

# STAFF REPORT



ITEM NO. 9

CITY OF OCEANSIDE

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DATE: February 1, 2012

TO: Honorable Mayor and City Councilmembers

FROM: Water Utilities Department

SUBJECT: **ADOPTION OF A RESOLUTION TO EXPRESS THE CITY'S SUPPORT OF THE SAN DIEGO COUNTY WATER AUTHORITY'S LAWSUIT AGAINST THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

## **SYNOPSIS**

Staff and the Utilities Commission recommend that the City Council adopt a resolution expressing the City's support of the San Diego County Water Authority's lawsuit against the Metropolitan Water District of Southern California.

## **BACKGROUND**

Metropolitan Water District (MWD) is the wholesale supplier to the San Diego County Water Authority (Water Authority). The lawsuit challenges MWD's rate structure, stating that it improperly overcharges for the transportation of water to San Diego customers and uses that money to subsidize the cost of MWD water for users other than those in the Water Authority service area. This violates California's Constitution, other state law, and standard water utility practice.

MWD purchases more than half of its water from the State Water Project under a contract with the Department of Water Resources. Instead of treating these purchases as a cost of water, MWD allocates nearly 80 percent of the cost to charges for the transportation of water through MWD facilities. This discriminates against the Water Authority, which is the single largest user of MWD transportation services. The Water Authority uses MWD facilities to transport Colorado River water it purchases under a water conservation agreement with the Imperial Irrigation District.

## **ANALYSIS**

Metropolitan rate increases are passed through to the Water Authority which in turn, passes them through to the member agencies. These costs cannot be controlled at the local level and cannot typically be absorbed year after year by the Water Utilities Department or by the Water Authority. The rate increases and rate structure translate

into increased costs of water borne by Oceanside ratepayers and deprive the City of MWD water conservation and local water supply development funding offsets.

Although Metropolitan's individual rate components have recently increased slightly over 8.9 percent and 6.1 percent for treated and untreated water respectively, the previous two rate increases for the transportation component of the rate was 18.5 percent. These large cost increases, and the transportation cost increase in particular, have necessitated dramatic local rate hikes to ensure there is adequate revenue to meet ongoing costs. Rate increases of this magnitude will continue and will have the most drastic jump between the years 2019 and 2021 when the first full year of the Quantification Settlement Agreement is implemented, MWD experiences costs for its share of the Delta fix and MWD pursues enhanced regional supply development. (The 2003 Quantification Settlement Agreement allows for the transfer of water to the Water Authority from the Imperial Irrigation District for up to 75 years. In 2003, 10,000 acre-feet year was transferred; this will ramp up to 200,000 acre-feet/year by 2021.) It is critical that the rate structure be challenged and that the lawsuit be successful and therefore, staff recommends adopting the resolution to express support for the MWD rate challenge.

### **FISCAL IMPACT**

As alleged in the Water Authority's lawsuit, MWD's approved rate structure has and will continue to cause significant financial harm to the San Diego region. San Diego County lost approximately \$31 million in 2011 and anticipates overcharges of approximately \$43.2 million in 2012; those overcharges may grow to as much as \$230 million annually by 2021 as the Water Authority's water transfer agreement with the Imperial Irrigation District reaches its maximum annual quantity of 200,000 acre-feet.

The MWD rate structure cost Oceanside ratepayers an estimated additional \$1.6 million in 2011. In 2012, that figure is estimated to increase to \$2.25 million; the estimate for 2021 is \$11.96 million, and amounts to as much as \$109 million over 45 years.

MWD's rate structure disguises the true price of imported water and impedes cost-efficient water conservation and long-term regional and statewide water supply reliability efforts. By charging an artificially low rate for its water supplies, MWD discourages water conservation and local agency investments in cost-effective water supply projects. These local investments could improve Southern California's water supply reliability and reduce the region's exposure to droughts or regulatory restrictions on imported water.

### **CITY ATTORNEY'S ANALYSIS**

The referenced documents have been reviewed by the City Attorney and approved as to form.

**INSURANCE REQUIREMENTS**

Does not apply.

**COMMISSION OR COMMITTEE REPORT**

The Utilities Commission unanimously approved staff's recommendation at its regularly scheduled meeting on December 13, 2011.

**RECOMMENDATIONS**

Staff and the Utilities Commission recommend that the City Council adopt a resolution expressing the City's support of the San Diego County Water Authority's lawsuit against the Metropolitan Water District of Southern California.

PREPARED BY:

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City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Cari Dale, Water Utilities Director

Teri Ferro, Financial Services Director

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1 RESOLUTION NO.

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
3 OCEANSIDE SUPPORTING THE SAN DIEGO COUNTY  
4 WATER AUTHORITY'S LAWSUIT AGAINST THE  
5 METROPOLITAN WATER DISTRICT OF SOUTHERN  
6 CALIFORNIA

7 WHEREAS, San Diego County's \$186 billion economy and 3.1 million people depend  
8 upon the San Diego County Water Authority for approximately 75 percent of all water used in  
9 the region; and

10 WHEREAS, the Water Authority purchases nearly 50 percent of the region's water  
11 supply from the Metropolitan Water District of Southern California (MWD) and pays MWD a  
12 transportation charge to transport another 25 percent of the region's water supply the Water  
13 Authority obtained through water conservation achieved through a historic water transfer  
14 agreement with the Imperial Irrigation District and (IID) by lining the All American &  
15 Coachella canals; and

16 WHEREAS, MWD has approved water rate increases totaling 75% since 2006; and

17 WHEREAS, MWD's water rate structure misallocates the vast majority of its own water  
18 supply costs to the water transportation rates charged to the Water Authority to transport the  
19 IID and canal lining supplies, resulting in an overcharge of \$31 million to San Diego County  
20 Ratepayers in 2011 and illegal subsidies to each of the 25 other member agencies of MWD; and

21 WHEREAS, these overcharges are estimated to reach as much as \$230 million annually  
22 by the year 2021, and amount to as much as \$2.1 billion over 45 years; and

23 WHEREAS, on June 11, 2010, the San Diego County Water Authority filed a lawsuit  
24 against MWD, challenging MWD's 2011 and 2012 water rates, which is currently pending in  
25 the San Francisco Superior Court as Case No. CPF-10-510830; and

26 WHEREAS, on October 27, 2011, the Water Authority successfully amended its lawsuit  
27 to assert additional claims against MWD alleging that MWD took additional unfair and  
28 punitive actions that negatively impact the Water Authority and San Diego County ratepayers;  
and

1 WHEREAS, the City of Oceanside and the Water Authority require MWD board  
2 policies that make water available at an affordable cost, fairly and lawfully apportioned among  
3 its rate categories and among the member agencies of MWD.

4 NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

5 SECTION 1. That the City of Oceanside supports the San Diego County Water  
6 Authority's lawsuit and the Water Authority's ongoing efforts to secure a reliable water supply  
7 and transportation rates from MWD at affordable, lawful and equitable prices.

8 PASSED AND ADOPTED by the City Council of the City of Oceanside, California,  
9 this \_\_\_\_ day of \_\_\_\_\_, 2012, by the following vote

10 AYES:

11 NAYES:

12 ABSENT:

13 ABSTAIN:

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16 \_\_\_\_\_  
MAYOR, CITY OF OCEANSIDE

17  
18 ATTEST:

APPROVED AS TO FORM:

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20 \_\_\_\_\_  
CITY CLERK

21 *Antonio Samuelson, ASST.*  
\_\_\_\_\_  
CITY ATTORNEY