality by the City Attorney, and filed with the Secretary of the Board, is hereby approved.

BE IT FURTHER RESOLVED that the President or Vice President, or the General, or such person as the General Manager shall designate in writing, and the Secretary, Assistant Secretary, or the Acting Secretary of the Board are hereby authorized and directed to execute said contract for and on behalf of LADWP.

BE IT FURTHER RESOLVED that the Senior Assistant General Manager – Water System is hereby authorized and directed to execute said agreement for and on behalf of LADWP.

BE IT FURTHER RESOLVED, that the Senior Assistant General Manager – Water System is hereby authorized to execute, deliver and perform such ancillary documents and minor amendments, subject to City Attorney approval as to form and legality, in order to implement the provisions of the Agreement, provided any such amendments or ancillary documents do not increase the rates to be charged to LADWP under the Agreement.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of the Resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held

APPROVED AS TO FORM AND LEGALITY
MICHAEL N. FEUER, CITY ATTORNEY

~~MAR 31 2017~~
BY _____
JOHN A. CARVALHO
DEPUTY CITY ATTORNEY

Secretary

EMERGENCY WATER SUPPLY AGREEMENT

THIS AGREEMENT (Agreement) is made and effective as of _____, 2017 (Effective Date) by and between The Metropolitan Water District of Southern California (Metropolitan) and the Los Angeles Department of Water and Power (LADWP), (collectively the "Parties").

A. WHEREAS, on March 20, 2017, the Mayor of Los Angeles issued an Emergency Proclamation based on a finding that, "conditions of extreme peril to the safety of public property, infrastructure and environment have arisen and will impact the City of Los Angeles' Aqueduct, its water gathering facilities, its water delivery facilities and its air quality control facilities located within Mono, Inyo, Kern, Los Angeles Counties and the City of Los Angeles."

B. WHEREAS, the Emergency Proclamation states that massive amounts of snow and rain in the Eastern Sierra "has produced a snowpack equal to 241 percent of normal-to-date" and that LADWP "expects that it must manage an amount of water that is twice the amount of the Los Angeles' annual demand." The Emergency Proclamation further states that LADWP is taking extraordinary steps to conserve water, avoid inundating environmentally sensitive areas, protect the safety of dams, protect the endangered Owens Tui Chub habitat, and protect infrastructure associated with air quality improvements at Owens Lake.

C. WHEREAS, the Emergency Proclamation further states that, "the City of Los Angeles requests that all relevant California State and local agencies cooperate and assist in expediting a coordinated response..." to the current emergency.

D. WHEREAS, on March 28, 2017, the Los Angeles City Council adopted resolutions by four-fifths vote ratifying the Emergency Proclamation.

E. WHEREAS, in order to avoid potential adverse impacts to its facilities and the environment as described in the Emergency Declaration, LADWP has requested that, on an emergency basis, Metropolitan take excess supplies from LADWP's Los Angeles Aqueduct (LAA) through March 31, 2018 in exchange for the later return of water by Metropolitan.

F. WHEREAS, on March 6, 2017, the Parties entered into an agreement entitled, "Agreement for Flow Testing Treatment of LADWP Supplies at the Jensen Plant, Agreement No. AR1173," in order to evaluate the feasibility of longer term delivery and treatment of LAA supplies at Metropolitan's Joseph Jensen Water Treatment Plant (Jensen Plant). The Parties conducted such a test during March 7 through March 9, 2017.

G. WHEREAS, Metropolitan, under its State Water Project (SWP) contract, has participation rights in the SWP that include the right to transport non-SWP water through SWP facilities. Metropolitan will rely on this right to transport water under this

Agreement through the East Branch of the California Aqueduct from the LAA to Metropolitan.

H. WHEREAS, the Parties desire to enter into an exchange of water under the terms of this Agreement.

THEREFORE, the Parties agree as follows:

1. Delivery of Emergency Supplies from LADWP to Metropolitan. Beginning on the Effective Date of this Agreement and continuing through March 31, 2018, Metropolitan may, in its sole discretion, accept LAA emergency excess supplies (Emergency Supplies) at a combination of the Jensen Plant and the East Branch of the California Aqueduct (East Branch). Metropolitan has sole discretion to determine the maximum amount of Emergency Supplies it will accept from LADWP and whether to accept water, and how much to accept, at the Jensen Plant and at the East Branch. Metropolitan's ability to accept Emergency Supplies on the East Branch is expressly conditioned upon DWR approval pursuant to Section 7.

2. Return of Water from Metropolitan to LADWP. Metropolitan will return water to LADWP according to the following:

- a. If LADWP requests that Metropolitan return water during 2017, for every three acre-feet of Emergency Supplies Metropolitan accepts through December 31, 2017, Metropolitan will return to LADWP two acre-feet of water by December 31, 2017, subject also to Sections 2(d) and (e).
- b. If LADWP requests that Metropolitan return water during 2018 or 2019, for every two acre-feet of Emergency Supplies Metropolitan accepts through March 31, 2018, Metropolitan will return to LADWP one acre-foot by December 31, 2019, subject also to Sections 2(d) and (e).
- c. The balance of any Emergency Supplies not returned to LADWP by December 31, 2019, will be returned to LADWP at Metropolitan's full service rate, plus Metropolitan's treatment surcharge if returned at a treated water service connection, in accordance with Metropolitan's administrative code in effect at the time the water is returned, subject also to Section 2(e).
- d. Metropolitan will return water under Section 2(a) or (b) only at times when Metropolitan determines, in its sole discretion, that it has sufficient capacity to return the water through a Metropolitan service connection with LADWP or at another mutually agreed upon location. If water is returned at a service connection, LADWP will pay Metropolitan's readiness-to-serve charge, and additionally, if water is returned at a treated water service connection, LADWP will pay Metropolitan's treatment surcharge.

- e. Any Emergency Supplies accepted under Section 1 that cause Metropolitan to lose water that would otherwise be available to Metropolitan is deemed rejected and returned to LADWP thereby reducing the amount of water to be returned under Section 2(a)-(c) by an equivalent amount. For example, if accepting Emergency Supplies prevents Metropolitan from taking SWP Article 21 water, forces Metropolitan to spill SWP supplies, or interferes with the delivery of Metropolitan's Colorado River water supplies, such loss will be calculated as returned to LADWP reducing the amount of water subject to return under Section 2(a)-(c) by an equivalent amount. Metropolitan shall, at the earliest opportunity, notify LADWP of any lost water. LADWP understands that Metropolitan may not know of lost water until after it is lost.
- f. As an example of how the Parties agree that Section 2 will operate: If Metropolitan accepts a total of 100,000 acre-feet of Emergency Supplies under Section 1 which displaces 40,000 acre-feet of supplies that would otherwise be available to Metropolitan, and LADWP requests the maximum Metropolitan return water available during 2019, Metropolitan would be obligated to return 30,000 acre-feet in 2019, assuming available capacity $((100,000 - 40,000) \times 0.5 = 30,000)$. The balance of 30,000 AF $(100,000 - 40,000 - 30,000 = 30,000)$ would then be purchased after December 31, 2019, by LADWP at Metropolitan's full service rate, plus Metropolitan's treatment surcharge if returned at a treated water service connection, in accordance with Metropolitan's administrative code. Further examples are attached as Exhibit A.

3. Additional Costs. LADWP will reimburse Metropolitan for the costs for any work required, in Metropolitan's sole discretion, to prepare, add to, or modify Metropolitan's facilities or processes for receipt and treatment of the Emergency Supplies, including for all additional costs required for corrosion control and installation of a temporary meter at the Magazine Canyon Connection.

4. Operations. LADWP is responsible for controlling the Emergency Supplies flow into Metropolitan's system at its 72-inch diameter valve adjacent to Metropolitan's Magazine Canyon facility. Metropolitan will determine, at its sole discretion, the flow rate of LAA water that will be delivered to the Jensen Plant. Metropolitan may stop the introduction of Emergency Supplies at either the Jensen Plant or the East Branch at Metropolitan's sole discretion should Metropolitan determine that there is a negative impact, such as a negative impact to water quality, increase in costs, distribution capacity restrictions, or inability to manage the supplies. In no event will Metropolitan accept more water at the Jensen Plant than LADWP's sludge lagoons can accommodate.

5. Metering. LADWP will not challenge the accuracy or dispute the amount of Emergency Supplies delivered to Metropolitan as measured by Metropolitan or DWR.

6. Solids Handling. In recognition of the unique chemistry and content of the Emergency Supplies from the LAA, LADWP agrees to take sole responsibility for all solids resulting from the commingling of this water with Metropolitan's supplies at the Jensen Plant, including sole responsibility for the handling and processing of any and all resulting solids generated at the Jensen Plant. LADWP expressly agrees to prepare for, provide for, and pay any costs for storage and processing of any and all resulting solids in solids handling lagoons owned and operated by LADWP, and not in those lagoons controlled and used by Metropolitan. LADWP will store and process the resulting solids in its solids lagoon numbers 6, 5, 4, and/or 1. See attached map of the relevant solids handling facilities on LADWP's LAA Filtration Plant property.

7. Approvals. The effectiveness of this Agreement, and each action contemplated by this Agreement, is expressly conditioned on the receipt of any necessary consents and approvals and compliance with any applicable environmental laws. The Parties shall cooperate and diligently pursue all necessary consents and approvals, including without limitation, DWR approval to accept Emergency Supplies on the East Branch and to deliver such Emergency Supplies to MWD on the East Branch.

8. Compliance with Laws. LADWP is the lead agency for purposes of compliance with all applicable laws and regulations, including the California Environmental Quality Act (CEQA). LADWP shall ensure that Metropolitan has an opportunity to review any draft CEQA documentation or analysis, and is timely informed of any regulatory notice, approval, claims, or disputes arising out of this Agreement.

9. Further Action. The Parties agree to perform all further acts, and to execute, acknowledge, and deliver any documents that may be reasonably necessary, appropriate or desirable to carry out the purposes of this Agreement. Such documents may include, without limitation, subsequent agreements or instructions for delivery to DWR to implement this Agreement and the Parties shall diligently prepare such documents. The Parties acknowledge that the actions contemplated by this Agreement will require regular consultation and coordination and the Parties shall in good faith engage in all such consultation and coordination necessary or appropriate to facilitate the arrangements contemplated by this Agreement.

10. Responsibility and Indemnity. LADWP is solely responsible for any negative impacts resulting from Metropolitan's receipt, conveyance, and treatment of the Emergency Supplies. Except for negligent or willful misconduct of Metropolitan, LADWP will indemnify, defend, release, and hold harmless Metropolitan, its employees, agents, representatives, servants, or independent contractors from and against any cause of action, loss, liability, damage, cost or expense of any nature whatsoever, including the payment of any sums of money as damages to any third party on account of liabilities, liens, garnishments, or attachments arising from injuries to persons, including death or damages to property, whether accrued, absolute, contingent or otherwise, including costs, arising out of or related to:

- a. Any act or omission of LADWP, its employees, agents, representatives, servants, or independent contractors in connection with this Agreement and Metropolitan's receipt and treatment of Emergency Supplies at the Jensen Plant and at the East Branch.
- b. The commingling of LADWP's solids with those of Metropolitan as a result of this Agreement and the commingling of LADWP's water with SWP water and Metropolitan's water resulting from this Agreement.
- c. The presence of toxic or hazardous materials that may exist in water from the LAA or on LADWP's property as a result of any past or future act or omission by LADWP or as a result of this Agreement, including any resulting soil, water, or groundwater contamination.

11. Term. This Agreement terminates after LADWP has purchased the balance of any remaining water after 2019; however, the indemnity provisions of this Agreement, in Section 10, shall survive the termination of this Agreement.

12. Recitals. The introductory recitals constitute valid and binding terms of this Agreement.

13. Authority. Each Party represents and warrants to the other that the execution, delivery, election to participate in and performance of this Agreement (i) are within its powers, (ii) have been duly authorized by all necessary actions on its behalf and all necessary consents or approvals have been obtained and are in full force and effect, and (iii) does not violate any of the terms and conditions of any applicable law, or materially violate any contracts to which it is a party. LADWP warrants that no other approvals from any other subdivisions of the City of Los Angeles are required to consent to or approve this Agreement or any of the proposed construction or operation activities on LADWP's property necessary to implement this Agreement.

14. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof. All prior agreements with respect to that subject matter, whether verbal or written, are hereby superseded in their entirety by this Agreement and are of no further force or effect. Amendments to this Agreement shall be effective only if in writing, and then only when signed by the authorized representatives of the respective Parties.

15. Force Majeure. Notwithstanding any other provision of this Agreement, no Party shall be liable for any failure to perform resulting from any cause outside the reasonable control of such Party.

16. Ambiguities. This Agreement shall be interpreted as if it had been jointly drafted by both Parties. Therefore, the normal rule of construction that ambiguities are construed against the drafter is hereby waived.

17. No Third Party Beneficiaries. This Agreement does not create, and shall not be construed to create, any rights enforceable by any person, partnership, corporation, joint venture, limited liability company or other form of organization or association of any kind that is not a party to this Agreement.

18. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and may be signed in any number of counterparts.

19. Waiver. Any waiver of the provisions of this Agreement by the Party entitled to the benefits thereof as to any instance must be in writing and shall in no event be deemed a waiver of the same provision with respect to any other instance or a waiver of any other provision of this Agreement.

20. Assignment. The obligations of the Parties under this Agreement may not be delegated or assigned by the Parties to any third party without the prior written consent of the other Parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate as of the date and year first above written.

Approved as to form:

The Metropolitan Water District
of Southern California

By: _____
Marcia L. Scully
General Counsel

By: _____
Jeffrey Kightlinger
General Manager

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate as of the date and year first above written.

DEPARTMENT OF WATER AND POWER
OF THE CITY OF LOS ANGELES BY
BOARD OF WATER AND POWER COMMISSIONERS

By: _____
DAVID H. WRIGHT
General Manager

Date: _____

And: _____
BARBARA E. MOSCHOS
Secretary

APPROVED AS TO FORM AND LEGALITY
MICHAEL N. FEUER, CITY ATTORNEY

MAR 31 2017

BY _____
JOHN A. CARVALHO
DEPUTY CITY ATTORNEY

Example 1 – Return in 2018 and 2019. For every two acre-foot provided, one acre-foot will be returned at no cost and one acre-foot will be returned at the full service water rate. No lost water under Section 2(e).

Calendar Year	LADWP Provides Water to Metropolitan	Metropolitan Lost Water Section 2(e)	Metropolitan Returns Water to LADWP at no cost	Metropolitan Returns Water at Full Service Rate after 2019	LADWP End of Year Section 2(b) Balance
2017	100,000 AF	0 AF	0 AF	50,000 AF	50,000 AF
2018	50,000 AF (thru March 31, 2018)	0 AF	50,000 AF	25,000 AF	25,000 AF
2019	NA	0 AF	25,000 AF	0 AF	0 AF
2020	NA	0 AF	NA	0 AF	NA
Totals:	150,000 AF	0 AF	75,000 AF	75,000 AF	NA

Example 2 – Returns in 2017, 2018, and 2019. For every two acre-feet returned in 2017, LADWP provided three acre-feet to Metropolitan in 2017 and Metropolitan will return one acre-foot at the Full Service Rate after 2019. For every one acre-foot returned in 2018 or 2019, LADWP would have provided two acre-feet and Metropolitan will return one acre-foot at the Full Service Water Rate after 2019. No lost water under Section 2(e).

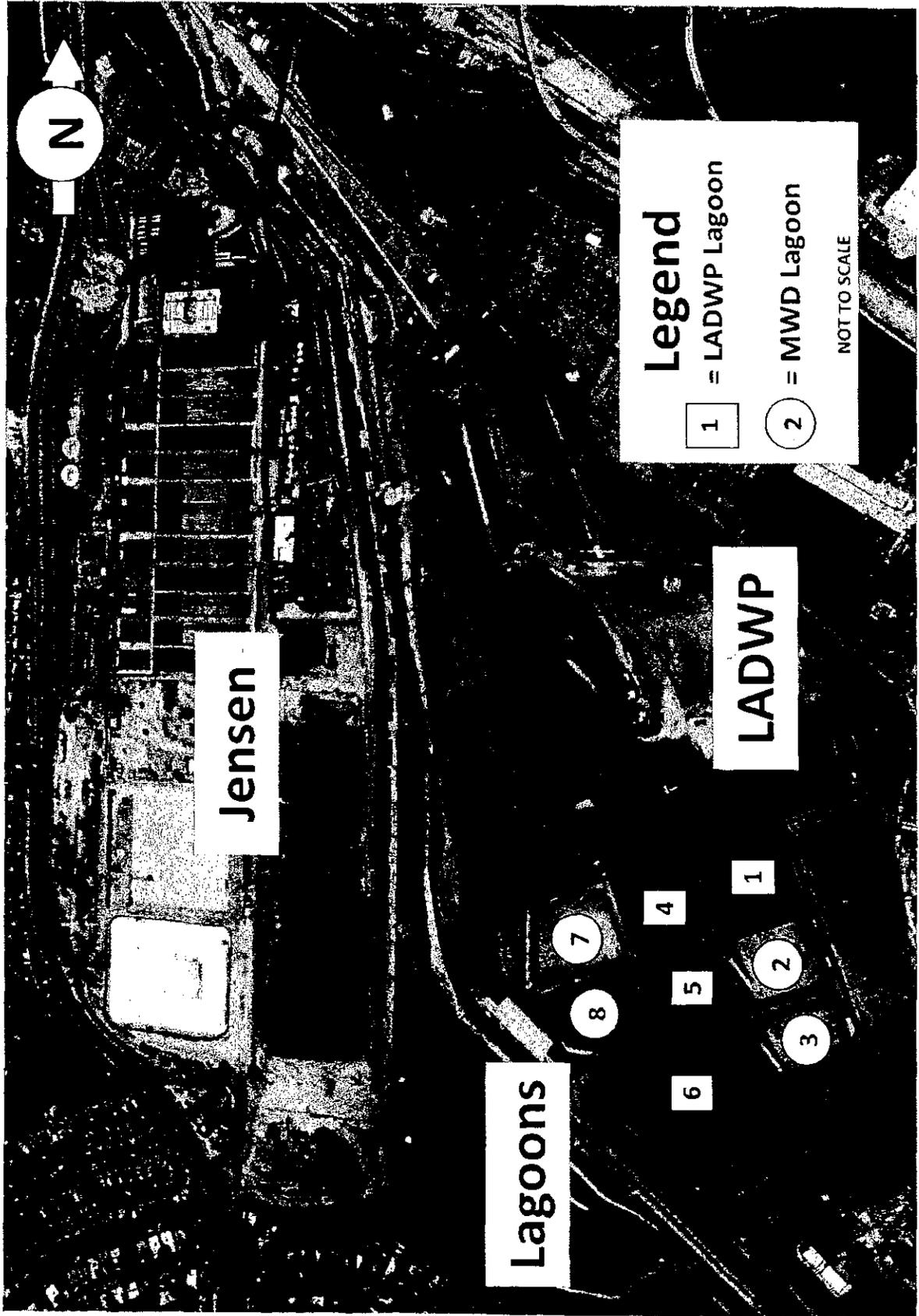
Calendar Year	LADWP Provides Water to Metropolitan	Metropolitan Lost Water Section 2(e)	Metropolitan Returns Water to LADWP at no cost	Metropolitan Returns Water at Full Service Rate after 2019	LADWP End of Year Section 2(b) Balance
2017	100,000 AF	0 AF	20,000 AF	10,000 AF + 35,000 AF	35,000 AF
2018	50,000 AF (thru March 31, 2018)	0 AF	25,000 AF	25,000 AF	35,000 AF
2019	NA	0 AF	35,000 AF	0 AF	0 AF
2020	NA	0 AF	NA	0 AF	0 AF
Totals:	150,000 AF	0 AF	80,000 AF	70,000 AF	NA

Example 3 – Returns in 2017 and 2018. For every two acre-feet returned in 2017, LADWP provided three acre-feet to Metropolitan in 2017 and Metropolitan will return one acre-foot at the Full Service Rate after 2019. For every one acre-foot returned in 2018, LADWP would have provided two acre-feet and Metropolitan will return one acre-foot at the Full Service Water Rate after 2019. Lost water under Section 2(e) in both 2017 and 2018. Any return balance remaining at end of 2019 calendar year converts according to Section 2(c) and will be returned at the Full Service Rate after 2019.

Calendar Year	LADWP Provides Water to Metropolitan	Metropolitan Lost Water Section 2(e)	Metropolitan Returns Water to LADWP at no cost	Metropolitan Returns Water at Full Service Rate after 2019	LADWP End of Year Section 2(b) Balance
2017	100,000 AF	10,000 AF	20,000 AF	10,000 AF + 30,000 AF	30,000 AF
2018	50,000 AF (thru March 31, 2018)	10,000 AF	15,000 AF	20,000 AF	35,000 AF
2019	NA	0 AF	0 AF	0 AF	35,000 AF
2020	NA	NA	NA	35,000 AF	0 AF
Totals:	150,000 AF	20,000 AF	35,000 AF	95,000 AF	NA

Example 4 – Return in 2019. For every two acre-foot provided, one acre-foot will be returned at no cost and one acre-foot will be returned at the full service water rate. Lost water under Section 2(e) in 2018.

Calendar Year	LADWP Provides Water to Metropolitan	Metropolitan Lost Water Section 2(e)	Metropolitan Returns Water to LADWP at no cost	Metropolitan Returns Water at Full Service Rate after 2019	LADWP End of Year Section 2(b) Balance
2017	100,000 AF	0 AF	0 AF	50,000 AF	50,000 AF
2018	0 AF (thru March 31, 2018)	20,000 AF	0 AF	0 AF	30,000 AF
2019	NA	0 AF	30,000 AF	0 AF	0 AF
2020	NA	0 AF	NA	0 AF	NA
Totals:	100,000 AF	20,000 AF	30,000 AF	50,000 AF	NA



**Metropolitan Water District of Southern California
Engineering & Operations Committee
April 10, 2017**

**Agenda item 6b: Los Angeles Emergency Supply Management
Program**

**Metropolitan Water District of Southern California
Engineering & Operations Committee
April 10, 2017**

Audio Link (MWD website): http://media-03.granicus.com:443/ondemand/mwdh2o/mwdh2o_079567ba-c765-4e10-a96d-62b7ebcda002.mp4

**Agenda item 6b: Los Angeles Emergency Supply Management Program
Starting at 1:05:08 Ending at 1:21:18**

Peterson: Okay, the next item is Los Angeles Emergency Supply Management Program. General Manager Kightlinger.

Kightlinger: Thank you, Mr. Chairman, just want to make a few quick comments. James Bodnar will be covering the details of this. This is a rather straightforward exchange that we're doing on the various basis of City of Los Angeles is running into a crowded situation on their end with their Owens Valley supply, which could do significant damage if some of that load is not unloaded and moved into somewhere where there is storage. Metropolitan has worked out an exchange program where we would do some storage for them. These are similar to other type programs I've done on my past on my authority as GM where they don't cost Metropolitan money, and they return benefit back to Metropolitan. I've done similar project programs like this with – just this year alone – both with Castaic and Central Coast. In the past with Westlands and San Luis Water Districts. And these are – usually what we have to do is we have to get into these arrangements in a matter of days, if not maybe a week or so, and move rather quickly to take care of a situation, usually either around the State Project or Colorado River supplies, and make some exchanges and move some water around rather quickly. It's a good neighbor policy. It's what we've done in the past. And, to my mind, it's very similar to what we did this year at Pipeline 5 with the San Diego County Water Authority in helping them out with challenges they had with managing Carlsbad coming online and helping out their service area. That I also did under my authority. But James will cover that. And I'm happy to take any questions. So take it away James.

Bodnar: Thank you, Jeff. Chair Peterson and members of the Committee. My presentation today is going to be on the Los Angeles Emergency Supply Management Program. The City of Los Angeles has declared an emergency as of March 20th, 2017. They are expecting really high Owens Valley runoff, upwards of one million acre-feet of runoff in the Owens Valley. And they are expecting their Eastern Sierra snowpack being about 215% of normal. And this is a pretty difficult situation when L.A.'s demands are roughly around 500,000 acre-feet, and they're having a million acre-feet come at them.

They are looking at potential damage to their infrastructure and impact to an endangered species. L.A. is required by the Great Basin Air Pollution Control District to provide mitigation for dust blowing from the dry Owens Lake. Since 2000, LADWP has invested over \$1.1 Billion in dust mitigation measures. This excess runoff threatens to destroy much of that dust mitigation controls. That's where Metropolitan has been asked to help the City of Los Angeles out.

Owens Lake is located south of Lone Pine. If you look at that lake bed, it's about 100 square miles. So this image is kind of doesn't quite put that in perspective. I'm going to zoom in on one little section here to illustrate the engineer berms that they have constructed. So if you can imagine a bathtub, when you put water in it, it flows to the lowest part. Owens Lake is like that where if you put water in it, it's just going to flow into the lowest part. So what the City of Los Angeles has done is they've constructed miles and miles of engineered berms within that lake bed to more evenly spread water out to mitigate against dust within that lake bed. And if you have that excess runoff going into that lake, it could erode significantly those berms, and they would have to spend millions of dollars to go and fix and repair those berms.

There is also potential impact to an endangered species. This endangered species is the Owens tui chub. It's in a protected habitat in the upper Owens Gorge. The Upper Owens Gorge is located downstream of Lake Crowley, which was created by the Long Valley Dam. When the Long Valley Dam was constructed in 1941, that spillway has never been used. So water has never gone over the spillway. And so it's basically protected since 1941 a protected habitat for the Owens tui chub. That fish is being supplied by seepage water and spring water. So if the spillway overflows, the non-Owens tui chub will overflow into that area and invade that protected habitat. So this is an image of Lake Crowley to the left, and to the right downstream is the protected habitat that has not received any of that Lake Crowley water.

So Metropolitan does have flexibility in its distribution system to provide assistance to the City of LA. They have declared an emergency. Metropolitan has tested L.A.'s supplies at Jensen Treatment Plant, and we can safely manage that water and treat that. Metropolitan can take delivery also at another location, the turn-in along the East Branch of the California Aqueduct. And we're looking at an estimated supply of about 50,000 acre-feet to 200,000 acre-feet. And that upper estimate is really dependent upon what are the local demands within the City of LA. If their demands are lower, we're probably going to have to manage more supply. If their demands are high, it will be on the lower end.

With respect to two locations where we can take water, the first is the Jensen Treatment Plant. And the second is the turn-in facility on the East Branch. Now that turn-in facility on the East Branch was actually constructed in the 1980s. It was constructed when the Department of Water Resources was building an upstream power plant, the Alamo Power Plant, so that the entire flow on the East

Branch was cut off. So the City of LA developed and constructed the turn-in facility that would help the East Branch contractors, which Metropolitan is one.

So I think this is a key element to this program where it's really testing this integration of the Los Angeles Aqueduct System to the East Branch. I can see this facility providing additional benefits if there is an outage on the Edmonson Pumping Plant or the Main Branch of the California Aqueduct. So a good demonstration of the emergency preparedness of our agencies.

Before I skip to that, I want to point out a couple of things. The turn-in is after Edmonston, so the water that they are providing to us is basically at grade. So there's no pumping costs associated with that. In fact, when they deliver water to us on the East Branch, we can actually generate some power at Mojave and Devil Canyons. So there's actually a net power generation for water dropped on the East Branch, and cost savings to Metropolitan. Then also when they drop water at the Jensen Treatment Plant, there is no power cost associated on the State Water Project. So there could be potential cost savings as part of this exchange.

The water that we take at the Jensen Treatment Plant, we can take up to about 250 cubic feet per second. And Metropolitan has tested this. But we do want, we are requiring that L.A. handle the sludge associated with this water because that is different type of water that we normally handle. That's also going to be an additional cost savings to Metropolitan.

On the East Branch of the California Aqueduct, there is an image that you can see of where the turn-in actually will occur. Metropolitan will take up to around 300 cubic feet per second. The water would comply with the Department of Water Resources pumping requirements. It would be moved under Metropolitan's Article 55 Rights. There could be an improvement in water quality associated with bromide, chloride and nitrates.

In terms of the emergency program terms, I think a key program term was discussed in the earlier water planning and stewardship committee meeting was with respect to the spill. And a key term in Los Angeles understands that there is a risk of spill of managing this supply, that, as Metropolitan accepts their water, if Metropolitan loses out on an opportunity, otherwise we are foregoing a supply, that water is not going to be returned to them, or it will be automatically deemed returned to them. And so I'm going to give a clear example. So, for example, in May of this year, Department of Water Resources says we've got 20,000 acre-feet of Article 21 supplies. Metropolitan can manage that supply absent the L.A. Program. We take 10,000 acre-feet of L.A.'s supplies during that month and we can only take another 10,000 acre-feet of the Article 21 Supplies. And we can demonstrate to L.A., we forgone 10,000 acre-feet of Article 21. That 10,000 acre-feet we accepted from the City of Los Angeles would be deemed returned automatically. So accepting the water from Los Angeles does not impair Metropolitan's ability to manage its supplies. So I think that's a key point that I want to emphasize.

Los Angeles also pays the full service rate on supplies returned after 2019. So structured this deal very similar to unbalanced exchanges that we've done previously. There is a 3 for 2 ratio for water returned in 2017, and a 2 for 1 ratio in 2018 and 2019. I'm going to give some examples. And I don't think they're actually going to take water in 2017, but we have to have it in the agreement just in case. And if you've got 1,000,000 acre-feet of water and you have 500,000 acre-feet of demand, it's probably unlikely they are going to take a lot of water in 2017. But in 2017, if they take supplies, for every two acre-feet that we return in 2017, one acre/foot would be returned at the full service rate after 2019. In 2018 and 2019, which is the more likely event, for every acre/foot we return in 2018 or 2019, they will pay for one acre/foot at the full service rate in 2019.

Los Angeles's part of this agreement would also provide Metropolitan indemnification in terms of managing their supplies. Metropolitan does not, Los Angeles also covers any additional costs that are incurred. There are multiple benefits associated with this program. It helps a member agency during a declared emergency. It protects the public infrastructure and protects endangered species, and, bottom line, I think it's good water management. Here is an agency that has excess supplies. We're going to be able to capture the supply, move it into our system. It is not going to be lost or wasted. Now, should our supplies be lost or impaired, LA is back stopping that loss. It also generates power. So as LA brings this water in, Owens Valley is at a higher elevation. They're in the fortunate position that when they move water into the City of LA, into the region, it actually generates power for them. It also helps Metropolitan out because it reduces our power cost on the State Water Project if we forego a State Water Project delivery. So as we move more of this L.A. water in, it will reduce our State Water Project costs. And those costs run about this year at about \$170 per acre/foot into our service area.

And lastly, I think it demonstrates emergency preparedness, how Metropolitan can help its member agencies out in time of need. And then I think it also sets a precedent in terms of maybe Los Angeles helping Metropolitan in the future should we need something on the East Branch or the Main Aqueduct.

So that concludes my presentation, and I'd be happy to answer any questions.

Peterson (1:15:52): Questions of James? Keith.

Lewinger: Thank you, Mr. Chairman. You just said something that caught my attention. If we forego State Water Project deliveries, we would save money by not having to pump. Why would we forego State Water Project deliveries?

Bodnar: In the one example I gave, let's say if we're moving Article 21 supplies. We have to pay the State Water Project costs on that water, the energy cost. If L.A.'s supplies displaced our capability of moving State Water Supplies in that month, let's say May, of 10,000 acre-feet, that's 10,000 acre-feet we received in our service area without having to pump it at \$170 per acre/foot.

Lewinger: That's a swap, that's a spill and lose.

Bodnar: Exactly.

Lewinger: What about just regular State Project Water?

Bodnar: Yes, if we're able – we're going to pay all of the State Water Project energy costs that we're able to take into our system.

Lewinger: We're not going to forego taking any State Project Water.

Bodnar: We're not, unless we don't have capacity. I mean, if we run out of capability of taking State Water Project supplies, the allocation goes up to 80% or 100%, we might not have enough place to put all the water.

Lewinger: Which means we would – any water L.A. gave us would be a swap, right?

Bodnar: Correct.

Lewinger: There would be no quote "benefit" other than getting the water out of the Owens Valley. Is that correct?

Bodnar: If we run out of space to capture all the supplies, correct.

Lewinger: Okay, and you talked about if they take water out in 2017, for every two acre-feet we get one acre/foot in return after 2019, and it's 1 for 1 for water they take out in '18 or '19. My question is, what's the cost to L.A., or what are they going to pay Metropolitan for the water that they get?

Bodnar: After 2019, they would be paying the full service rate. Before that, there's no cost.

Lewinger: No cost?

Bodnar: Right. There is a cost if they did take treated water, it's the treatment surcharge.

Lewinger: Okay. And so, and how would they get their water – so we take water this year. And we put it someplace. We're going to park it in storage I imagine, right?

Bodnar: Or we'll deliver it to our member agencies.

Lewinger: We'll deliver it to our member agencies. And then in the future, when L.A. wants the water back, how do we get that water to them? Do we use our distribution facilities to get the water to them?

Bodnar: We would be using the State Water Project or our distribution system, yes.

Lewinger: And our distribution facilities. So I'm trying to understand how come we're not asking Los Angeles to pay our normal transportation costs for water that we're

delivering for them? Similar to what MWD is arguing in the San Diego case. What's the difference?

Kightlinger: Alright.

Lewinger: Gotta ask.

Kightlinger: So they're both exchanges, and we've negotiated a contract with San Diego, which they pay a certain rate for that exchange, to use our, for use of, for that exchange we end up delivering that water to them. This is a water exchange, whereas you get 100% of your water, this actually we're keeping water, and that supply is that benefit to us. And so, in both cases, Metropolitan receives some form of benefit. And one, you're paying your costs. In this one, we are keeping water that Los Angeles is delivering to us and not returning it all.

Lewinger: And you said – way I understood your response, Jeff, there's a different – you did an analysis in the San Diego case and in this case, and they're paying their costs differently with water. Do you have some sort of an analysis that showed how you reached this conclusion that the costs that – or the benefits that we're accruing are commensurate with the costs that would otherwise be charged?

Kightlinger: No.

Lewinger: You haven't?

Kightlinger: My, as a General Manager's discretion, and my decision that this was a fair exchange that we did with Los Angeles, much the way we've done these on balance exchanges with other providers of water.

Lewinger: I've got to object to that. I understand you've done this before, but I've got to object to – you know, without seeing some sort of an analysis that this is a fair and equitable deal to ALL the member agencies, I don't see how the Board could support this. Thank you.

Peterson: No, it's not an agenda item.

Lewinger (talking over): And the Board's not even being asked their opinion on it.

Peterson: The oral arguments are next month. You can go put your argument there. Alright. I think we're done. No further questions? Okay, we have two important systems reports. Thank you, James.