

November 8, 2021

Adel Hagekhalil, General Manager
Chairwoman Gloria Gray
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: Water Planning and Stewardship Committee Item 7-8
Adopt resolution declaring a Regional Drought Emergency, calling on Member agencies to reduce use of State Water Project supplies, and granting the General Manager certain additional authorities – SUPPORT WITH SUGGESTED AMENDMENTS TO THE PROPOSED BOARD RESOLUTION

Dear Mr. Hagekhalil and Chairwoman Gray:

First, on behalf of the Water Authority, its Board of Directors and our MWD board members, we want to thank you for the excellent staff Board Memo 7-8 (the Board Memo) describing in detail the statewide, regional and some of the local conditions relating to the severe drought now impacting the State of California. Even though MWD has more than 2.6 million acre-feet of water in storage – which we believe is very positive and must be recognized by our ratepayers – given the other facts and circumstances and limitations on service described in the Board Memo, we agree that the MWD Board should 1) act now to acknowledge the statewide drought emergency as declared by the Governor, and 2) grant the General Manager the discretion and spending authority as requested. Based on our agency's experience in managing drought impacts and response in San Diego County, we would like to ask, however, that the Board consider minor but important revisions to the wording of the proposed Resolution, as discussed below. We provide the following comments as background.

1. *The Water Authority agrees all possible actions should be taken to preserve and stretch limited SWP supplies.* We agree all possible actions to improve the situation should be taken now; however, as the Board Memo explains in some detail, the actions individual MWD member agencies are able to take varies greatly. *The Water Authority has not received **any** SWP water since Juneⁱ and is not asking to receive any.*
2. *The Water Authority supports the actions and measured response by Governor Newsom focusing on local conditions.* We believe Governor Newsom has wisely taken as measured an approach as possible under the severity of this drought by 1) calling for a voluntary 15% water supply reductionⁱⁱ and 2) directing actions *as appropriate based on local conditions.* Importantly, this allows areas that have access to more water to make it available to others – which is an important objective of our proposed Resolution and board action. It is also important for our Southern California customers to appreciate that the investments they have made – and that we will continue to ask them to make in the future – pay off at times like these.
3. *The Water Authority supports MWD's response to drought conditions.* We have fully supported all the operational changes MWD has implemented beginning in January 2021 to minimize SWP use, including but not limited to the Operational Shift Offset Program acknowledging what would otherwise have been an unfair cost shift to individual member

agencies supporting the changed operations. We supported MWD's Water Supply Alert Resolution, adopted in August 2021 and the related campaign to work closely with all member agencies and the Board of Directors to both identify and fund additional water efficiency programs that could increase water savings. We fully support continuation and expansion of these efforts. Staff is also beginning to identify longer term solutions, discussed below.


4. *The Water Authority supports implementation of suggested changes by MWD to its Water Supply Allocation Plan (WSAP).* We agree with the specific requested changes and with the explanation that the reason the WSAP does not work well is because it does not recognize the diverse needs and conditions of individual MWD member agencies.ⁱⁱⁱ
5. *The Water Authority supports the specific actions recommended to be taken by all MWD member agencies, as described.* These actions include review of past drought management response measures, implementation of any changes in operations to reduce the use of SWP supplies (addressed above) and implementation of conservation requirements, as described. Based on all of the actions Southern California has taken and is taking, we must continue to advocate that the Governor ask urban water suppliers to update Drought Risk Assessments contained in agencies' 2020 Urban Water Management Plans and submit to the State, so that the State has the most current data it needs to assess how different parts of the state are faring before further water reduction measures are mandated. In some cases, such a mandate will produce no additional water and will only threaten to harm an economy just beginning to recover from the pandemic.
6. *The Water Authority supports direction and authority to the General Manager as described, relating to the development of programs and projects to address near and long-term water supply needs, subject to further discussion and consideration of two issues: 1) how to manage and describe in the Board Resolution the "regional drought message" so as to not confuse customers of individual member agencies or disrupt the economy (see Attachment); and 2) with the commitment that investment in long-term water supply projects will equitably account for cost of service requirements and the varying and diverse needs of MWD member agencies (facts described in the Board Memo).* Taking these in reverse order, the Water Authority fully supports 1) seeking a full and fair share of state and federal funding benefits for MWD and its member agencies^{iv}; 2) expansion of regional conservation programs for the duration of the drought (and beyond); and 3) identification of near- and long-term measures to protect the region against inevitable future drought cycles. We support the delegation of additional spending and other authority to the General Manager to accomplish these objectives, as described in the four bullets and text at the top of page 5 of the Board Memo.^v

Finally, turning to the draft Regional Drought Emergency Resolution itself, we are very concerned that some of the language will create unnecessary confusion due to the very facts and circumstances described in the Board Memo that different MWD member agencies are facing very different situations at this time, depending on local conditions. In fact, there seems to be a "disconnect" between the facts stated in the memo and the title and some of the language in the draft Resolution. We would appreciate consideration and acceptance of the edits on the Attachment to this letter, which we believe will result in an action that accomplishes the same purpose but will avoid confusion on the part of media and customers of individual MWD member agencies.

Again, I would like to close by thanking you, Chairwoman Gray and General Manager Hagekhalil and staff for all your work on the outstanding Board Memo and your continuing efforts on behalf of all

MWD member agencies and our Southern California communities and ratepayers during this severe drought.

Sincerely,



Sandra L. Kerl
General Manager

Attachment: Suggested Edits to Draft Resolution

cc: Water Authority Board of Directors
MWD Board of Directors

ⁱ Although the MWD Administrative Code establishes a blending objective for MWD water sales, MWD made operational changes in March of this year to eliminate the availability of any SWP water for blending purposes. MWD has similar discretion regarding the water it delivers under the Exchange Agreement.

ⁱⁱ The Governor's October 19 Proclamation of a State Emergency prohibits certain wasteful water uses, but these uses were already prohibited by the Water Authority and many if not all MWD member agencies prior to the Proclamation being issued.

ⁱⁱⁱ With respect, we disagree with the statement that the WSAP has in the past always made water "equitably available to the region as a whole," *precisely because member agency conditions and circumstances have always been diverse*. The most equitable (and lawful) approach is to ensure that the cost of long-term water supplies being developed for agencies in need are planned to be paid for by those agencies (within the context of an overall rate structure, of course, given individual projects may provide benefits in addition to a water supply). This has been the subject of ongoing discussion for many years, most recently at the member agency working group on demand management. Hopefully this will also be a topic for further discussion as the MWD Board continues to work on its IRP and long-term resources plan. We also believe the Board must take up the subject of preferential rights in order to ensure a WSAP is reliable and enforceable when the requisite statutory emergency conditions are not met. There has been no waiver of such rights by individual member agencies, and preferential rights are statutory water rights. For present purposes suffice it to say that we "feel the pain" of the SWP exclusive areas based on our own experience more than 25 years ago and want to support any and all actions to improve the situation.

^{iv} We are deeply grateful for relief in the form of HR 3684 (DeFazio, D-OR), the Infrastructure Investment and Jobs Act passed by the House and expected to be signed into law shortly. We believe MWD should form a lobbying coalition with its member agencies to make a maximum push to secure as much of this funding as possible for the benefit of Southern California. We are stronger lobbying for these funds together.

^v It is our understanding that the sole role of the General Counsel with respect to this delegation of discretion and authority to the General Manager is with regard the review and approval or certification of any documentation required under the California Environmental Quality Act.

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE METROPOLITA WATER DISTRICT OF SOUTHERN CALIFORNIA
RECOGNIZING A STATEWIDE DROUGHT EMERGENCY, DECLARING
SPECIFIED EMERGENCY CONDITIONS WITHIN THE METROPOLITAN
SERVICE AREA AND DIRECTING SPECIFIED ACTIONS.**

WHEREAS, Severe Drought Conditions Are Impacting Water Supplies Imported from the Colorado River and Northern California.

Metropolitan's two primary sources of imported water, the Colorado River and the State Water Project (SWP), face continuing drought.

Water year 2021 (October 1, 2020 to September 30, 2021) exhibited extreme temperature and lack of precipitation, and it followed water year 2020 that was likewise warm and dry.

Warm temperatures and arid soils depleted the expected runoff water from the Upper Colorado River Basin snowpack and Northern Sierra snowpack into SWP reservoirs.

The two-year sequence of water years 2020 and 2021 (October 1, 2019 through September 30, 2021) was the driest on record in California for statewide precipitation.

The Colorado River is experiencing a prolonged 21-year warming and drying trend.

The United States Bureau of Reclamation announced a first-ever shortage declaration for 2022 for the Colorado River System.

WHEREAS, a State of Emergency ~~Exists~~ Has Been Declared in All California Counties Due to These Severe Drought Conditions.

On October 19, 2021, Governor Gavin Newsom proclaimed that a state of emergency now exists in all California counties due to severe drought conditions.

Governor Newsom's drought proclamation re-doubled a call for all Californians to voluntarily reduce their water use by 15 percent immediately.

The proclamation directed the State Water Resources Control Board to develop regulations prohibiting wasteful water use and the California Department of Water Resources (DWR) to assist local agencies implement solutions to alleviate acute potable water shortages.

The proclamation called on local and regional water agencies to implement the Water Shortage Contingency Plans (WSCPs) to conserve water at a level appropriate for local conditions taking into account the possibility of a third consecutive dry year.

WHEREAS, Metropolitan's State Water Project Supplies Are Curtailed.

Storage in Lake Oroville, the largest and principal storage reservoir for the State Water Project (SWP), reached record low levels in August 2021. Storage in many other reservoirs across the state remains well below average.

DWR's SWP Table A Allocation for calendar year 2021 remains at only five percent of contract amounts.

A zero percent initial SWP Allocation is expected for calendar year 2022, and current projections indicate that the final allocation will likely only reach 25 percent under a normal-weather scenario.

Considering these projections, DWR is preparing to deliver the minimum needs contractors may have for domestic supply, fire protection, and sanitation, while under a zero percent Table A allocation. In preparing for this operation under a severe dry condition for 2022, DWR expects contractors receiving these deliveries to mandate substantial reductions in water use consistent with an emergency circumstance.

**WHEREAS, Metropolitan's State Water Project Supplies Are Essential to Meet ~~the Needs of~~
~~Metropolitan's Total~~ -Member Agencies Demands.**

Over the past 20 years, the State Water Project provided about 30 percent of the region's water needs.

Diamond Valley Lake, Metropolitan's largest surface water reservoir and source of dry-year and emergency water supplies, has only been replenished with State Water Project supplies since the discovery of Quagga mussels in Colorado River water.

Under a zero percent SWP Allocation, insufficient SWP supplies exist to meet normal potable demands in areas where Metropolitan depends on the SWP to meet its agencies' demands, nor can it serve SWP supplies to other agencies or replenish storage in Diamond Valley Lake.

WHEREAS, Metropolitan, Its Member Agencies, and Others in the Region Have Taken Extraordinary Steps to Reduce Demands and Bolster Supplies.

Metropolitan, in conjunction with its member agencies, counties, cities, and wholesale and retail water suppliers, decreased its potable water demands within its service area by 40 percent, roughly 80 gallons per person per day, since 1990.

Metropolitan invested \$1.5 billion in conservation, local water recycling, and local groundwater recovery since 1990, resulting in the cumulative savings of nearly 7.3 million acre-feet.

Metropolitan invested more than \$3.1 billion in increasing storage capacity with Diamond Valley Lake and conveyance capacity with the Inland Feeder to capture SWP supply when available for later use in dry years.

Local water suppliers and communities have also made multi-billion dollar strategic and forward-looking investments in water conservation (within and outside the MWD service area), water recycling, stormwater capture and reuse, groundwater storage, and other strategies to improve drought resilience.

Water conserved throughout the service area, among other things, helped preserve storage in Metropolitan's diverse storage portfolio during these dry conditions.

Continued action by Southern California residents to conserve water and extend local groundwater and surface water supplies will provide greater resilience if the drought continues in future years.

WHEREAS, Metropolitan and Its Member Agencies Have Taken Specific Actions to Preserve SWP Supplies.

Metropolitan recently invested in its delivery system to reduce dependency on SWP supplies and to improve operational flexibility allowing delivery of water from either of its two imported supply sources to most of the service area.

Metropolitan member agencies invested billions of dollars in investments to maintain existing, produce new and increase the utilization of local supplies and therefore decrease the use of SWP supplies.

Metropolitan member agencies have, where feasible, operated their systems to reduce Metropolitan's dependency on SWP supplies.

WHEREAS, Additional Actions Are Needed to Manage and Preserve SWP Supplies.

Despite the efforts made to date by Metropolitan, member agencies, and others in the region, additional actions are needed to manage and preserve SWP supplies.

As part of their required Urban Water Management Plans, all urban water suppliers and water wholesalers have identified voluntary and mandatory actions in their Water Shortage Contingency Plans (WSCPs) to prepare for and address various water shortage conditions. The Metropolitan Board of Directors believes that member

agencies should review such WSCPs and immediately implement mandatory conservation measures to help address the SWP supply shortages.

The Metropolitan Board of Directors further believes that it is necessary and desirable to work closely with member agencies in identifying near-term actions that could be taken to address this regional drought emergency, in general, and the SWP supply shortages, in particular, and to grant the General Manager certain additional powers and authorities to assist in carrying out such actions promptly.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the express and implied powers and authorities granted under The Metropolitan Water District Act (Statutes 1969, ch.209, as amended), the Board of Directors of The Metropolitan Water District of Southern California **HEREBY RECOGNIZES A STATEWIDE DROUGHT EMERGENCY AND DECLARES THAT SPECIFIED A REGIONAL DROUGHT EMERGENCY CONDITIONS EXIST WITHIN THE METROPOLITAN SERVICE AREA** ~~encompassing the District's entire service area.~~ Per this Declaration, the Board calls on all member agencies to:

- (1) Review the adequacy of their past drought response measures.
- (2) Make all reasonably practicable changes in their operations to reduce their use of SWP supplies.
- (3) Immediately mandate and implement such conservation requirements, water-use efficiency measures, and drought-related limitations as are appropriate to reduce the use of SWP supplies, including those SWP supplies already in storage.

BE IT FURTHER RESOLVED that Metropolitan's General Manager is hereby directed to coordinate with the member agencies and bring to the Board for authorization, as appropriate, the following actions:

- (1) Develop ~~An appropriate unified~~ regional message to communicate the status of the ~~statewide is regional~~ drought emergency and specified emergency conditions within the Metropolitan service area and the need for continued conservation to the general public, businesses, stakeholders, industries, and public officials.
- (2) Expand regional water use efficiency programs for the duration of this regional drought emergency, provided budget or grant funding is available.
- (3) Identify and implement measures to ensure all portions of the service area attain a high level of reliability against multi-year, severe droughts. Measures include, but are not limited to, system improvements, local water supply development, new water storage opportunities, and water efficiency gains.
- (4) Seek state funding and other resources for the region to accelerate conservation and supply programs.

BE IT FURTHER RESOLVED that notwithstanding anything in Metropolitan's Administrative Code to the contrary:

- (1) The General Manager is hereby delegated authority to take such actions, enter such agreements, and secure such permits and approvals as he deems necessary to address the ~~statewide is regional~~ drought emergency and specified emergency conditions within the Metropolitan service area to carry out the directives listed above, including:
 - a. Agreements with member agencies and/or other public agencies to enhance local water production, recycling, conservation, and storage.
 - b. Agreements with member agencies and/or other public agencies to purchase, transfer or exchange water supplies.
 - c. Contracts to procure equipment, materials, services, and supplies.
 - d. Agreements to provide media buying and placement services for a water awareness and conservation advertising campaign.
- (2) The General Manager is hereby designated as the decision-making body with respect to any actions taken, agreements entered, or permits and approvals secured pursuant to the above delegation of authority. In consultation with the General Counsel, the General Manager shall conduct any review

and prepare, approve and/or certify any documentation that may be required under the California Environmental Quality Act.

- (3) This delegation of authority is limited to drought-related actions and agreements that individually are less than \$5,000,000 and collectively are less than \$25,000,000.
- (4) For purposes of this delegation of authority, any provisions of Administrative Code requiring prior Board review and approval are hereby waived. However, the General Manager shall report to the Board at its next regularly scheduled meeting the specific details of and justification for any actions taken, agreements entered, or permits and authorizations secured under this delegation of authority.
- (5) Nothing in this delegation of authority shall be construed as waiving any other applicable requirements related to public and non-public works contracts as set forth in the state Public Contracts Code or Metropolitan's Administrative Code.

BE IT FURTHER RESOLVED that the duration of requested actions and the delegation of authority will automatically terminate when the drought state of emergency declared by the Governor has been lifted for all counties within Metropolitan's service area.

BE IT FURTHER RESOLVED that, should drought conditions persist or worsen in the coming months, Metropolitan's Board of Directors will consider declaring a water shortage emergency condition and imposing appropriate regulations, restrictions and penalties pursuant to California Water section 350 et seq., so as to conserve Metropolitan's water supplies for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Directors of The Metropolitan Water District of Southern California at its meeting held November 9, 2021.

Secretary of the Board of Directors
of The Metropolitan Water District
of Southern California