



San Diego County Water Authority

4677 Overland Avenue • San Diego, California 92123-1233
(858) 522-6600 FAX (858) 522-6568 www.sdcwa.org

August 15, 2015

Randy Record and
Members of the Board of Directors
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 5G-2 - Adopt (1) the resolution finding that continuing an ad valorem tax rate at the rate levied for fiscal year 2013/14 is essential to Metropolitan's fiscal integrity; and (2) the resolution establishing the tax rate for fiscal year 2014/15 - OPPOSE OPTION 1

Dear Chair Record and Board Members,

We have reviewed Board Memo 5G-2 and OPPOSE the action recommended to be adopted by the Board of Directors (i.e., to suspend the tax limitation of Section 124.5, thereby increasing the amount of property tax revenue to be collected by MWD). We have stated our objections previously, each time MWD has proposed to suspend the property tax rate limitations imposed by the Legislature, now embodied in Section 124.5 of the MWD Act. Copies of our May 14, June 5 and August 16, 2013 letters are attached for your ease of reference (Attachment 1). We SUPPORT adoption of OPTION 2 as described at page one of the Board Memorandum.

We OPPOSE the action recommended by staff because MWD has failed to make the requisite factual showing that additional tax revenues are "essential to the fiscal integrity of the District." Such a finding would be impossible to make given that MWD has collected almost \$800 million more than necessary to pay the actual expense items included in its adopted budgets over the past three years (even with this spending, MWD still has substantial cash reserves that are nearly at the maximum level prescribed by the Board of Directors). The fact that the MWD board later chose to spend this rate revenue on unbudgeted expenditures does not change the fact that these revenues were available to the District and therefore the collection of higher taxes was not, and is not necessary, let alone "essential" to the fiscal integrity of the district.

MWD has also failed to show why the other fixed revenue options it has available, such as the Readiness-to-Serve charge and benefit assessments, are not feasible. Indeed, it is clear from the legislative history of SB 1445 that the Legislature intended that MWD would use

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these alternatives in lieu of property taxes. See April 21, 1988 Memorandum from MWD's General Counsel to the Subcommittee on Financial Policy (Attachment 2).

Board Memorandum 5G-2 is incorrect when it states that MWD's fixed costs, particularly its fixed State Water Contract obligations, are increasing "in ways unforeseen by the Legislature in 1984" (Board Memorandum 5G-2, last paragraph at page 4). To the contrary, MWD's own Report to the California Legislature in Response to AB 322 (March 1984), clearly identified that fixed costs of the State Water Project were expected to increase dramatically (excerpts from the Report - Figures 18 and 19 - are included as Attachment 3).

We also OPPOSE staff recommendation because MWD has failed to provide the public with sufficient information to have a reasonable opportunity to be heard at the public hearing, as required by Section 124.5. The Board meeting agenda does not even reference the related Committee agenda item. Even if the Board Memorandum is located by a member of the public, it asks them to cull through all of the financial information appearing on MWD's web site, rather than providing an analysis of MWD's current financial condition, demonstrating that increased tax revenues are "essential" to its fiscal integrity within the meaning of the statute passed by the Legislature and signed into law (SB 1445).

MWD needs a long-range finance plan to address how it will pay for current and anticipated costs of the State Water Project. Revenues from property taxes – as one source of revenues, fixed or otherwise – should be considered and discussed by the board in the broader context of a plan to ensure MWD's long-term fiscal sustainability. Taking action, one year at a time, to increase property tax revenues without a comprehensive long-term fiscal strategy and plan does little to assure the public and our ratepayers that MWD is a fiscally prudent and sustainable agency. We would welcome the opportunity to have that dialogue.

Sincerely,



Michael T. Hogan
Director



Keith Lewinger
Director



Fern Steiner
Director



Yen C. Tu
Director

Attachments:

1. Water Authority's Letters to MWD Board (May 14, June 5 and August 16, 2013)
2. Memorandum from MWD's General Counsel to the Subcommittee on Financial Policy (April 21, 1988)
3. MWD Report to California Legislature in Response to AB 322, excerpts - Figures 18 and 19 (March 1984)



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May 14, 2013

John (Jack) V. Foley and

Members of the Board of Directors

Metropolitan Water District of Southern California

P.O. Box 54153

Los Angeles, CA 90054-0153

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OTHER REPRESENTATIVE

County of San Diego

RE: Board Memo 8-1 – Set public hearing to consider suspending Section 124.5 of the Metropolitan Water District Act to maintain the current ad valorem tax rate

Dear Chairman Foley and Members of the Board,

We have reviewed Board Memo 8-1 as well as the Legislative History of SB 1445 (Presley), now embodied in Section 124.5 of the MWD Act. While we support having a long term financing plan to increase MWD's fixed revenues in a manner which is proportional to benefits received by its member agencies, we are troubled by the ad hoc nature of staff's recommendation to schedule a public hearing to suspend tax limitations on the grounds that such action is "essential to the fiscal integrity of the district" this year. It is particularly difficult to understand the justification for taking this action at the same time MWD is, through its water rates and charges, already collecting hundreds of millions of dollars of revenues far in excess of its actual costs of service. Suspending the tax limitation, in isolation -- without addressing all of MWD's financial policies, rates, revenues and expenses -- will only exacerbate the over-collection of revenues in FY 2014 beyond what is necessary to meet the agency's expenses.

While ad valorem taxes may be an important tool over the long term for ensuring that the cost of MWD's services are shared proportionally by all of those who benefit, Board Memo 8-1 fails to mention other statutory and Constitutional requirements MWD's rates and charges must meet, including but not limited to compliance with Proposition 26. MWD is legally required to align the costs that it incurs with the services it provides. Developing a plan to pay for additional State Water Project costs must be part of that process. A one-year suspension of the limitation on the ad valorem tax rate is not a panacea for the hard work and changes that will be needed so that MWD has the funds it needs to pay its future costs from rates that truly represent a fair distribution of its costs.

As noted in our letter commenting on the draft Appendix A, we are concerned what the public perception will be of MWD declaring that these ad valorem taxes are "essential to the

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Chairman Foley and Members of the Board

May 14, 2013

Page 2

fiscal integrity of the district.” Read in the context of the Legislative History of SB 1445, we doubt this is the kind of situation the Legislature envisioned in establishing the limitations of Section 124.5.

Rather than set a public hearing to suspend the tax limitations for one year, we would like to suggest that the board of directors use this time to establish a Fiscal Sustainability Task Force to update MWD’s Long Range Finance Plan. The plan would take into account all of MWD’s liabilities, and facilities and resource needs and align them to rates and charges including fixed cost recovery that will be proportional to the benefits its member agencies desire and for which they are willing to pay.

Sincerely,



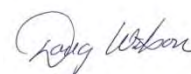
Keith Lewinger
Director



Vincent Mudd
Director



Fern Steiner
Director



Doug Wilson
Director

cc: Jeff Kightlinger, MWD General Manager
San Diego County Water Authority Board of Directors and Member Agencies



San Diego County Water Authority

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June 5, 2013

John (Jack) V. Foley and
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OTHER REPRESENTATIVE

County of San Diego

June 5, 2013

RE: Board Memo 8-1 – Mid-cycle Biennial Budget Review and Recommendation for Use of Reserves over Target Water Rate Increases – OPPOSE AND REQUEST FOR REFUND TO RATEPAYERS OF EXCESS RESERVES

Board Memo 8-2 – Suspend the tax rate limitations in Section 124.5 of the Metropolitan Water District Act to maintain the ad valorem tax rate for fiscal year 2013/14 – OPPOSE

Dear Chairman Foley and Board Members:

In April 2012, this Board voted to raise water rates by 5% for 2013 and 2014 based on the staff's report that limiting water rate increases to no more than 3% would leave MWD unable to pay for critical infrastructure needs on the Colorado River Aqueduct. At that time, MWD staff also represented that the rate increases were based on maintaining reserve levels from 2012 through 2017 at, or close to the board-adopted minimum target.

As in past years, MWD's estimations of water sales and actual expenditures have proven to be materially different than assumed for budget and rate-setting purposes. Far from being unable to pay for critical infrastructure, MWD ended fiscal year 2012 – less than three months after adopting rates -- with an extra \$97 million to add to its reserves. According to this month's board report, MWD will, before it ends fiscal year 2013 at the end of this month, add another \$217 million to its unrestricted reserves, causing the reserves to exceed the maximum limit by \$75 million. ***In less than 15 months, MWD has collected \$314 million more than needed to pay 100% of its budgeted expenditures.***

Many of the cities we serve are struggling with their own budgets to make ends meet and pay for critical infrastructure. Many of the ratepayers we serve are also struggling to make ends meet during a period of lower incomes and escalating costs. We owe it to our cities and ratepayers to be better stewards of the precious dollars water ratepayers entrust to us when they pay their water bills. We once again call on this Board to establish a ***Fiscal Sustainability Task Force*** to develop a long-range finance plan and accounting, budget, and rate-setting protocols to ensure that every dollar MWD collects is used for its intended purpose, and, that MWD does not collect more money than it really needs.

Chairman Foley and Members of the Board

June 5, 2013

Page 2

In the meantime, we call on the board to **REFUND the \$75 million in excess reserves**, rather than shift this money to unplanned, unbudgeted expenditures. Attachment 1 to this letter shows approximately¹ how much MWD could refund to each of its member agencies. We also once again call on the Board to act now to **REDUCE the planned water rate increase for 2014 from 5% to 3%**. Reliance on budget estimates proven to be materially incorrect is unwarranted in the face of the actual facts.

For the same reason, we **OPPOSE Board Memo 8-2 proposing to suspend the tax rate limitations** in Section 124.5 of the MWD Act. We have reviewed the legislative history of SB 1445. We disagree that it was “meant to increase Metropolitan’s financial flexibility.” The clear purpose of the legislation was to limit the imposition of future taxes by MWD, with the ultimate goal that the tax be eliminated. The Legislature instead provided different tools to allow MWD to cover its fixed costs including standby or readiness-to-serve charges and benefit assessments, as clearly acknowledged in the Board Memo. The fact that MWD has failed to better utilize these and other tools as part of a long-range plan to cover its fixed costs does not translate to a need for higher taxes.

MWD cannot credibly claim that additional tax revenues of \$4.4 million are “essential to the fiscal integrity of the District” at the very same time it has amassed \$549 million in unrestricted cash reserves, exceeding the projected reserve levels forecasted in the adopted biennial budget (\$220.8 million)² by \$328.2 million, and surpassing the board-adopted maximum reserve target by \$75 million. This issue should also be addressed as part of a long-range finance planning process in which all long term costs and sources of revenue may be considered, rather than the ad hoc decision-making that is being presented to this board.

Finally, there is no factual support for the statements in Board Memo 8-2 that the imposition of a tax increase is necessary to “preserve equity across member agencies” or that MWD’s current rates and charges have been assessed in a manner designed to reflect equity or the actual costs of the services MWD provides. While we support the fiscal objectives as described – balance between fixed costs and fixed revenues and equity across member agencies – we do not agree that the way to achieve this is to suspend the tax limitation for one year. Instead, MWD should conduct a cost-of-service study as part of a long-range financial planning process in order to ensure accomplishment of these important objectives.

Sincerely,



Keith Lewinger
Director



Vincent Mudd
Director



Fern Steiner
Director

Attachment 1: Estimated refund of MWD over-collection

Attachment 2: Comparison of MWD reserves forecast

cc: Jeffrey Kightlinger
San Diego County Water Authority Board of Directors

¹ Based on 11 months (July 2012 through May 2013) of member agencies’ payment of rates and charges (data source: MWD WINS).

² Attachment 2 to this letter shows MWD’s projected reserves when the budget was adopted in April 2012 compared to reserves projected in April 2013 (data source: MWD PowerPoint dated 4/8/2013)

Estimated Refund of MWD Over-Collection

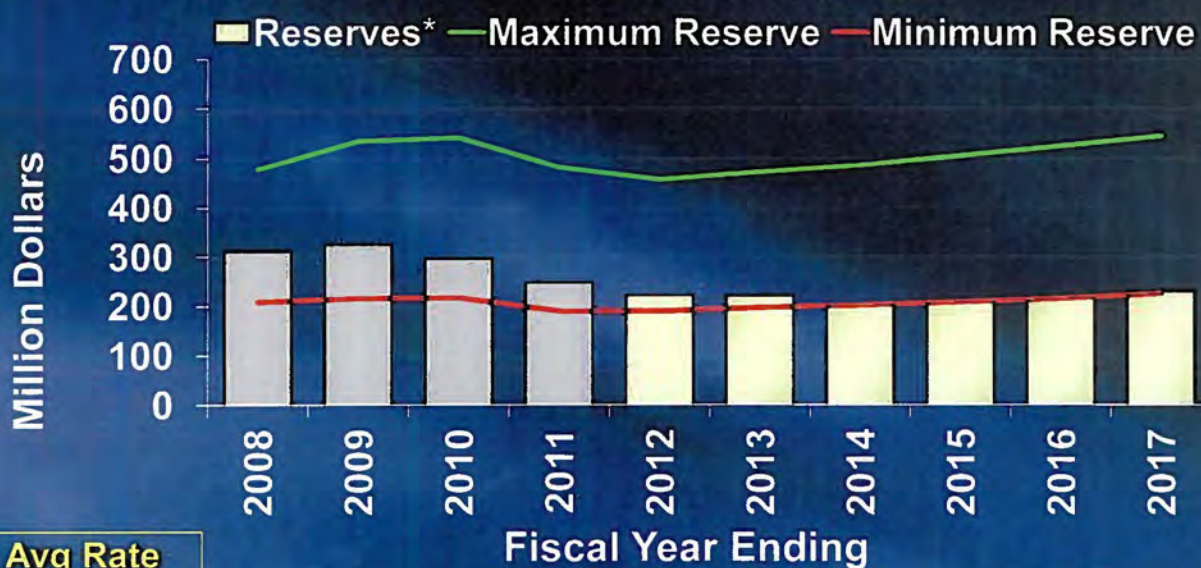
Attachment 1

Fiscal Year 2013*				
MWD Member Agency	Total Contribution Rates and Charges (07/12 - 06/13)	Total Contribution	(in %)	\$ 75,000,000
Anaheim	\$ 14,178,498.33	1.13%	\$	847,769
Beverly Hills	\$ 9,133,714.68	0.73%	\$	546,129
Burbank	\$ 9,864,635.91	0.79%	\$	589,832
Calleguas	\$ 87,186,626.45	6.95%	\$	5,213,115
Central Basin	\$ 28,231,187.87	2.25%	\$	1,688,016
Compton	\$ 1,364,481.90	0.11%	\$	81,586
Eastern	\$ 71,031,751.96	5.66%	\$	4,247,173
Foothill	\$ 6,603,113.95	0.53%	\$	394,817
Fullerton	\$ 7,611,689.48	0.61%	\$	455,123
Glendale	\$ 14,894,768.04	1.19%	\$	890,597
Inland Empire	\$ 30,355,607.00	2.42%	\$	1,815,041
Las Virgenes	\$ 18,087,663.81	1.44%	\$	1,081,508
Long Beach	\$ 25,055,739.11	2.00%	\$	1,498,148
Los Angeles	\$ 261,368,067.87	20.84%	\$	15,627,876
MWDOC	\$ 149,249,392.78	11.90%	\$	8,924,009
Pasadena	\$ 14,646,995.66	1.17%	\$	875,782
San Diego	\$ 273,850,600.54	21.83%	\$	16,374,239
San Fernando	\$ 72,742.55	0.01%	\$	4,349
San Marino	\$ 615,129.24	0.05%	\$	36,780
Santa Ana	\$ 8,756,935.65	0.70%	\$	523,600
Santa Monica	\$ 5,489,296.52	0.44%	\$	328,219
Three Valleys	\$ 47,988,374.68	3.83%	\$	2,869,350
Torrance	\$ 13,646,271.90	1.09%	\$	815,946
Upper San Gabriel	\$ 8,975,149.06	0.72%	\$	536,647
West Basin	\$ 94,668,219.86	7.55%	\$	5,660,459
Western	\$ 51,409,167.96	4.10%	\$	3,073,888
Total	\$ 1,254,335,822.76	100.00%	\$	75,000,000

Note: Totals may not foot due to rounding

*Based on 11 months (July 2012 through May 2013) of member agencies' payment of rates and charges (data source: MWD WINS, June 5, 2013)

FY2013 & FY2014 Budget



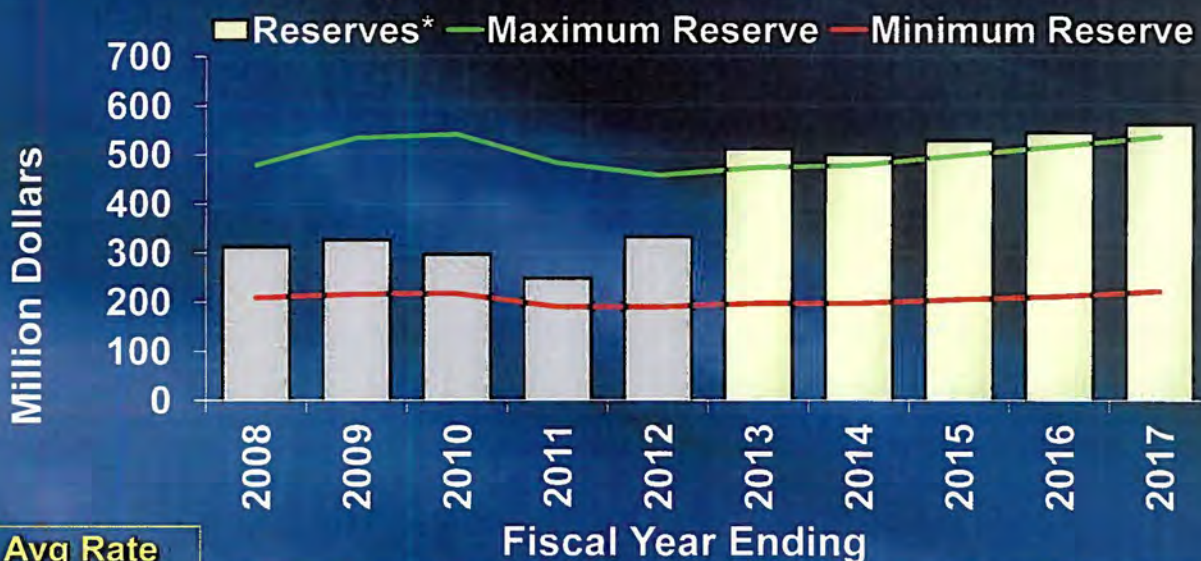
Avg Rate Increase	6%	14%	20%	7.5%	7.5%	5%	5%	← 3% to 5% →		
Sales, MAF	2.3	2.2	1.8	1.7	1.7	1.7	1.7	1.75	1.75	1.75
PAYGO, \$M	43	30	37	45	45	55	125	125	125	125
Rev. Bond Cvg	1.8	1.8	1.6	1.5	1.5	1.6	1.9	1.9	2.0	2.0
Fixed Chg Cvg	1.3	1.3	1.1	1.0	1.1	1.2	1.3	1.3	1.3	1.3

* Includes Water Stewardship Fund
FY2013 and beyond are based on modified accrual

F&I Committee

April 2013

Updated Forecast



Avg Rate Increase	6%	14%	20%	7.5%	7.5%	5%	5%	3%	3%	3%
Sales, MAF	2.3	2.2	1.8	1.7	1.7	1.8	1.7	1.75	1.75	1.75
PAYGO, \$M	43	30	37	45	45	55	125	125	125	125
Rev. Bond Cvg	1.8	1.8	1.6	1.5	1.8	2.2	1.9	2.1	2.0	2.1
Fixed Chg Cvg	1.3	1.3	1.1	1.0	1.3	1.7	1.3	1.4	1.4	1.4

* Includes Water Stewardship Fund
FY2013 and beyond are based on modified accrual

F&I Committee

April 2013



San Diego County Water Authority

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August 16, 2013

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OTHER REPRESENTATIVE

County of San Diego

RE: Board Memo 5G-2: Adopt resolution maintaining the tax rate for fiscal year 2013/14
– OPPOSE

Dear Chairman Foley:

For the reasons set forth in our letter to you dated June 5, 2013 (copy attached), we OPPOSE the proposed board action to adopt a resolution maintaining the tax rate for fiscal year 2013/14. Among other things, it is clear that this action is not “essential to the fiscal integrity of the District,” at a time when MWD has amassed hundreds of millions of dollars by overcharging ratepayers utility rates that greatly exceed the costs of the services MWD is providing.

MWD has filed a motion for judgment on the pleadings in the Water Authority’s litigation challenging its rates, on the grounds that the Constitutional limitations of Proposition 26 do not apply to MWD; that motion is scheduled to be heard September 18. Should MWD not prevail on the motion, we hope that the board of directors will immediately direct staff to conduct a cost-of-service study as part of a long-range financial planning process. This is the right way to ensure accomplishment of the board’s objectives, in a manner that is consistent with the legal requirement that MWD charge no more than the proportionate cost of the services it provides to its member agencies. This ad hoc action to suspend the tax rate limitations in Section 124.5 of the MWD Act for one year is unwarranted, and does nothing to address the long-term fiscal challenges confronting MWD.

Sincerely,

Keith Lewinger
Director

Vincent Mudd
Director

Fern Steiner
Director

Attachment: Water Authority letter to MWD on MWD June 2013 actions re 8-1 and 8-2,
dated June 5, 2013

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Chairman Foley and Members of the Board

June 5, 2013

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For the same reason, we **OPPOSE Board Memo 8-2 proposing to suspend the tax rate limitations** in Section 124.5 of the MWD Act. We have reviewed the legislative history of SB 1445. We disagree that it was “meant to increase Metropolitan’s financial flexibility.” The clear purpose of the legislation was to limit the imposition of future taxes by MWD, with the ultimate goal that the tax be eliminated. The Legislature instead provided different tools to allow MWD to cover its fixed costs including standby or readiness-to-serve charges and benefit assessments, as clearly acknowledged in the Board Memo. The fact that MWD has failed to better utilize these and other tools as part of a long-range plan to cover its fixed costs does not translate to a need for higher taxes.

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Sincerely,



Keith Lewinger
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Attachment 2: Comparison of MWD reserves forecast

cc: Jeffrey Kightlinger
San Diego County Water Authority Board of Directors

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Estimated Refund of MWD Over-Collection

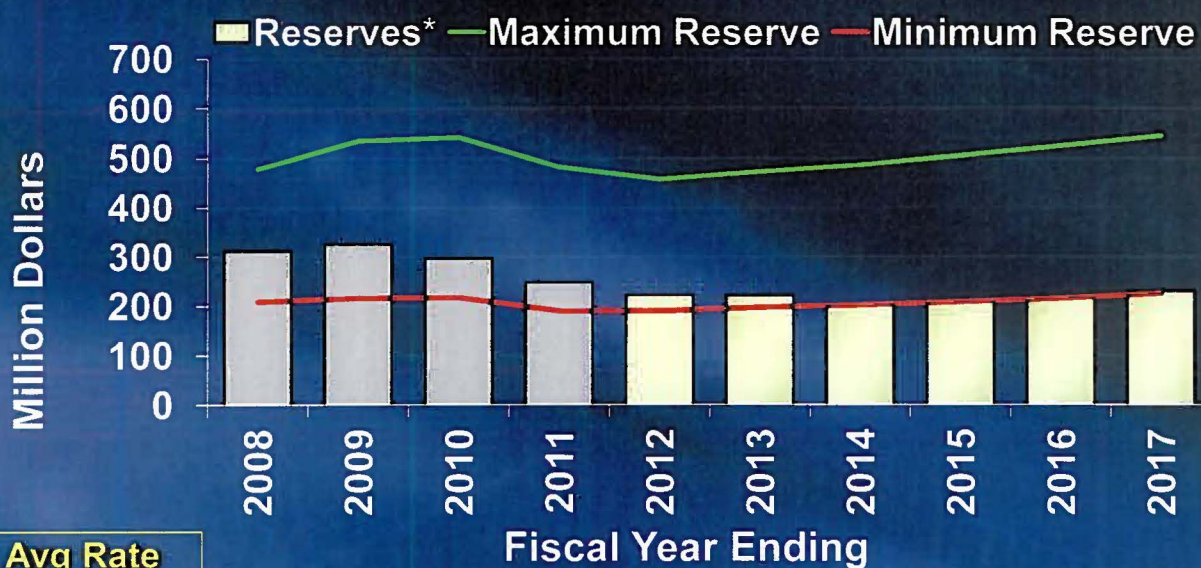
Attachment 1

Fiscal Year 2013*				
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Anaheim	\$ 14,178,498.33	1.13%	\$	847,769
Beverly Hills	\$ 9,133,714.68	0.73%	\$	546,129
Burbank	\$ 9,864,635.91	0.79%	\$	589,832
Calleguas	\$ 87,186,626.45	6.95%	\$	5,213,115
Central Basin	\$ 28,231,187.87	2.25%	\$	1,688,016
Compton	\$ 1,364,481.90	0.11%	\$	81,586
Eastern	\$ 71,031,751.96	5.66%	\$	4,247,173
Foothill	\$ 6,603,113.95	0.53%	\$	394,817
Fullerton	\$ 7,611,689.48	0.61%	\$	455,123
Glendale	\$ 14,894,768.04	1.19%	\$	890,597
Inland Empire	\$ 30,355,607.00	2.42%	\$	1,815,041
Las Virgenes	\$ 18,087,663.81	1.44%	\$	1,081,508
Long Beach	\$ 25,055,739.11	2.00%	\$	1,498,148
Los Angeles	\$ 261,368,067.87	20.84%	\$	15,627,876
MWDOC	\$ 149,249,392.78	11.90%	\$	8,924,009
Pasadena	\$ 14,646,995.66	1.17%	\$	875,782
San Diego	\$ 273,850,600.54	21.83%	\$	16,374,239
San Fernando	\$ 72,742.55	0.01%	\$	4,349
San Marino	\$ 615,129.24	0.05%	\$	36,780
Santa Ana	\$ 8,756,935.65	0.70%	\$	523,600
Santa Monica	\$ 5,489,296.52	0.44%	\$	328,219
Three Valleys	\$ 47,988,374.68	3.83%	\$	2,869,350
Torrance	\$ 13,646,271.90	1.09%	\$	815,946
Upper San Gabriel	\$ 8,975,149.06	0.72%	\$	536,647
West Basin	\$ 94,668,219.86	7.55%	\$	5,660,459
Western	\$ 51,409,167.96	4.10%	\$	3,073,888
Total	\$ 1,254,335,822.76	100.00%	\$	75,000,000

Note: Totals may not foot due to rounding

*Based on 11 months (July 2012 through May 2013) of member agencies' payment of rates and charges (data source: MWD WINS, June 5, 2013)

FY2013 & FY2014 Budget



Avg Rate Increase	6%	14%	20%	7.5%	7.5%	5%	5%	← 3% to 5% →		
Sales, MAF	2.3	2.2	1.8	1.7	1.7	1.7	1.7	1.75	1.75	1.75
PAYGO, \$M	43	30	37	45	45	55	125	125	125	125
Rev. Bond Cvg	1.8	1.8	1.6	1.5	1.5	1.6	1.9	1.9	2.0	2.0
Fixed Chg Cvg	1.3	1.3	1.1	1.0	1.1	1.2	1.3	1.3	1.3	1.3

* Includes Water Stewardship Fund
FY2013 and beyond are based on modified accrual

F&I Committee

April 2013

Updated Forecast



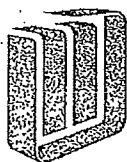
Avg Rate Increase	6%	14%	20%	7.5%	7.5%	5%	5%	3%	3%	3%
Sales, MAF	2.3	2.2	1.8	1.7	1.7	1.8	1.7	1.75	1.75	1.75
PAYGO, \$M	43	30	37	45	45	55	125	125	125	125
Rev. Bond Cvg	1.8	1.8	1.6	1.5	1.8	2.2	1.9	2.1	2.0	2.1
Fixed Chg Cvg	1.3	1.3	1.1	1.0	1.3	1.7	1.3	1.4	1.4	1.4

* Includes Water Stewardship Fund
FY2013 and beyond are based on modified accrual

F&I Committee

April 2013

38732

**MWD***METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA*

April 21, 1988

To Subcommittee on Financial Policy--Information

From General Counsel

Subject The History of the Tax Limitation Provisions of Section 124.5 of the Metropolitan Water District Act

Summary

In 1983, in response to a California Supreme Court decision allowing property tax levies for voter-approved pension funds, the Legislature enacted AB 377, which unintentionally would have had the effect of prohibiting the levy of taxes for voter-approved water contract payments, including the State Water Project. AB 322, passed later in the 1983 session, corrected this matter by authorizing property tax levies for the State Water Project contract payments and voter-approved Federal water contract payments. At that time, Metropolitan had substantially raised its property tax rate for fiscal year 1983-84, and in response AB 322 prohibited any increase in Metropolitan's taxes above the 1982-83 level for the tax year 1984-85 and 1985-86 and requested a report to the Legislature on the District's program to reduce reliance on property taxes and to assure equitable distribution of the tax burden.

After extensive study by a staff task force and negotiations among Directors representing various member agencies, with the General Manager serving as an intermediary, a compromise was reached resulting in additional statutory financial flexibility, revisions to the Administrative Code reducing the allocation of revenue requirements to taxes under the proportionate use formula, and the addition of Section 124.5 of the MWD Act, which essentially places an upper limit on District taxes commencing in 1990-91 based upon debt service for District general obligation bonds and an allocable share of the State's debt service on Burns-Porter bonds used to finance State Water Project facilities benefiting the District. The compromise was enacted by

Subcomm. on Financial Policy -2-

April 21, 1988

SB 1445 which also removed the two-year tax limitation on the District and the reporting requirement. Under the compromise it was estimated that with the sale and redemption of the remaining authorized District general obligation bonds, barring emergencies, the District would reduce its tax rate to zero in approximately 2023-24. At that time, there was no authority to authorize further general obligation bonds. The compromise also amended the Administrative Code to exclude debt service for water treatment plants from tax levies.

Recommendation

For information only.

Detailed Report

SB 1445 is the culmination of three pieces of legislation enacted in 1983 and 1984 relative to the District's taxing authority, among other matters. In 1983 the Legislature, in response to a concern that a number of local public entities, particularly the City of Los Angeles, would significantly increase their property tax rates under the ruling of the California Supreme Court in 1982 in Carman v. Alvord allowing the use of property taxes for the payment of voter-approved pension liabilities, enacted AB 377. That bill, with major amendments, emerged from a conference committee on July 19 and was adopted by both the Senate and Assembly that day. It was sent to the Governor and approved July 28. A significant provision of that bill added Section 97.6 of the Revenue and Taxation Code, which was intended as an interim control pending further legislative consideration, and it essentially provided that for the 1983-84 and 1984-85 fiscal years no local public entity would be permitted to impose a property tax under the pre-1978 voter-approved indebtedness which was in excess of the tax rate imposed by the public entity in the 1982-83 fiscal year for other than bonded indebtedness. Thus, the scope of the prohibition went far beyond the pension tax exception that generated the legislative concern, including what appeared to be a prohibition on property tax levies for payments under State Water Project contracts.

Due in part to an adjustment provision to compensate for tax over-collections in the previous year which had caused the 1982-83 tax rate to be abnormally low and a \$20 million "one-shot" additional charge from the State for a project interest rate adjustment, the District's proportionate use

Subcomm. on Financial Policy -3-

April 21, 1988

formula (under which water rates are set) required a substantially higher tax rate for 1983-84 for the purpose of making payments to the State of California pursuant to its State water contract. The authority to levy property taxes for that program had been confirmed by the court's ruling in Goodman v. County of Riverside in 1983 as within the pre-1978 voter-approved indebtedness exception to the one percent of value property tax limitation of Article XIII A of the State Constitution (Proposition 13). When it became apparent that no corrective legislation would be enacted by mid-August of 1983, the District proceeded to levy the tax rate for 1983-84 determined under its proportionate use formula on the grounds that AB 377 was an unconstitutional impairment of contract as applied to the District for that year.

Following the District's action in setting its tax rate, the Legislature recognized the potential for default by the various State water contractors in their payment obligations to the State if their taxing authority was restricted in the manner provided by AB 377. Another bill, AB 322 (Roos), was substantially rewritten and emerged from conference on September 15, amending Section 97.6 (which had been added by AB 377) to provide that the limitation of Section 97.6 did not apply to taxes levied to meet obligations to make payments to either the State of California under contracts for the sale, delivery or use of water entered into pursuant to the California Water Resources Development Bond Act or the United States under voter-approved contracts for the sale, delivery or use of water or for repayment of voter-approved obligations for the construction, maintenance or operation of water conservation, treatment or distribution facilities.

AB 322 also specifically validated the District's 1983-84 tax rate but provided further that a metropolitan water district should not impose a property tax rate for fiscal years 1984-85 and 1985-86 which would be in excess of the rate imposed in fiscal year 1982-83 unless at least 80 percent of the Board of Directors found that a fiscal emergency existed which required a property tax rate increase and approved the rate increase. The provision also required the District to submit a report to the Legislature on or before March 31, 1984 detailing its program to reduce the reliance of the District on property taxes and to assure that the property tax burden would be equitably distributed. AB 322, which became law without the Governor's signature, became effective October 1 as an urgency statute.

Subcomm. on Financial Policy -4-

April 21, 1988

The District appointed a task force to develop the required response to the Legislature which was completed and filed with the Legislature in March 1984. (A copy of the cover letter is attached.) As submitted, the response was intended to be an interim report, and the Board requested a two-year extension of the Legislature for the submission of a final report. The response explained in detail the historical development and application of the District's financial policy with regard to property taxes and water revenues. It further indicated that the District would be increasing its reliance on variable water revenues to meet the substantial growth in fixed costs with which the District was confronted that were to continue into the 21st century. The report included proposed legislation which provided additional financial flexibility to the District with regard to revenue sources, i.e., the authority to levy water standby or availability service charges, benefit assessments and the authority to issue commercial paper.

After the report was submitted, SB 1445, which had already passed the Senate, was amended in the Assembly to extend the reporting date to March 31, 1986, and to add the financial flexibility provisions requested in the report to the Legislature. On April 30, 1984, the General Manager by letter to the Board of Directors (copy attached) proposed as a further amendment to the Metropolitan Water District Act the addition of Section 124.5 which was approved by the Board. This would provide that, commencing with fiscal year 1990-91, the District's ad valorem property taxes, other than annexation taxes, shall not exceed (1) the amount required to pay debt service on Metropolitan's general obligations bonds and (2) that portion of the District's payment obligation to the State under the State water service contract which is reasonably allocable to the State's payment of debt service of existing Burns-Porter Bonds used to finance construction of facilities for the benefit of the District. The proposal also provided that these restrictions would not be applicable if the Board, after a hearing to consider that issue, found that a tax in excess of this restriction would be essential to the fiscal integrity of the District and the offices of the Speaker of the Assembly and the President Pro Tempore of the Senate were given written notice of hearing at least 10 days prior to the date of hearing.

Those amendments were incorporated in SB 1445. Following a few additional minor amendments, including the deletion of the two-year extension for filing the report,

Subcomm. on Financial Policy -5-

April 21, 1988

Senate Bill 1445 was enacted, effectively restoring the District's authority to levy taxes in accordance with the revised proportionate use formula until fiscal year 1990-91.

The tax limitation provisions contained in SB 1445 resulted from extensive negotiations among the Directors. The task force developed a series of water revenue/taxation policy alternatives which were presented for consideration. The compromise method, designated Alternative 17A at the time, that was eventually adopted by the Board and reflected in SB 1445, assumed that the District would issue its then remaining \$365 million in authorized but unissued general obligation bonds. This was shown in the attachment to the General Manager's April 30 letter which projected aggregate debt service of the District and allocated State Water Project general obligation bonds to reach \$107 million by 1988-89. (Debt service on the then outstanding District general obligation bonds was \$30 million per year, the estimated share of State Water Project general obligation debt service was \$41 million, and the projected debt service on the \$365 million in unissued District general obligation bonds would be \$36 million.) Based on that, it was estimated that District taxes would cease after fiscal year 2022-23 except in fiscal emergencies.

It should be noted that during this period, Article XIII A effectively precluded the authorization of additional general obligation debt, and thus the compromise effected by Section 124.5 of the MWD Act did not contemplate such additional debt authorization or a tax to service it. With the adoption of Proposition 46 in 1986, Article XIII A has been amended to permit property tax support for bonded indebtedness for the acquisition or improvement of real property approved by a two-thirds vote, and the literal provisions of Section 124.5 would permit a tax to service such bonds if they were so approved.

The General Manager's letter of April 30, 1984, also recommended revision of the District's Administrative Code to redefine certain categories of capital costs to be used in the proportionate use formula to determine the allowable tax levy through 1990-91. They excluded from the definition of capital costs under the proportionate use formula debt service attributable to bonds used to finance the construction of treatment plants and included such debt service within the definition of operation and maintenance costs, chargeable to the water treatment surcharge. This reclassification caused a

Subcomm. on Financial Policy -6-

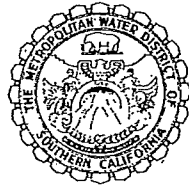
April 21, 1988

reduction in the calculation of tax rates for fiscal year 1984-85 and thereafter and, if not further revised in the future, would cause all debt service on bonds authorized or issued to finance water treatment, whether revenue or general obligation, to be a charge upon water revenues. This, of course, is consistent with the District's long-standing policy of recovering all costs of treatment from the users of treated water through the treatment surcharge on water rates.

Warren J. Abbott
Warren J. Abbott

JWM:jh
LDBOARD2-366
Attachments

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The Metropolitan Water District of Southern California

Report to the California Legislature
in
Response to AB 322

March 1984

FIXED COSTS ASSOCIATED WITH PARTICIPATION IN THE STATE WATER PROJECT

