



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Counsel

July 31, 2017

Mark Hattam, Esq.
General Counsel
San Diego County Water Authority
4677 Overland Avenue
San Diego, California 92123-1233

Re: SDCWA letter of July 11, 2017 with subject line:

RE: Board Memo 8-2: Adopt CEQA determination and adopt Policy Principles guiding Metropolitan's role in regional implementation of Integrated Water Resources Plan targets for local resources and conservation – **OPPOSE**;

**NOTICE OF NON-LIABILITY AND DISCLAIMER OF FINANCIAL OR
CONTRACT RESPONSIBILITY ASSOCIATED WITH BOARD MEMO 8-2;
RESERVATION OF RIGHTS; AND NOTICE OF INTENT TO SEEK
RECOVERY OF ILLEGAL RATES AND FURTHER AWARD OF
PREJUDGMENT INTEREST**

Dear Mr. Hattam:

This letter responds to your letter of July 11, 2017 referenced above. Although Board Memo 8-2 was limited to the adoption of Policy Principles for the implementation of Metropolitan's Integrated Water Resources Plan and did not authorize execution of any specific contract for the development of local resources or conservation, your letter repeats the assertion of several prior letters from the SDCWA that SDCWA can disclaim financial or contract responsibility for the actions approved by a majority of the Metropolitan Board.

As stated to you, and to the SDCWA delegation to the Metropolitan Board in multiple prior letters, under Section 50 of the Metropolitan Water District Act, the powers of Metropolitan are exercised by and through its Board of Directors. The affirmative vote of members representing more than 50 percent of the total number of votes is sufficient to approve an item and to bind Metropolitan. SDCWA, as an individual member agency of Metropolitan, has no legal authority to either disavow responsibility for actions taken by the Board or to shield itself from the obligations of the District that are authorized by a majority of its Board.

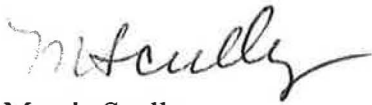
Mark Hattam, Esq.

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Your continued assertion that any action by Metropolitan to approve or implement projects assisting member agencies in either conservation or the development of local supplies is curious given that, upon publication of the recent appellate court decision in the pending litigation between SDCWA and Metropolitan, Metropolitan has received a call from staff of a SDCWA member agency inquiring as to whether Metropolitan will accept applications for local projects from the SDCWA – the very type of project you assert is illegal.

Very truly yours,

A handwritten signature in cursive script, appearing to read "M. Scully", written in dark ink.

Marcia Scully
General Counsel

MS:jmm

cc: MWD Board of Directors
SDCWA Board of Directors



San Diego County Water Authority

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July 11, 2017

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
Vallecitos Water District
Valley Center
Municipal Water District
Vista Irrigation District
Yuima
Municipal Water District
**OTHER
REPRESENTATIVE**
County of San Diego

RE: Board Memo 8-2: Adopt CEQA determination and adopt Policy Principles guiding Metropolitan's role in regional implementation of Integrated Water Resources Plan targets for local resources and conservation – **OPPOSE**;

NOTICE OF NON-LIABILITY AND DISCLAIMER OF FINANCIAL OR CONTRACT RESPONSIBILITY ASSOCIATED WITH BOARD MEMO 8-2; RESERVATION OF RIGHTS; AND NOTICE OF INTENT TO SEEK RECOVERY OF ILLEGAL RATES AND FURTHER AWARD OF PREJUDGMENT INTEREST

Dear Ms. Scully:

The Water Authority previously objected to and opposed both the MWD Board's review process and ultimate adoption of its Integrated Resources Plan 2015 Update ("2015 IRP"). The Water Authority hereby also objects to and opposes the "policy principles" contained in this month's Board Memo 8-2. The Water Authority has repeatedly raised questions about the 2015 IRP and the scope of MWD's water supply planning, including why MWD is greatly expanding its role in local supply development and spending on water supplies at the same time its sales are declining.ⁱ

In addition to having improperly asserted over the past several years that MWD's wheeling of the Water Authority's independent Colorado River supplies represents a sale of MWD water,ⁱⁱ MWD's 2015 IRP also accounted for only 20,000 acre-feet of the more than 200,000 acre-feet of new local water supply projects that are in "full design and appropriated funds" and "advanced planning (EIR/EIS Certified)" stages by MWD member agencies.^{iii, iv} Recent rating agency reports recognize key facts MWD itself continues to refuse to acknowledge or prudently plan for, including its declining sales base and the fact MWD water is already a high cost water supply for Southern California.^v MWD's recent efforts to reinvent its mission through reinterpretation of its own Laguna Declaration will not change MWD's declining sales trend; rather, it appears calculated merely to shift the cost of some agencies' local

supply development to others through the imposition of MWD rates. As to such rates, which of course increase due to MWD's expanded roles and expenditures, MWD is required to follow cost of service requirements of the common law, California statutes and the state constitution. The Water Authority reserves all of its rights and intends to seek full recovery of illegal rates and charges imposed by MWD, whether such impositions are made under "Policy Principles" or otherwise.

Sincerely,

/s/Mark Hattam

Mark Hattam
General Counsel

cc: MWD Board of Directors
Water Authority Board of Directors

ⁱ Copies of the Water Authority's letters on MWD's 2015 IRP dated January 10, and October 25, 2016 and its letter on MWD's 2015 Urban Water Management Plan dated May 8, 2016 are in the possession of MWD and are incorporated herein by reference.

ⁱⁱ Thus misrepresenting MWD sales by as much as 178,920 acre-feet in 2016.

ⁱⁱⁱ See Water Authority letter dated June 15, 2016: <http://www.mwdfacts.com/wp-content/uploads/2016/06/2016-06-15-WA-ltr-re-MWD-Appendix-A.pdf>

^{iv} Appendix 5:
[http://www.mwdh2o.com/PDF_About_Your_Water/2015%20IRP%20Update%20Tech%20App%20\(web\).pdf](http://www.mwdh2o.com/PDF_About_Your_Water/2015%20IRP%20Update%20Tech%20App%20(web).pdf)

^v See FitchRatings June 12, 2017: http://www.mwdfacts.com/wp-content/uploads/2017-06-12_MWD-Fitch-Report.pdf