

SPECIAL WORKSHOP MEETING OF THE
BOARD OF DIRECTORS WITH MET DIRECTORS
MUNICIPAL WATER DISTRICT OF ORANGE COUNTY
18700 Ward Street, Board Room, Fountain Valley, California
June 4, 2008, 7:30 a.m.

AGENDA

PLEDGE OF ALLEGIANCE

ROLL CALL

PUBLIC PARTICIPATION/COMMENTS

At this time members of the public will be given an opportunity to address the Board concerning items within the subject matter jurisdiction of the Board. Members of the public may also address the Board about a particular Agenda item at the time it is considered by the Board and before action is taken.

The Board requests that all members of the public who want to address the Board complete a "Request to be Heard" form available from the Board Secretary prior to the meeting.

ITEMS RECEIVED TOO LATE TO BE AGENDIZED

Determine need and take action to agendize item(s), which arose subsequent to the posting of the Agenda. (ROLL CALL VOTE: Adoption of this recommendation requires a two-thirds vote of the Board members present or, if less than two-thirds of the Board members are present, a unanimous vote.)

(NEXT RESOLUTION NO. 1833)

DISCUSSION ITEMS

1. MET'S PROPOSED IMPLEMENTATION OF EXTRAORDINARY CONSERVATION MEASURES – Steve Arakawa from MET will be here to discuss these programs

Recommendation: Review, discuss, and take action as appropriate.

2. MEMORANDUM OF UNDERSTANDING REGARDING CHANGE IN SOURCE OF WATER SUPPLIED THROUGH THE AMP TO SOUTH ORANGE COUNTY

Recommendation: Discuss with MET Directors and take action if appropriate.

3. LONG RANGE FINANCE PLAN UPDATE – INTERIM AGRICULTURAL WATER PROGRAM

Recommendation: Review, discuss, and take action as appropriate.

4. AB 885 CALDERON – MWD ALTERNATE REPRESENTATION

Recommendation: Review, discuss, and take action as appropriate.

5. MET ITEMS CRITICAL TO ORANGE COUNTY

- a. Water Supply Allocation Plan Development
- b. Integrated Resources Plan
- c. Long Range Finance Plan
- d. Colorado River Issues
- e. Bay Delta/State Water Project Issues
- f. Central Pool Augmentation Project
- g. MET's Desalination Policy

Recommendation: Discuss and provide input on information relative to the MET items of critical interest to Orange County.

6. METROPOLITAN (MWD) BOARD AND COMMITTEE AGENDA DISCUSSION ITEMS

- a. Summary regarding May MWD Board Meeting
- b. Review items of significance for the June MWD Board and Committee Agendas (to be distributed at the meeting)

Recommendation: Review, discuss and take action as appropriate.

7. DIRECTORS' REPORTS

- a. MET Directors
- b. MWDOC Directors

8. CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to subdivision (c) of Section 54956.9: (One Case)

Recommendation: Adjourn to closed session for a conference with legal counsel, pursuant to Government Code Section 54956.9(c) (one case).

ADJOURNMENT

Note: Accommodations for the Disabled. Any person may make a request for a disability-related modification or accommodation needed for that person to be able to participate in the public meeting by telephoning Maribeth Goldsby, District Secretary, at (714) 963-3058, or writing to Municipal Water District of Orange County at P.O. Box 20895, Fountain Valley, CA 92728. Requests must specify the nature of the disability and the type of accommodation requested. A telephone number or other contact information should be included so that District staff may discuss appropriate arrangements. Persons requesting a disability-related accommodation should make the request with adequate time before the meeting for the District to provide the requested accommodation.



DISCUSSION ITEM

June 4, 2008

TO: Board of Directors

FROM: Kevin Hunt
General Manager

Staff Contact: Matt Stone,
Harvey De La Torre

SUBJECT: Metropolitan's Proposed Implementation of Extraordinary Conservation Measures

STAFF RECOMMENDATION

Staff recommends the Board of Directors to review and discuss this information.

SUMMARY

This report highlights Metropolitan's proposed implementation of Extraordinary Conservation Measures. As part of the measures, a "Water Supply Alert Resolution" will be presented to the Metropolitan Water Planning and Stewardship Committee for action this month.

DETAILED REPORT

In April, Metropolitan staff announced plans to implement the next stage of the Water Surplus and Drought Management Plan (WSDM), which calls for Metropolitan and its member agencies to implement Extraordinary Conservation Measures. Since recent hydrologic and regulatory constraints have limited Metropolitan's water supplies such aggressive measures are deemed necessary to keep summer demands low and prevent further withdraws from its storage reserves. More importantly it can prevent Metropolitan from potentially implementing a water supply allocation plan next year.

The Extraordinary Conservation Measures Metropolitan is proposing includes both short-term and long-term actions. The short-term actions are immediate reduction measures to help meet the current supply challenges. The long-term actions are measures seeking to permanently decrease water usage to achieve the Governor's 20% reduction target by the year 2020.

Budgeted (Y/N):	Budgeted amount:
Action item amount:	Line item:
Fiscal Impact (explain if unbudgeted):	

Earlier in the year Metropolitan developed a white paper on new opportunities for increasing water use efficiencies within the region (See Exhibit “A”). They ranged from Desalination and recycled/reuse to local drought ordinances and new funding mechanisms. It further classified each measure as either a short-term or long-term action based on its implementation timeframe. MWD summarized these opportunities as part of their presentation to the Board in May (See Exhibit “B”). It is these measures that Metropolitan plans to work with member agencies in developing their Five-year Action Plan.

Water Supply Alert Resolution

One of the immediate actions Metropolitan is planning to introduce, as part of its short-term actions, is a “Water Supply Alert Resolution” to increase awareness with the public and community leaders as to the severity of the water situation (See Exhibit “C”). The resolution is designed for cities, counties, member agencies and retail agencies to use as a guide to take the immediate steps, through a series of recommended water efficiency programs/devices, to curtail water use within their service area.

Proposed within the resolution is a set of “Conditions” to clearly communicate the seriousness of the water supply situation and the proposed action measures Metropolitan would like the region to began implementing. Below are the proposed sets of conditions with each recommended action:

Baseline Water Use Efficiency	Ongoing conservation, outreach, and recycling programs to achieve permanent reductions in water use and build storage reserves.
Condition 1: Water Supply Watch	Local agency voluntary dry-year conservation measures and use of regional storage reserves
Condition 2: Water Supply Alert	Regional call for cities, counties, member agencies and retail water agencies to implement extraordinary conservation through drought ordinances and other measures to mitigate use of storage reserves
Condition 3: Water Supply Allocation	Implement Metropolitan’s Water Supply Allocation Plan

To ensure the effectiveness of this alert system, Metropolitan plans on developing a strong outreach effort, a regional support system to assistance local agencies and a tracking methodology to measure performance. In addition, a subgroup as been formed with member agencies and Metropolitan staffs to coordinate each other efforts during these conditional alerts.

The Metropolitan Water Planning and Stewardship Committee plan to act on this Resolution and if approved will set a “Condition” later this month.

In July, the Committee will consider additional refinements as well as new devices/programs to Metropolitan’s conservation measures.

DRAFT
RESOLUTION OF THE BOARD OF DIRECTORS
OF THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA
CALLING FOR A WATER SUPPLY ALERT

WHEREAS, Metropolitan's main sources of imported supplies are facing unprecedented challenges because of record dry conditions for eight of the last nine years along the Colorado River and deteriorating environmental conditions in the Sacramento-San Joaquin Delta; and

WHEREAS, since 2003 Metropolitan's Colorado River supplies have been significantly diminished because California reduced its use of River water due to drought conditions and in accordance with a series of intra-California and multi-state agreements on the Colorado River; and

WHEREAS, Metropolitan's State Water Project supplies from the Delta will be reduced by nearly 30 percent this year due to court-ordered pumping restrictions to protect endangered species; and

WHEREAS, Metropolitan and its member agencies are withdrawing water from surface and groundwater storage reserves to meet current water demands, leaving the region's supplies vulnerable; and

WHEREAS, Metropolitan must maintain a prudent level of reserve supplies in the case of a supply disruption from an earthquake, catastrophe or other event; and

WHEREAS, Metropolitan has already curtailed the delivery of water for agricultural and groundwater replenishment use throughout its six-county service area; and

WHEREAS, Metropolitan's 1999 Water Surplus and Drought Management plan guides Metropolitan's water supply management actions and includes provisions for implementing extraordinary conservation under dry conditions; and

WHEREAS, Metropolitan and the member agencies have taken major actions this year to accelerate conservation and recycling implementation as well as increasing public messaging to create a heightened awareness of the Region's supply challenges; and

WHEREAS, Metropolitan relies on the actions of its 26 member agencies and other retailers to enact and implement local conservation measures;

NOW THEREFORE BE IT RESOLVED that the Board of Directors of The Metropolitan Water District of Southern California, under its Water Surplus and Drought Management Plan, declares that Southern California in Metropolitan's service area is in a Water Supply Alert condition; and

BE IT FURTHER RESOLVED that Metropolitan urges all cities, counties, member agencies and retail water agencies to implement extraordinary conservation measures to preserve regional storage reserves; and

BE IT FURTHER RESOLVED that Metropolitan urges all cities, counties, member agencies and retail water agencies in the region to immediately activate and enforce existing conservation and drought ordinances; and

BE IT FURTHER RESOLVED that all cities, counties, member agencies and retail water agencies who have not adopted drought ordinances, are urged to immediately adopt and enforce conservation and drought ordinances that include measures such as: tiered rate structures that promote conservation; restrictions on the hours of outdoor watering; prohibitions on landscape irrigation runoff; provisions for water efficient landscapes in new construction and landscape retrofits; mandatory retrofits to install low-flow toilets during the resale of properties; hotlines or other mechanisms for the public to report inefficient or prohibited water use; restrictions on use of potable water for street cleaning; new or enhanced rebate programs for water saving devices; new or enhanced incentives to maximize the use of recycled water; and

BE IT FURTHER RESOLVED that Metropolitan urges all member agencies and retail water agencies participating in its Local Resources Program to accelerate completion and optimize operations of water recycling and groundwater recovery projects; and

BE IT FURTHER RESOLVED that Metropolitan intends to work with and assist its member agencies, and the region's cities, counties and retail water agencies to help ensure a reliable near-term and long-term water supply, to adopt and implement appropriate conservation ordinances and measures, and to inform retail water users of the Water Supply Alert conditions and the need for immediate and sustained water use efficiency practices.

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 June 10, 2008.

Board Executive Secretary
The Metropolitan Water District
of Southern California

DRAFT

New Water Use Efficiency Opportunities

This Table assesses opportunities for increasing water use efficiency in the region as described in the Water Use Efficiency White Paper. The opportunities were reported to the Water Planning and Stewardship Committee in March 2008, and include actions for accelerating both conservation and recycling. Short-term actions are included in the proposed Water Supply Alert Resolution.

Opportunity	Short-Term	Long-Term
Local Ordinances and State Legislation		
Develop water rate structure ordinances	Local ordinances would take 3 to 12 months to develop and would require local adoption; High immediate savings potential, which would also accrue over long-term	
Develop retrofit-on-resale ordinances		
Develop new construction landscape ordinances		
Promote new State plumbing codes		Similar to ordinances – large savings accrue over time
Promote legislation requiring recycled water use	Building codes could accelerate recycled use in new construction	Large recycling projects develop incrementally over 5 to 10 years
Improved and Leveraged Incentives		
Expand Metropolitan’s existing conservation programs	Existing programs can be expanded in 3 to 6 months	
Temporarily increase incentives for conservation and recycling	Could be implemented in 3 to 6 months; rate impacts	
Alternative and Partnered Funding		
Fund regional conservation with property assessment revenue		2 to 3 years to develop and implement
Reward incentives on a matching basis to member agencies	Time frame: 3 to 6 months; rate impacts	
Increased Local and Alternative Supplies		
Pursue Seawater Desalination		Time frame for current local projects is 3 to 10 years
Expand use of local storm water		5 to 15 years to develop new institutional arrangements and infrastructure
Improved Public Communications and Education Campaigns		
Expand regional advertising campaign	Could ramp-up campaign in 3 to 6 months for increased savings	
Expand stakeholder outreach and school education programs		2 to 5 years to expand programs; benefits accrue over time

Metropolitan Water District of Southern California White Paper on Future Water Use Efficiency

Overview

In 1990, Southern Californians used an average of 205 gallons of water a day at home and on the job. Today the region's per capita water use is closer to 185 gallons a day. Various conservation strategies by the Metropolitan Water District, local water districts and plumbing code reforms are the reason for the reduction. The water that is not consumed because of conservation is roughly equal to what Southern Californians consume annually from the Colorado River, Metropolitan's second largest imported supply.

Conservation is indispensable to keeping demand in balance with supplies. Conservation's role will increasingly come into public focus in the face of mounting challenges to Metropolitan's imported water supplies. Worsening environmental conditions, new pumping restrictions and climate change are among the threats to maintaining the imported supplies from the Colorado River and the Sacramento-San Joaquin Delta. Lowering local demands and increasing local supplies will continue to emerge as important water management tools. Yet the "easy" conservation reforms are largely enacted. Future steps to lower demand and increase local supplies are achievable. But they will face obstacles because they will be expensive, test the limits of public acceptance or require the cooperation of other governments or the private sector. An overall strategy of short-, mid- and long-term actions is necessary to create the appropriate portfolio of conservation and local supply measures. Some initiatives may be stand-alone actions. Others may be part of Metropolitan's long-term blueprint for water reliability, the Integrated Resources Plan (IRP). This White Paper represents an overview of the various options.

For Metropolitan, conservation incentives began on an episodic basis due to dry weather in the 1970s and evolved into ongoing efforts in the 1990s. Conservation became a core water resource in a long-term strategy document, the 1996 Integrated Resources Plan. This plan marked a historic milestone for Metropolitan. Lowering local demand and increasing local supplies were officially recognized as essential to maintain reliable water supplies. Importing water from the Colorado River and Northern California's Sacramento-San Joaquin Delta, while vital baseline supplies, were viewed as insufficient by themselves to meet future demands. In 2004 Metropolitan revised its IRP and took a further step. The plan assumed that local conservation/supply efforts would provide the water necessary for future growth. And to ensure that imported supplies would be available during drought cycles, Metropolitan invested in an array of new storage projects. The largest was its new reservoir, Diamond Valley Lake. But programs were also created in the San Joaquin Valley and within Metropolitan's service area to store water underground. All told, Metropolitan's storage capabilities increased 14-fold since the drought cycle of the early 1990s. This storage network has allowed Metropolitan to take advantage of wet years on the Colorado River and the Delta in some previous seasons. At the moment Metropolitan maintains less than a year's supply of water in storage (excluding emergency supplies).

This storage is sufficient to prevent a sudden disruption to the Southern California economy due to changing water conditions. But the water reserves act as a temporary cushion rather than a permanent solution to changing circumstances for Metropolitan. The IRP called for Metropolitan to analyze its success and assumptions over time. Given all the challenges now facing Metropolitan, now is an appropriate time for such a review.

The IRP assumed that Metropolitan would be able to maintain imported supplies from the Delta by storing more water in wet years and relying less on the Delta in dry years. While Metropolitan lost some supplies from the Colorado River when California in 2003 was required to lower its total river diversions, the plan was to rebuild these supplies over time. Since the 2004 IRP, however, the following dramatic changes have taken place:

- The Delta ecosystem has headed on a downward path rather than one of recovery. Population indices of key in-Delta fish species are at or near historic lows.
- New pumping restrictions in the Delta have fundamentally shifted Metropolitan's water planning. No longer can Delta supplies be expected to help replenish Metropolitan reserves in an average rainfall year. New conservation is necessary in an average year, among other actions, merely to stay in balance.

- Pacific Ocean conditions appear to be shifting in ways that are lowering food supplies and diminishing fish populations up and down the coast. The fall run of Chinook salmon through the Delta, once regarded as a stable fishery, has decreased to levels below the minimum target range.
- The Colorado River, meanwhile, has experienced a drought longer than the IRP and Metropolitan's water forecasts anticipated.
- The emerging consensus among scientists tracking climate change is that precipitation in the Colorado basin will likely diminish further, in the decades ahead.
- The emergence of invasive quagga mussels in sections of Metropolitan's water delivery system reflects a new threat to importing and distributing water supplies.

The emerging trend is clear. Metropolitan's imported supplies, while they remain important baseline sources for our service area, face threats of reduction.

Efforts to lower demand and increase local supplies, meanwhile, have also faced new challenges as these programs have matured:

- **Desalination.** The permitting process for seawater desalination has proven more difficult than originally anticipated. Concerns have increased for desalination projects when they propose to use existing ocean water intakes at electrical power plants. New and future regulations to address climate change and reduce carbon dioxide emissions will also affect desalination facilities because of their considerable use of electricity.
- **Recycling/Reuse.** Metropolitan has faced unexpected customer resistance to utilize available recycled water due to hookup/re-piping costs and quality misperceptions. Regional water quality boards have demonstrated a mixed record in providing an achievable pathway to storing recycled water in groundwater basins or apply it for overlying irrigation. Local acceptance to recycled water has been mixed as well.
- **Conservation.** New technologies exist to lower water use, such as irrigation controllers that adjust to weather conditions, but customer interest is not widespread. Some consumer resistance is due to the complex nature of the devices themselves. Some is financial. Some is due to a lack of availability at retail outlets of water-saving irrigation controllers, low-water-use native plants, and new higher efficiency bathroom fixtures. From a pure cost-benefit perspective, purchasing water-saving technologies are not always offset because of the comparatively low price of water.

The emerging trends are decidedly mixed. Surveys by Metropolitan find widespread awareness of Southern California's water challenges. But the path to increased regional self-sufficiency reveals a variety of obstacle that must be overcome. The following discussion examines various options:

A: Local Ordinances and Regional Partnerships. Metropolitan does not sell water directly to any Southern Californian. That is the job of 300-some public water districts, local governments and private companies. Metropolitan can draft, for example, model ordinances for tiered water rate structures that have proven to result in conservation, or model ordinances to replace higher-water-using toilets at the time an existing home is resold, or ordinances to require California Friendly® landscapes and irrigation for new residential and commercial construction. But local agencies or water purveyors would have to adopt these ordinances. Metropolitan has potential tools to motivate local action on these ordinances. Future long-term water plans, for example, could assume their implementation for Metropolitan to maintain overall supplies and demands to be reliably in balance. Regardless, Metropolitan-local partnerships will have to expand in the coming revision of Metropolitan's IRP.

B: State Legislation. Improvements to building and plumbing codes over the years have provided the largest and most reliable source of water conservation for Metropolitan. They are particularly valuable in how they lead to savings that Metropolitan can quantify and accurately predict in long-term water plans. It is important to remember past successes in looking for future progress. Building and plumbing code changes, once enacted, provide water savings without Metropolitan needing to take or fund any further actions.

C: Existing Metropolitan Programs. Metropolitan has developed over the years an array of residential, commercial and industrial programs. They provide a solid foundation for expanding conservation activities. While commercial, industrial and institutional programs have largely focused on activities inside their facilities, the programs could potentially broaden to emphasize outdoor water use efficiency. Existing programs with member agencies, for example, could be reevaluated. Demand reductions could potentially be accelerated by rewarding incentive funds on a matching basis rather than as stand-alone subsidies.

D: New Funding Mechanisms. Metropolitan has a finite ability to underwrite conservation projects based on its existing revenues. New sources of revenue, however, could lead to new ways to lower demand and increase supplies. A potential source of new revenue is to examine the small assessment that is currently charged to property owners annually throughout Metropolitan's service area. This assessment, dating back to the creation of Metropolitan, has been retiring specific debts relating to the State Water Project and Colorado River aqueduct. The assessment rate has declined over time as the debts have been retired and as property values have increased. If the assessment rate were to remain stable, however, a new source of revenue could flow to Metropolitan. Likewise, if property owners were to voluntarily accept an increase in the Metropolitan property assessment, Metropolitan could potentially provide up-front funds for those property owners so they can permanently lower water demands through irrigation and landscaping changes. Other governments are beginning to explore this same funding mechanism.

E: Recycled Water. Opportunities for recycled water exist for large, small and medium scales, yet there are obstacles at each level to reach that potential. On a large scale, more wastewater plants could be treating the water to Title 22 drinking water standards so that the supply could be stored either above or below ground, or used directly to offset potable demand for large irrigation or industrial use. But new partnerships would have to be forged with sanitation agencies. And regional boards would have to implement (or be required to implement via state legislation) consistent, achievable regulations to allow the capturing of this water resource. At a medium scale, technology is emerging for treatment plants in new neighborhoods (on sites the size of a gasoline station) to recycle water for local landscape and non-potable uses. Development standards, however, do not yet require these kinds of facilities. Technology to retrofit existing homes or yards to capture gray water has not yet achieved practical application in California, although some overseas projects are claiming success. New products on the market and additional incentives may be necessary.

F: Outreach. A key to lowering demand is changing the personal behavior of millions of Southern Californians, particularly behaviors that would not pose undue hardship to adjust. Up to 70 percent of residential water use occurs outdoors, irrigating lawns and landscapes, sometimes excessively. In a Metropolitan survey last year, 77 percent of residents agreed that the overuse of sprinklers is a problem. Outreach was once an episodic event by water districts when conditions were dry. Outreach is evolving into a permanent campaign to educate residents about water's new reality. Metropolitan has sought to reinforce this message by dramatically increasing its outreach spending in 2007 and with plans to continue additional outreach efforts indefinitely. But the future need will go beyond broad outreach efforts through mass-market advertising. Local governments, the building industry, environmental groups and community organizations will need to engage in Metropolitan's long-term water planning efforts and to realize their increasing roles to maintaining a reliable water future for the region. And an enhanced role for science must be identified. Changing precipitation patterns and environmental conditions in the Delta and Colorado River are predicted to influence the size of available supplies. A strong education program for the next generation would contribute toward acceptance of recycled water and native landscape.

G: Seawater Desalination. To date Metropolitan has committed to provide incentive funds for local water districts to pursue seawater desalination projects. While this strategy has demonstrated some success, the ocean is largely an untapped potential resource. Metropolitan may have to play a more active role in desalination if the policy choice is to increase its role in the overall water portfolio. The obstacles have proven significant. The permitting process has proven to be time-consuming and politically challenging. In the future, mitigation to reduce seawater desalination's "carbon footprint" and its use of electricity may be necessary. Individual member agencies may not have the financial resources, even if interested, to bring new plants on-line. The question that looms is whether Metropolitan in any circumstances should directly pursue a desalination project on its own or with local partners.

H: Storm Water. For more than 100 years, storm water has been captured by flood control dams and then released downstream over time as a way to recharge groundwater basins. However, substantial amounts of storm water still end up in the Pacific Ocean or evaporate because there is not the infrastructure to capture and store all of this supply. Like recycling, this is a potential water resource that Metropolitan is unable to manage on its own. New partnerships would be necessary with flood control districts, sanitation agencies, groundwater basin entities and public works agencies. There are many physical, logistical and institutional barriers to expand a storm water banking opportunities on a medium or large scale. But these obstacles are surmountable, particularly as other government agencies, through successful outreach, begin to better appreciate their role in maintaining a reliable water system.

Next Steps

The Metropolitan Board of Directors reviewed in December 2007 an action plan to update its long-term water strategy, the IRP, in light of the changing water circumstances facing Southern California. The goal is to identify an achievable, sustainable water plan – possibly through 2030 in order to comply with state laws that require long-term blueprints. Targets to lower local demand and increase local supplies will be closely examined. They could very well increase. Regional forums will take place this year for initial discussions with follow-up efforts with stakeholders to review specific proposals next year.

In addition, Metropolitan can take stand-alone actions separate from its long-term planning process. The need for progress may warrant new actions before a new IRP is scheduled to be adopted in mid-2009. Uncertainties relating to Metropolitan's Delta supplies could continue and require an action plan on local conservation for near- and mid-term steps. This action plan could act as a bridge to the new long-term plan.



DISCUSSION ITEM

June 4, 2008

TO: Board of Directors

FROM: Kevin P. Hunt, General Manager

Staff Contact: Karl Seckel, Assistant General Manager

SUBJECT: MEMORANDUM OF UNDERSTANDING REGARDING CHANGE IN SOURCE OF WATER SUPPLIED THROUGH THE AMP TO SOUTH ORANGE COUNTY

STAFF RECOMMENDATION

Staff recommends the Board of Directors: Review this item with the MET Directors and take action if appropriate

SUMMARY

The MWDOC Planning & Operations Committee will review this item on June 2nd and make a recommendation to the MWDOC Board (for action at MWDOC's regular Board meeting on June 18, 2008).

Staff recommends engaging the MWDOC MET Directors in discussion on this issue to ensure its success at MET. MET staff will be presenting this item to the MET Board in July.

Attached is the Board write up and pertinent information that will be presented to the MWDOC Board on June 18th.

Budgeted (Y/N):	Budgeted amount:
Action item amount:	Line item:
Fiscal Impact (explain if unbudgeted):	



Item No.

ACTION ITEM

June 18, 2008

TO: Board of Directors

FROM: **Planning & Operations**
(Directors Bakall, Royce, Barbre)

Kevin Hunt
General Manager

Staff Contact: Karl Seckel

SUBJECT: Memorandum of Understanding Regarding Change in Source of Water Supplied Through the AMP to South Orange County

STAFF RECOMMENDATION

Staff recommends the Board of Directors discuss the staff report and the DRAFT Agreements and (1) provide input to MWDOC's MET Directors regarding getting approval from MET to proceed with the three projects as outlined, and (2) authorize the General Manager to execute Agreements with MET and the local agencies, substantially in the form as presented, subject to approval of Legal Counsel.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

SUMMARY

Three water projects are being implemented by the Retail Agencies in South Orange County to improve supply and system reliability. These projects include:

1. Connection of the Irvine Ranch Water District (IRWD) System to the Allen McColloch Pipeline (AMP) at OC-72. The new connection is expected to deliver up to 20 cfs of water from the IRWD system into the AMP during emergency situations when Metropolitan Water District of Southern California (MET) is unable to deliver water into the AMP.
2. New Baker Water Treatment Plant and connection to the AMP. The new Baker Treatment Plant is anticipated to be built to treat about 40 cfs of

supplies from MET and from Irvine Lake and pump them into the lower section of the AMP.

3. Connection of Upper Chiquita Reservoir to the South County Pipeline (SCP). The 800 acre-foot lined and covered reservoir will provide emergency storage of MET water from the SCP into the reservoir with flow back into the SCP at an approximate rate of 50 cfs to help meet the needs of South Orange County customers.

The Orange County Reliability Projects, as discussed, will help MET and the local agencies in South Orange County improve the reliability of deliveries. These projects go a long ways towards the local area complying with the MET reliability requirements of being able to continue meeting demands for seven average days of demand when the MET system is not delivering water. These projects help the local agencies meet demands during both planned shutdowns and unplanned emergency situations and thus help provide more flexibility for MET when they are completing improvements or repairs to the system. The concept of MET working with its agencies in this manner was fully endorsed during the development of the Integrated Area Studies where a major outcome was identification and implementation of alternatives for meeting future demands that may reduce demands and or better meet key concerns of member agencies (e.g. flexibility, water quality, adaptability).

Implementation and operation of these projects is allowed under existing Agreements between MWDOC and MET, with the consent of MET. The operating provisions of the Allen McColloch Pipeline (AMP), as included in the AMP Sale Agreement, and the operating provisions of the South County Pipeline (SCP), as provided in Agreement No. 2178 South County Pipeline and the South County Pipeline O&M Agreement, provides for conveyance of alternative sources of supplies in these facilities. For the AMP, it requires the consent of MET “which consent shall not unreasonably be withheld”, and for the SCP, the water “must be of suitable quality as determined by Metropolitan’s Director of Water Quality at his sole discretion.” In both instances, it would be reasonable for Metropolitan to pass on any recurring costs for allowing these operational changes.

MET appears ready to draft a “Lease Agreement” to allow these changes to occur. The concept of the “Lease Agreement” provides MET the flexibility they need to allow MWDOC to proceed with these projects. Types of costs MET could incur in carrying out these agreements should be minimal; they could include staff time for reconciliation of the water billing to the agencies and for review of water quality reports generated by the local agencies.

It is possible that some MET agencies may bring up the concept of “Wheeling in the MET System” to apply MET’s Wheeling Policy. The Wheeling Policy applies only annually to movement of water from outside the MET service area to inside the MET service area. It does not appear that it applies to the three instances we are promoting. Furthermore, the provisions in these Agreements that provide the

right to transport water of local origin eliminates the need to consider application of MET's Wheeling Policy to the flow of this water.

MWDOC has continued working with MET, IRWD, SMWD and MNWD on the issue of introduction of potable water back into the MET system. Meetings were also held with the California Department of Public Health to get their concurrence. In the meeting held in January 2008, the concepts that were discussed appeared acceptable to DPH and they suggested we proceed with amendments to the existing water permits for MET, IRWD and SMWD. DPH acceptance would be covered when they issue the amended permits.

Attached are DRAFTS of the following documents:

1. MET/MWDOC Memorandum of Understanding Regarding Change in Source of Water Supplied Through AMP to South Orange County
2. MWDOC/RETAIL AGENCIES Memorandum of Understanding Regarding Change in Source of Water Supplied Through AMP to South Orange County

Please note that these Agreements are works in progress at this time. They include comments from MWDOC and some from MET. We need to finish reviewing the Agreements with MET and then circulate the Agreements to the local agencies to get their input (they have seen previous versions of these docs).

The MET Board is scheduled to approve this item at the July 8 meeting. Several MET member agencies have expressed possible opposition to this item; other MET member agencies have agreed to support our position. Staff will be working with our MET delegation to seek support from the other agency delegations. This item will also be discussed at our MET workshop on June 4.

DRAFT AGREEMENT

MWDOC/RETAIL AGENCIES Memorandum of Understanding Regarding Change in Source of Water Supplied Through AMP to South Orange County

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into as of June _____, 2008, by and between Municipal Water District of Orange County (“MWDOC”), a Metropolitan Water District of Southern California member agency, and nine cities and retail water agencies providing water service to southern Orange County (collectively “Retail Providers”), which include the City of San Clemente, City of San Juan Capistrano, El Toro Water District, Irvine Ranch Water District (“IRWD”), Laguna Beach County Water District, Moulton Niguel Water District, Santa Margarita Water District (“SMWD”), South Coast Water District, and Trabuco Canyon Water District. The Parties to the MOU are also referred to collectively as “Parties” and individually as “Party.”

THE PARTIES ACKNOWLEDGE AND AGREE AS FOLLOWS:

Section 1: Definitions. Certain terms, as used in this MOU, are defined as follows:

- 1.1 “Virtual Service Connection” is defined as a location on the AMP at the turnout to the IRWD OC-72 service connection which will serve as the dividing line for purposes of determining water quality jurisdiction between MET and IRWD. Unless otherwise agreed to, all local water introduced into the AMP or South County Pipeline will be at or downstream of this location and will not be the responsibility of MET, as further described in this MOU. **Exhibit A-1** indicates the location of this point of demarcation on the Allen McColloch Pipeline and **Exhibit A-2** indicates the line of demarcation on the South County Pipeline.
- 1.2 “On-Line Date” means the date the earliest Project, as defined herein, is brought on-line or such date as otherwise agreed to between IRWD and MWDOC or SMWD and MWDOC for purposes of beginning the new responsibilities for water quality purposes. This date commences many of the obligations under this MOU.
- 1.3 “Retail Providers” and individually “Retail Provider” means the nine retail water agencies and cities previously identified that receive water downstream of the point where local water is introduced into the AMP or the South County Pipeline (see “Virtual Service Connection”).

- 1.4 “Projects” or individually “Project” means any of the three projects as listed on **Exhibit B and C**.
- 1.5 “Local Water” means potable drinking water permitted by the California Department of Public Health (“CDPH”) that will be introduced by IRWD into the lower reaches of the AMP or by SMWD into the South County Pipeline as contemplated in this MOU.

Section 2: MET’s Responsibilities Pursuant to Separate Agreement With MWDOC.

MET will play a limited role in facilitating the projects and activities contemplated in this MOU, as set out in the separate “MET/MWDOC Memorandum of Understanding Regarding Change in Source of Water Supplied Through AMP to South Orange County” (“MET/MWDOC MOU”), a copy of which is attached hereto as **Exhibit D**. MET’s primary function in furtherance of the Projects will be to seek, with MWDOC’s assistance, a modification to the Domestic Water Supply Permit issued to it by the CDPH. MET will, however, continue to be responsible for operation and maintenance of the AMP and the South County Pump Station and South County Pipeline downstream of the Virtual Service Connection, pursuant to existing agreements. See **Exhibit D**, Section 2.

Section 3: MWDOC’s Responsibilities Pursuant to Separate Agreement with MET.

MWDOC will work with MET directly on behalf of the Parties to seek a modification by CDPH to MET’s Domestic Water Supply Permit including a transfer in the responsibility away from MET and IRWD and SMWD for water quality monitoring and reporting and water use tracking and reporting downstream of the Virtual Service Connection, as outlined below (See **Exhibit D**, Section 3).

Section 4: IRWD’s and SMWD’s Responsibilities.

- 4.1 IRWD will secure a new Domestic Water Supply Permit from the CDPH that includes water quality monitoring and reporting of the AMP downstream of the Virtual Service Connection, effective on or

before the earliest On-Line Date for the IRWD System or the Baker Treatment Plant Projects.

- 4.2 SMWD will secure a new Domestic Water Supply Permit from the CDPH that reflects the operations of Upper Chiquita Reservoir with the SCP, effective on or before the On-Line Date for Upper Chiquita Reservoir.
- 4.3 IRWD and SMWD shall monitor and report water quality in a manner consistent with the requirements to be established in the CDPH Domestic Water Supply Permits for the AMP and SCP downstream of the virtual service connection.
- 4.4 Should additional water quality monitoring locations be required by CDPH as a result of the Projects and activities contemplated in this MOU, IRWD and SMWD shall be responsible for all costs that may be necessary for installation of any newly required sampling ports.

Section 5: Not Used

Section 6: Retail Providers.

- 6.1 Each Retail Provider hereby acknowledges that its facilities and system of operation are capable of accepting the delivery of water from a different source from time to time.
- 6.2 Each Retail Provider hereby acknowledges that the anticipated changes in the water supply system discussed herein and the resulting potential changes in both the sources of water and the water quality that will be received by the Retail Providers, as described herein, have been fully explained to it by the Lead Agencies and/or MWDOC and have been found to be acceptable by the governing body of each Retail Provider.

Section 7: Bringing Projects On-Line.

- 7.1 As anticipated ranges of water quality constituents become available prior to each of the Projects being brought on-line for the first time, MWDOC shall be responsible for working with the Lead Agency for the Project to circulate to all Retail Providers and MET

information regarding the water quality constituents of the new sources. During this process, the Retail Providers are responsible for bringing to the attention of MWDOC and the appropriate Lead Agency any concerns they have about specific water quality constituents, and MWDOC shall be responsible for working with MET, the Retail Agencies and CDPH or other appropriate regulatory agencies.

- 7.2 In conjunction with the process of distributing information regarding the anticipated water quality constituents of a particular new source, MWDOC shall be responsible for obtaining written approval of the Project at issue from each of the Retail Providers. Each of the Retail Providers hereby agrees that it will not withhold such written approval from MWDOC unreasonably, and that it will provide such approval as soon as practicable following receipt of the initial water quality information.
- 7.3 If one or more Retail Providers do not approve of a Project based on the information provided, they shall have sixty (60) days after receipt of this initial water quality information to review and in writing the detailed nature of any water quality concerns they may have.
- 7.4 In the event no concerns are raised within this 60-day period, approval of the Project by the Retail Providers is conclusively established, irrespective of any failure by one or more Retail Providers to provide written approval.
- 7.5 The goal of the Parties is that Projects shall not be brought on-line until such time as MWDOC has secured approval from all Retail Providers and CDPH has issued to MET, IRWD and SMWD Domestic Water System Permits consistent with this MOU. If one or more Retail Providers provide written concerns regarding a particular Project, MWDOC shall conduct a meet and confer process of all Parties in an effort to resolve the identified concerns.
- 7.6 All Parties are entitled to participate in the meet and confer process, irrespective of which Retail Provider submitted the comment. Concerns regarding water quality changes must relate to the initial water quality information provided pursuant to this section or to readily verifiable data available to all Parties.
- 7.7 If the meet and confer process does not achieve unanimous support for implementation of a particular Project, all Parties are deemed to have exhausted their administrative remedies and may pursue legal remedies available to them.

Section 8: Responsibility/Liability for Water Quality Impacts and Violations; Indemnifications

- 8.1 Execution of this MOU does not impose any new standards or requirements on MET, nor does this MOU relieve MET of any obligations or liability for the quality of water MET serves from their system upstream of the Virtual Service Connection.
- 8.2 MET shall not incur any liability or be responsible for any compliance or regulatory functions in connection with the implementation of these Projects; however, the Parties are not responsible for reimbursing MET for any costs incurred by MET related to compliance or regulatory activities unless such reimbursement is first agreed to separately in writing.
- 8.3 Indemnification of MET. Each Retail Provider shall defend, indemnify, and save harmless MET, its Board of Directors, and its officers, agents, and employees from all liability and claims of any kind arising out of or in connection with the Projects and activities contemplated under this MOU. Said duty to defend, indemnify, and save harmless shall not be affected or diminished by the fact that MET, its Board, and any member of its Board or MET's officers, agents, or employees may have jointly caused or contributed to the liability or claim by their acts; however, nothing herein shall require the Retail Agencies to indemnify MET, its Board, or any member or its Board or MET's officer, agents, or employees for liability resulting from MET's sole negligence.
- 8.4 Indemnification of MWDOC. Each Retail Provider shall defend, indemnify, and save harmless MWDOC, its Board of Directors, and its officers, agents, and employees from all liability and claims of any kind arising out of or in connection with the Projects and activities contemplated under this MOU. Said duty to defend, indemnify, and save harmless shall not be affected or diminished by the fact that MWDOC, its Board, and any member of its Board or MWDOC's officers, agents, or employees may have jointly caused or contributed to the liability or claim by their acts; however, nothing herein shall require the other Retail Agencies to indemnify MWDOC, its Board, or any member or its Board or MWDOC's officer, agents, or employees for liability resulting from MWDOC's sole negligence.

- 8.5 Indemnification of IRWD. Each of the other Retail Agencies shall defend, indemnify, and save harmless IRWD, its Board of Directors, and its officers, agents, and employees from all liability and claims of any kind arising out of or in connection with the Projects and activities contemplated under this MOU. Said duty to defend, indemnify, and save harmless shall not be affected or diminished by the fact that IRWD, its Board, and any member of its Board or IRWD's officers, agents, or employees may have jointly caused or contributed to the liability or claim by their acts; however, nothing herein shall require the other Retail Agencies to indemnify IRWD, its Board, or any member or its Board or IRWD's officer, agents, or employees for liability resulting from IRWD's sole negligence.
- 8.6 Indemnification of SMWD. Each of the other Retail Agencies shall defend, indemnify, and save harmless SMWD, its Board of Directors, and its officers, agents, and employees from all liability and claims of any kind arising out of or in connection with the Projects and activities contemplated under this MOU. Said duty to defend, indemnify, and save harmless shall not be affected or diminished by the fact that SMWD, its Board, and any member of its Board or SMWD's officers, agents, or employees may have jointly caused or contributed to the liability or claim by their acts; however, nothing herein shall require the Retail Agencies to indemnify SMWD, its Board, or any member or its Board or SMWD's officer, agents, or employees for liability resulting from SMWD's sole negligence.
- 8.1 MWDOC and any other Party entering into a third-party professional service, purchasing or other contract during the course of the Projects shall require similar indemnification of MET, MWDOC, IRWD and SMWD from each third-party contractor.

Section 9: General Provisions

- 9.1 All Parties are deemed to have participated in the drafting of this MOU. This MOU may be signed in multiple counterparts for convenience of the Parties.
- 9.2 Any alteration or variation of the terms of this MOU will not be valid unless made in writing and signed by all Parties.
- 9.3 This MOU will inure to the benefit of and be binding upon all Parties and their respective successors and assigns.

9.4 This MOU will be deemed a contract made under the laws of the State of California and for all purposes will be interpreted in accordance with such laws. The Parties hereby agree and consent to the exclusive jurisdiction of the courts of the State of California.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU on the Effective Date hereinabove written.

Mayor, City of San Clemente
100 Avenida Presidio
San Clemente, CA 92672
Date

Mayor, City of San Juan Capistrano
32400 Paseo Adelanto
San Juan Capistrano, CA 92675
Date

President, El Toro Water District
24251 Los Aliso Blvd
Lake Forest, CA 92630
Date

President, Irvine Ranch Water District
15600 Sand Canyon Ave
P.O. Box 57000
Irvine, CA 92619-7000
Date

President, Laguna Beach County Water District
306 Third Street
P.O. Box 987
Laguna Beach, CA 92652
Date

President, Municipal Water District of Orange
Date

County
18700 Ward Street
P.O. Box 20895
Fountain Valley, CA 92705

President, Moulton Niguel Water District
27500 La Paz Road
P.O. Box 30203
Laguna Niguel, CA 92607-0203

Date

President, Santa Margarita Water District
26111 Antonio Parkway
P.O. Box 7005
Mission Viejo, CA 92690-7005

Date

President, South Coast Water District
31592 West Street
Laguna Beach, 92651

Date

President, Trabuco Canyon Water District
32003 Dove Canyon Drive
Trabuco Canyon, CA 92679

Date

EXHIBIT A-1

Location of Virtual Service Connection

Virtual Service Connection Location at MET/IRWD OC-72 Service Connection

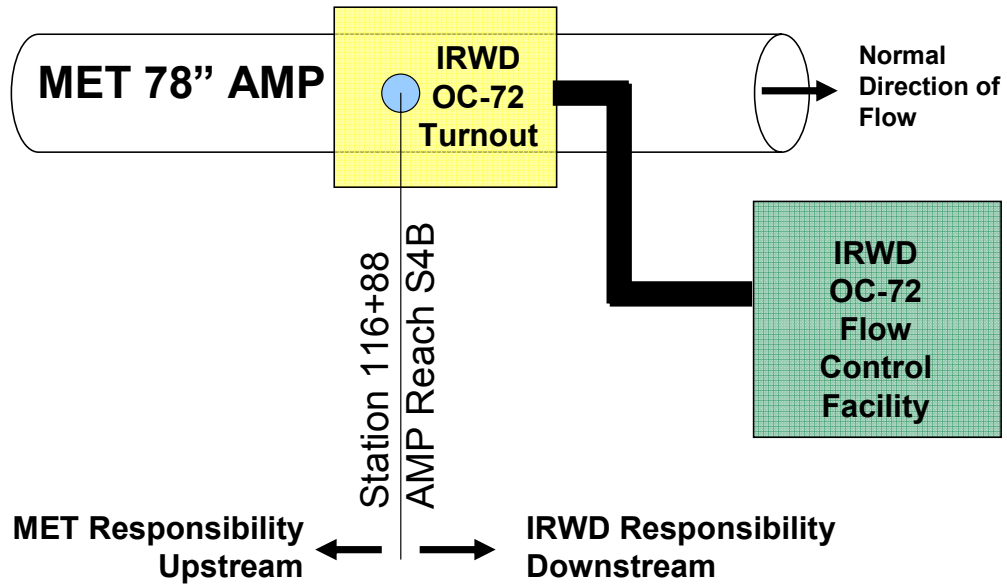


Exhibit A-2

Location of Upper Chiquita Point of Connection to South County Pipeline

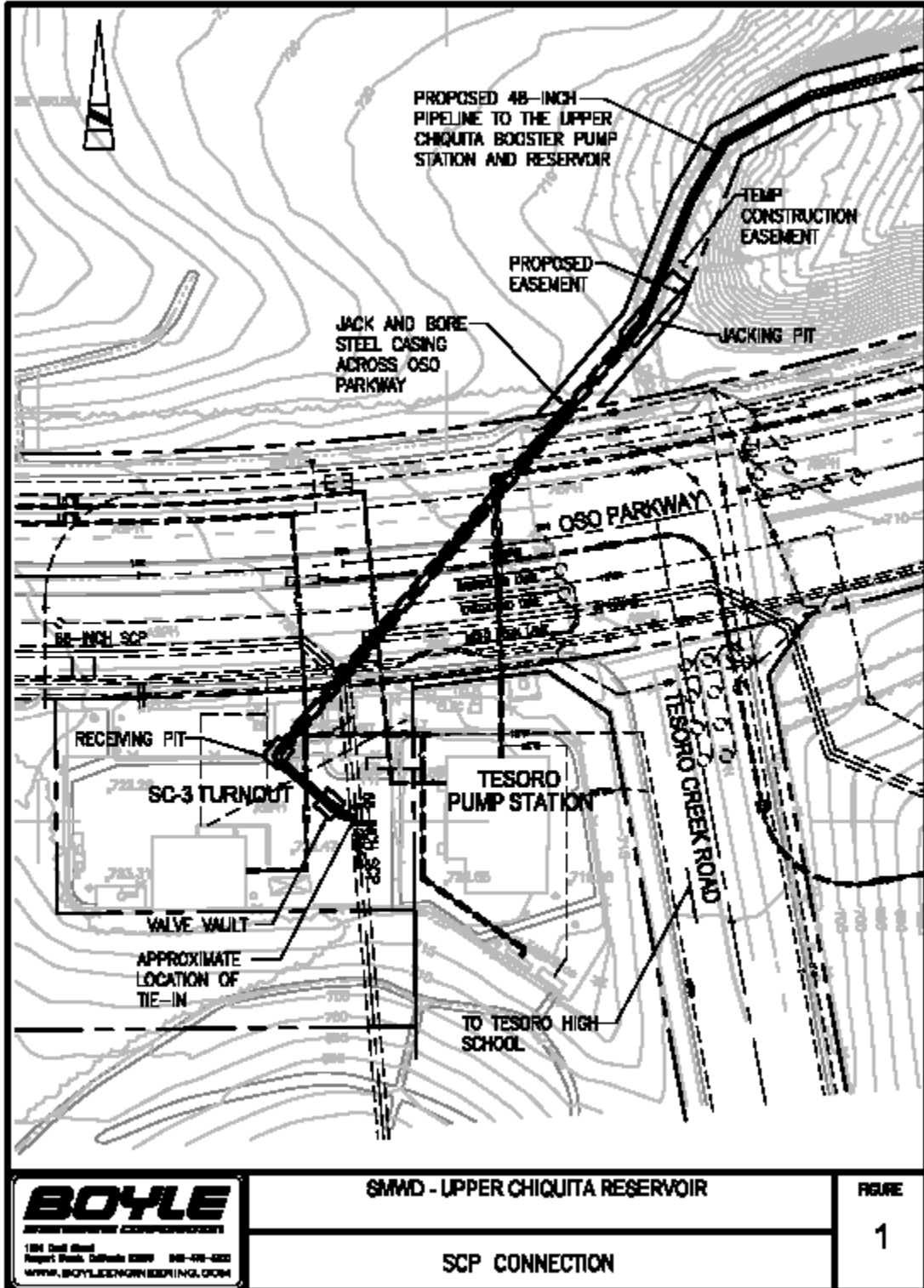


EXHIBIT B

Map Showing Location of Facilities

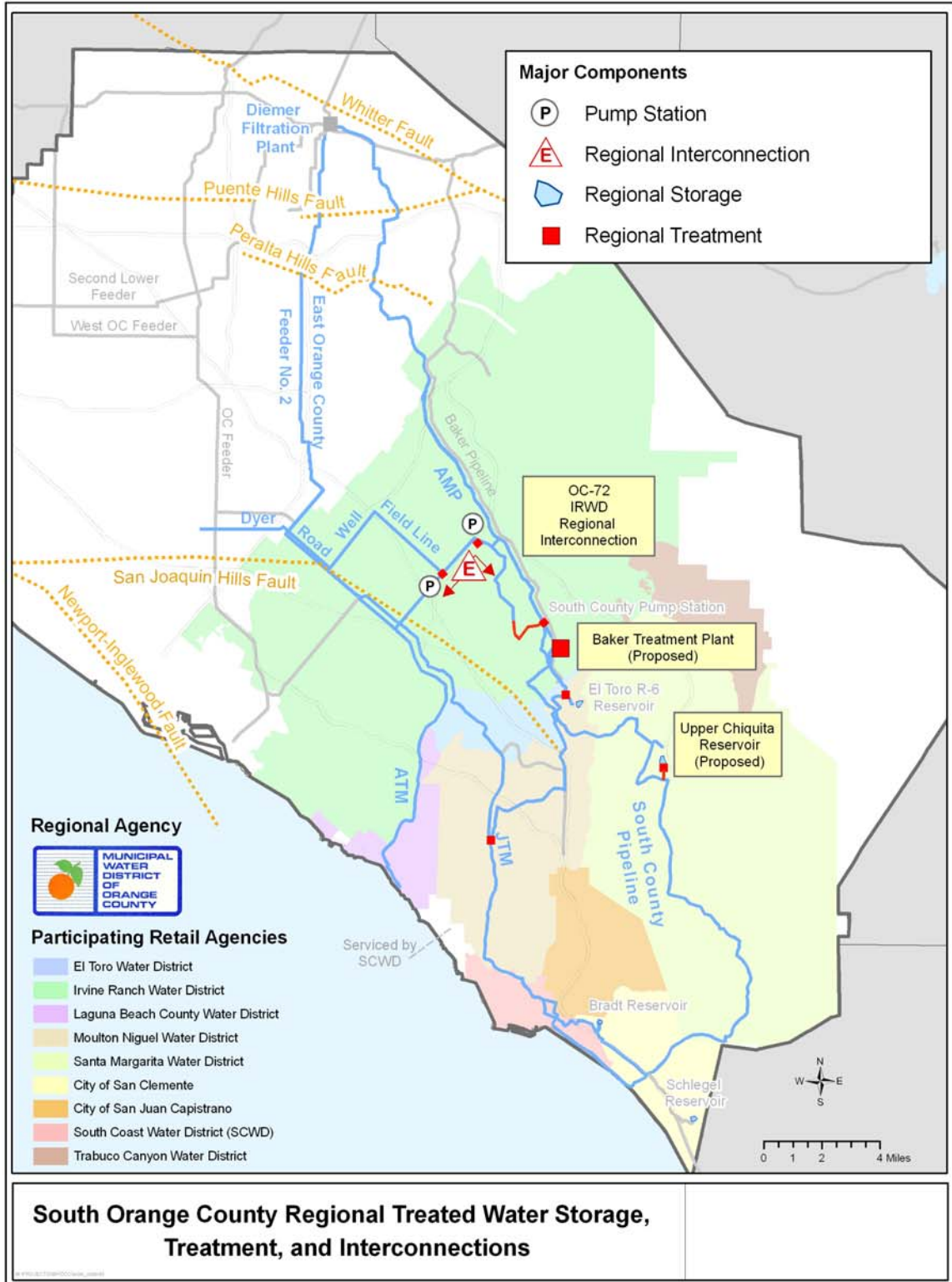


EXHIBIT C

Water Quality Monitoring and Reporting Locations

(Information to be updated and reported to the Parties by MWDOC
as each Project is brought on-line)

Water Quality Monitoring and Compliance from New Projects				
Project	Lead Agency for Water Quality	Date First Available for Service	Location	Comments
Baker Water Treatment Plant and connection to the AMP	IRWD			
Connection of the IRWD System to the AMP	IRWD			
Connection of Upper Chiquita Reservoir to the South County Pipeline	SMWD			

Note: The connection of the IRWD System to the Aufdenkamp Transmission Main and Joint Regional Transmission Main was first accomplished under the Department of Public Health concurrence for the March 2007 Diemer Filtration Plant Shutdown, but did not involve any MET facilities

Exhibit D

DRAFT AGREEMENT

MET/MWDOC Memorandum of Understanding Regarding Change in Source of Water Supplied Through AMP to South Orange County

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into as of February _____, 2008, by and between Municipal Water District of Orange County (“MWDOC”) and Metropolitan Water District of Southern California (“MET”). The Parties to the MOU are also referred to collectively as “Parties” and individually as “Party.”

THE PARTIES ACKNOWLEDGE AND AGREE AS FOLLOWS:

Section 1: Definitions. Certain terms, as used in this MOU, are defined as follows:

- 1.1 “Virtual Service Connection” is defined as a location on the AMP at the turnout to the IRWD OC-72 service connection which will serve as the dividing line for purposes of determining water quality jurisdiction between MET and MWDOC. Unless otherwise agreed to, all local water introduced into the AMP or South County Pipeline (“SCP”) will be at or downstream of this location and will not be the responsibility of MET, as further described in this MOU. **Exhibit A-1** indicates the location of this point of demarcation on the Allen McColloch Pipeline and **Exhibit A-2** indicates the line of demarcation on the South County Pipeline.
- 1.2 “On-Line Date” means the date the earliest Project is brought on-line or such date as otherwise agreed to between MWDOC and MET for purposes of beginning the new responsibilities for water quality purposes. This date commences many of the obligations under this MOU.
- 1.3 “Retail Providers” or individually “Retail Provider” means the nine retail water agencies and cities that receive water downstream of the point where local water is introduced into the AMP or the South County Pipeline (see “Virtual Service Connection”), which include the City of San Clemente, City of San Juan Capistrano, El Toro Water District, Irvine Ranch Water District (“IRWD”), Laguna Beach County Water District, Moulton Niguel Water District, Santa Margarita Water District (“SMWD”), South Coast Water District, and Trabuco Canyon Water District.
- 1.4 “Projects” or individually “Project” means any of the three projects as listed on **Exhibits B and C**.

- 1.5 “Local Water” means potable drinking water permitted by the Department of Public Health that is introduced into the lower reaches of the AMP or into the South County Pipeline as contemplated in this MOU.

Section 2: MET’s Responsibilities. With respect to the following items, MET shall:

- 2.1 Secure modification of the Domestic Water Supply Permit issued to MET by the California Department of Public Health (“CDPH”) to eliminate from the definition of MET’s system, for water quality purposes, the AMP and SCP downstream of the Virtual Service Connection, effective upon the On-Line Date.
- 2.2 Upon the On-Line Date, continue to be responsible for monitoring and reporting water quality within its system at various locations upstream of the Virtual Service Connection pursuant to ongoing agreements with the CDPH and any additional locations at or upstream of the Virtual Service Connection as may be required by CDPH.
- 2.3 Upon the On-Line Date, continue to be responsible for reporting any regulatory violations that occur upstream of the Virtual Service Connection.
- 2.4 Upon the On-Line Date, continue to be responsible for operation and maintenance of the AMP upstream and downstream of the Virtual Service Connection , the South County Pump Station and South County Pipeline , pursuant to existing agreements.
- 2.5 Except as changed by conditions of this MOU or subsequent agreements with CDPH, MET shall continue providing periodic water quality data at all of their monitoring locations in Orange County as is currently provided.

Section 3: MWDOC’s Responsibilities. With respect to the following items, MWDOC shall:

- 3.1 Secure a new Domestic Water Supply Permit from the CDPH for IRWD that includes water quality monitoring and reporting of the AMP downstream of the Virtual Service Connection, effective on or before the earliest On-Line Date to reflect the connection of the IRWD System and the Baker Treatment Plant Project to the AMP, and secure a new Domestic Water Supply Permit from the CDPH for SMWD to reflect Upper Chiquita Reservoir operations with the SCP, effective on or before the On-Line Date for Upper Chiquita Reservoir. By separate memorandum of understanding, MWDOC will have responsibility, jointly with IRWD and

SMWD, for monitoring and reporting water quality in a manner consistent with the requirements to be established in the CDPH Domestic Water Supply Permits for the AMP and SCP downstream of the Virtual Service Connection and with any requirements established by MET pursuant to this MOU.

- 3.2 With respect to water quality reporting for purposes of issuing Consumer Confidence Reports (“CCR Reporting”), MWDOC shall be responsible for coordinating all reporting requirements with IRWD and SMWD (when they are in the role of Lead Agency) and the Retail Providers downstream of any and all locations where new sources of water are introduced into the system as contemplated in this MOU.
- 3.3 As additional monitoring locations are established by separate agreement between the Retail Agency serving as the Lead Agency for water quality reporting and monitoring for a particular Project and the CDPH, MWDOC shall be responsible for providing MET and the Retail Agencies with current information regarding the Projects to outline the location, function and obligations of each Retail Agency responsible for water quality in substantially the form shown in **Exhibit C** hereto.
- 3.4 Upon the On-Line Date, MWDOC shall have the responsibility for tracking and reporting the use of water from the Projects to MET and all of the Retail Agencies. MWDOC shall make use of the metered water delivery information as supplied by the various agencies involved in the operations in producing such reports.
- 3.5 Should additional water quality monitoring locations be required by CDPH as a result of the Projects and activities contemplated in this MOU, MWDOC shall be responsible for all costs that may be necessary for installation of any newly required sampling ports.

Section 4: Not Used.

Section 5: Not Used.

Section 6: Not Used.

Section 7: Bringing Projects On-Line.

- 7.1 By its execution of this MOU, MET expressly approves of the Projects as proposed and authorizes MWDOC and the Retail Providers to proceed with implementation of the Projects pursuant to the separate Memorandum of Understanding between those parties.

- 7.2 As anticipated ranges of water quality constituents become available prior to each of the Projects being brought on-line for the first time, MWDOC shall be responsible for working with the Lead Agency for the project at issue to circulate to MET information regarding the water quality constituents of the new sources. During this process, MET shall notify MWDOC and the appropriate Lead Agency of any concerns it has about specific water quality constituents. MET's concerns, if any, shall be circulated to the Retail Providers by MWDOC and/or the Lead Agency.

Section 8: Responsibility/Liability for Water Quality Impacts and Violations; Indemnifications

- 8.2 Execution of this MOU does not impose any new standards or requirements on MET, nor does this MOU relieve MET of any obligations or liability for the quality of water MET serves from their system upstream of the Virtual Service Connection.
- 8.3 MET shall not incur any liability or be responsible for any compliance or regulatory functions in connection with the implementation of these Projects; however, MWDOC shall not be responsible for reimbursing MET for any costs incurred by MET related to compliance or regulatory activities unless such reimbursement is first agreed to separately in writing.
- 8.4 Indemnification of MET. MWDOC shall defend, indemnify, and save harmless MET, its Board of Directors, and its officers, agents, and employees from all liability and claims of any kind arising out of or in connection with the projects and activities contemplated under this MOU. Said duty to defend, indemnify, and save harmless shall not be affected or diminished by the fact that MET, its Board, and any member of its Board or MET's officers, agents, or employees may have jointly caused or contributed to the liability or claim by their acts; however, nothing herein shall require MWDOC to indemnify MET, its Board, or any member or its Board or MET's officer, agents, or employees for liability resulting from MET's sole negligence.
- 8.5 MWDOC shall require similar indemnification of MET in the "MWDOC/RETAIL AGENCIES Memorandum of Understanding Regarding Change in Source of Water Supplied Through AMP to South Orange County" by the parties thereto, and shall require similar indemnification of MET in professional service, purchasing or other contracts entered into in the course of the Projects.

Section 9: General Provisions

- 9.1 Both Parties are deemed to have participated in the drafting of this MOU. This MOU may be signed in multiple counterparts for convenience of the Parties.
- 9.2 Any alteration or variation of the terms of this MOU will not be valid unless made in writing and signed by both Parties.
- 9.3 This MOU will inure to the benefit of and be binding upon both Parties and their respective successors and assigns.
- 9.4 This MOU will be deemed a contract made under the laws of the State of California and for all purposes will be interpreted in accordance with such laws. The Parties hereby agree and consent to the exclusive jurisdiction of the courts of the State of California.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU on the Effective Date hereinabove written.

General Manager, Municipal Water District of
Orange County
18700 Ward Street
P.O. Box 20895
Fountain Valley, CA 92705

Date

General Manager, Metropolitan Water District of
Southern California
700 N. Alameda St
P.O. Box 54153
Los Angeles, CA 90054-0153

Date

Exhibit A-1

Location of Virtual Service Connection

Virtual Service Connection Location at MET/IRWD OC-72 Service Connection

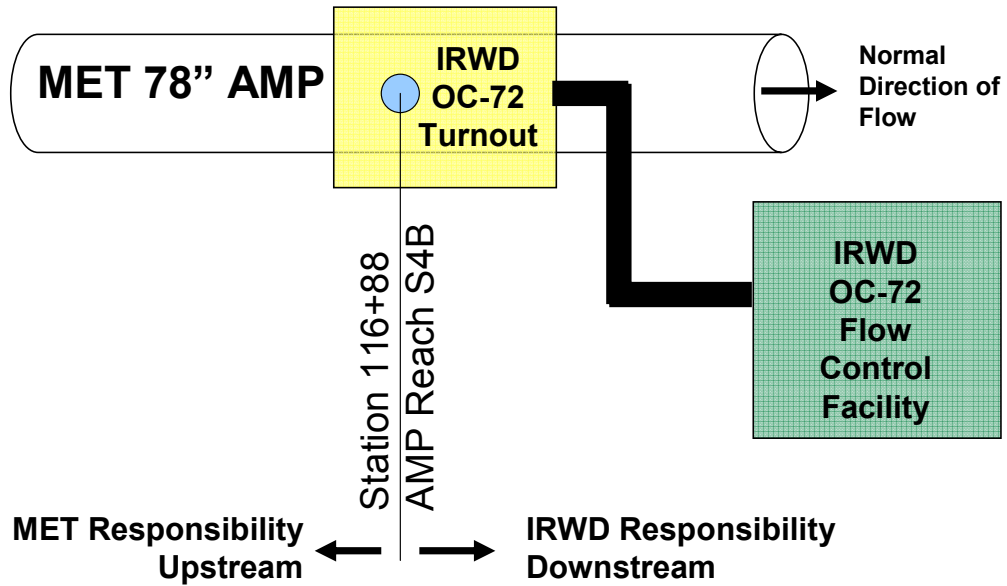


Exhibit A-2

Location of Upper Chiquita Point of Connection to South County Pipeline

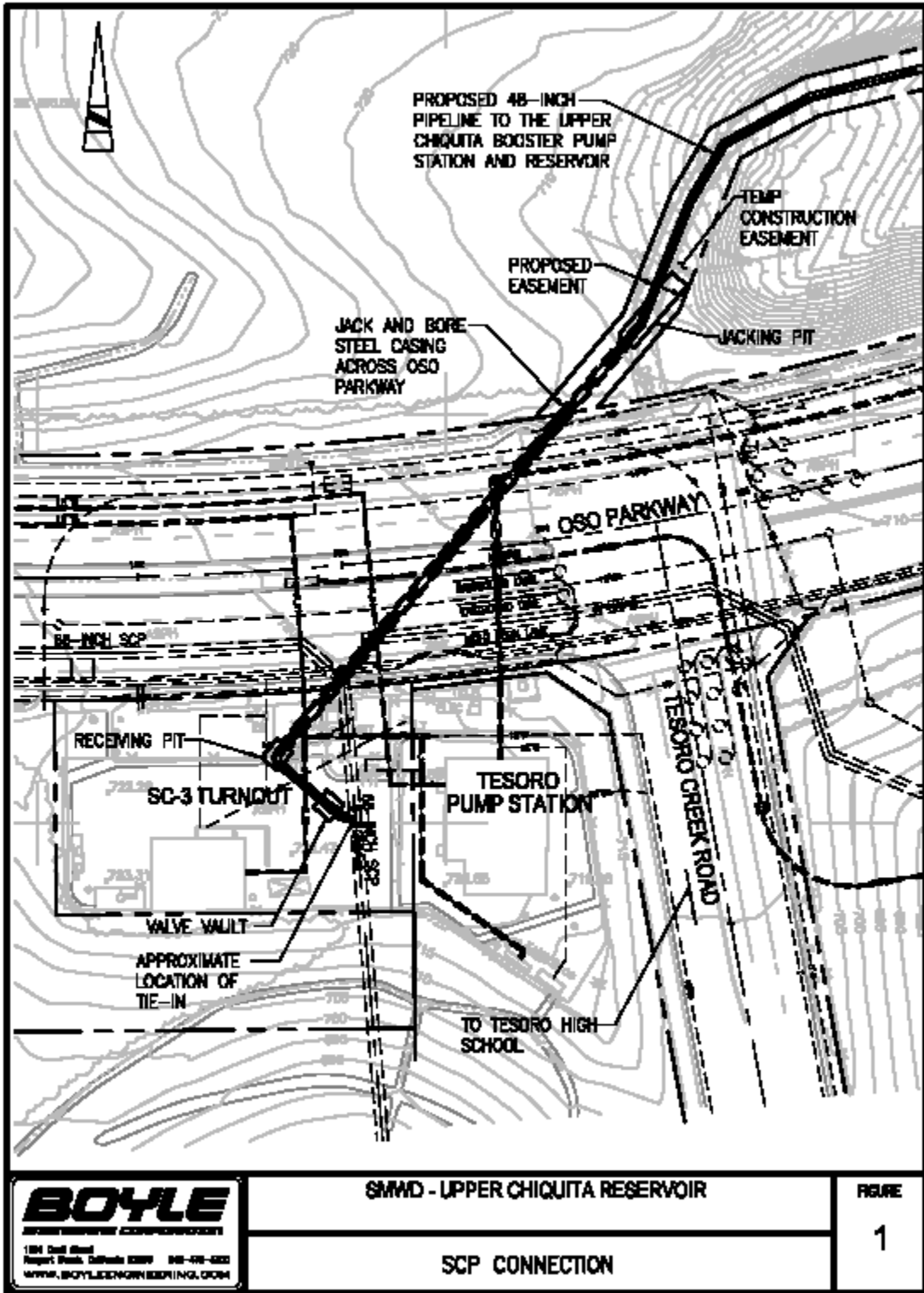


Exhibit B

Map Showing Location of Facilities

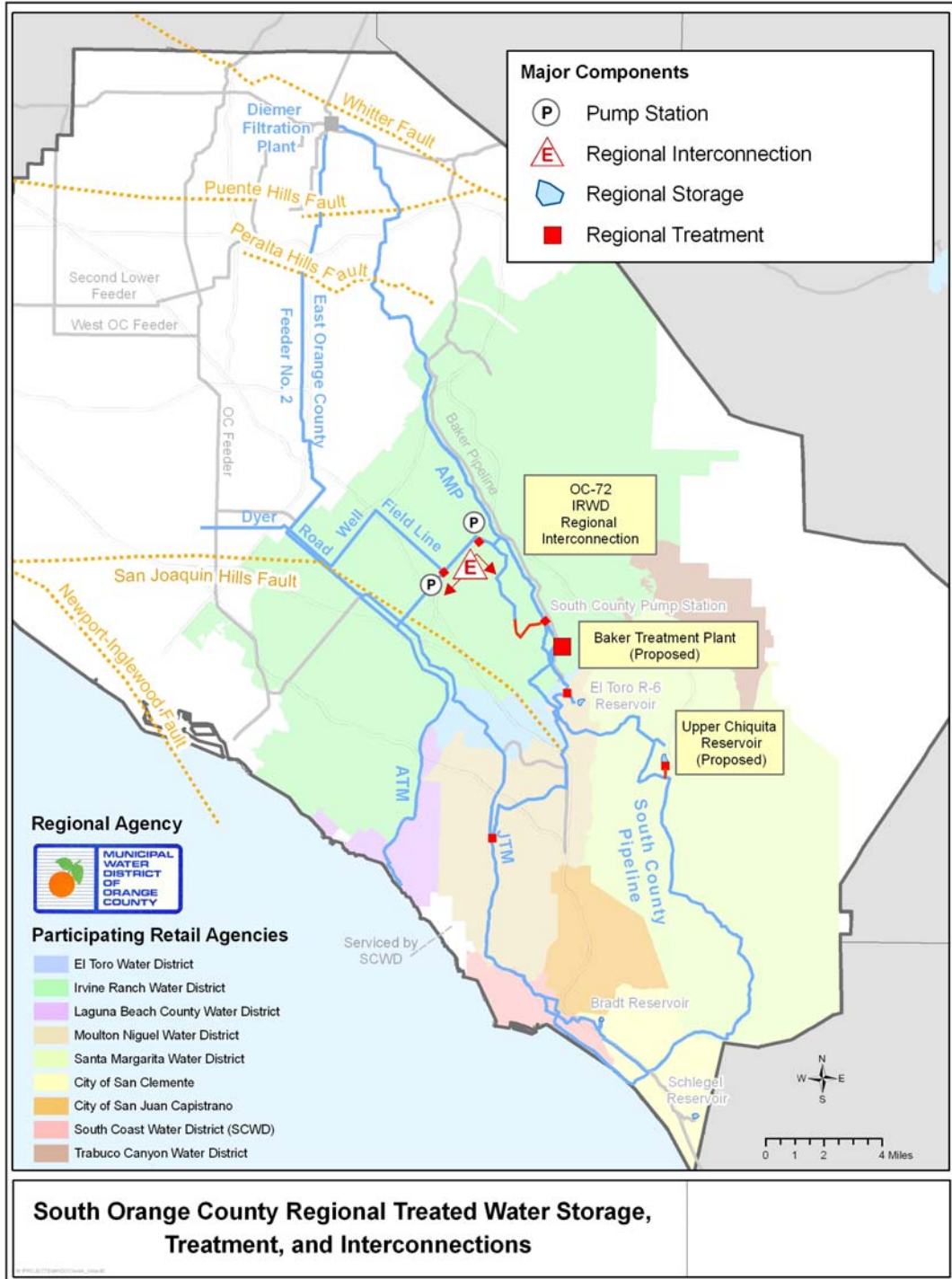


EXHIBIT C

Water Quality Monitoring and Reporting Locations

(Information to be updated and reported to the Parties by MWDOC as each Project is brought on-line)

Water Quality Monitoring and Compliance from New Projects				
Project	Lead Agency for Water Quality	Date First Available for Service	Location	Comments
Baker Water Treatment Plant and connection to the AMP	IRWD			
Connection of the IRWD System to the AMP	IRWD			
Connection of Upper Chiquita Reservoir to the South County Pipeline	SMWD			

Note: The connection of the IRWD System to the Aufdenkamp Transmission Main and Joint Regional Transmission Main was first accomplished under the Department of Public Health concurrence for the March 2007 Diemer Filtration Plant Shutdown, but did not involve any MET facilities



DISCUSSION ITEM

June 4, 2008

TO: Board of Directors

FROM: Kevin Hunt
General Manager

Staff Contact: Matt Stone,
Harvey De La Torre

SUBJECT: Long Range Finance Plan Update – Interim Agricultural Water Program

STAFF RECOMMENDATION

Staff recommends the Board of Directors review and discuss this item.

SUMMARY

This report provides an update on Metropolitan’s Long Range Finance Plan, in particular, the options for the Interim Agricultural Water Program which will be presented to the Water Planning and Stewardship Committee for action this month.

BACKGROUND

Since Metropolitan called for a 30% reduction on agriculture water deliveries this January, as part of Metropolitan’s Water Supply Demand Management action plan, the Interim Agriculture Water Program (IAWP) has been under the spotlight by many member agencies. Concerns have been raised over the delivery of discounted agricultural water during a time Metropolitan is securing water transfers. And others questioned the continuation of the IAWP when the Metropolitan Act clearly defines agriculture water as “surplus”.

Proponents of the program argue the IAWP provides local and regional economic benefits such as creating additional sales of surplus water to Metropolitan that result in lower overall rates to firm water users and sustain an important part of the economy in Southern California. Furthermore, it would be unfair to modify the program in only its first year of implementation and not allow participates to demonstrate their ability to reduce deliveries by 30% per the agreed upon rules established within the program.

Budgeted (Y/N):	Budgeted amount:
Action item amount:	Line item:
Fiscal Impact (explain if unbudgeted):	

In order to reach some resolution on the issue, Metropolitan staff devised the following six options for continuing IAWP:

1. Status Quo
2. Review the Program's water management benefits in the upcoming IRP update
3. Eliminate the Program
4. Phase Out over a number of years
5. Flexible Pricing
6. Contracts

However, due to the complexity of the issues and the inability to gain general consensus on one option, Metropolitan staff recommended to have some dialogue between retail users, agriculture users, and member agencies. Such discussions with all stakeholders involved could bring together an option that could be acceptable to all parties. The LRFP workgroup agreed with this resolution and called for a six-month process to evaluate all of the issues in a dialogue setting.

DETAIL REPORT

Last month, Metropolitan staff presented all of the options including the six-month evaluation recommendation to the Water Planning and Stewardship and the Business and Finance Committees as an information item.

In a lengthy discussion, the committee expressed concerns on both sides of the issue. Some strongly advocating for immediate elimination of the program in light of the present limited water supply, while others requested further information on the IAWP and a proper evaluation of the program. However, the Water Planning and Stewardship Committee voted to have the IAWP be brought back to the Committee in June for action rather than agree with the staff proposal to bring the item back in six-months (December 2008). The reason for bring it back next month is prompted by some committee members seeking a quick resolution to the matter rather than delay the item and continue the discount for remain of the year.



DISCUSSION ITEM

June 4, 2008

TO: Board of Directors

FROM: Kevin Hunt
General Manager

Staff Contact: Matt Stone,
Harvey De La Torre

SUBJECT: AB 885 Calderon – MWD Alternate Representative

COMMITTEE RECOMMENDATION:

This item was discussed at the May 21 Public Affairs & Legislation Committee. The Committee recommended removing its “Oppose” position on AB 885 due to the significant changes that were made to the bill and take a “Watch” position until further information is clarified.

STAFF RECOMMENDATION

Staff recommends the Board of Directors to review and discuss this information.

SUMMARY

AB 885 by Assemblymember Calderon (D-Whittier) was rewritten recently to amend the Metropolitan Act to authorize member agencies to appoint alternate board representative(s) to serve in the absence of their primary board representative(s). This “alternate representative” would be authorized to participate and vote in meetings where the primary representative is absence. The bill would apply to all 26 Metropolitan member agencies but would mostly benefit those 21 member agencies that have only one board representative. In Orange County, the three cities Fullerton, Santa Ana, and Anaheim have only one representative. The purpose is to prevent those agencies with only one representative to go unrepresented and without a vote when their director is absent from a meeting, unlike larger member agencies that are afforded more than one board representative and retain full voting power, despite one or more of the agency’s representative being absent.

Budgeted (Y/N):	Budgeted amount:
Action item amount:	Line item:
Fiscal Impact (explain if unbudgeted):	

DETAIL REPORT

Although staff finds this bill does not directly impact MWDOC's representation or voting power at Metropolitan, it is a MWD governance issue that may affect the manner in which the MWD Board and Committee members conduct business. Below are a list of observations and concerns that staff have identified in regards to AB 885:

- The current MWD Act does provide the five largest Metropolitan water agencies with more flexibility in their voting power when one or more representatives are absent compared to the other 21 member agencies; and
- AB 885 would allow for a member agency to be represented when a Director is absent for a duration time due to illness, vacation, etc; and
- The bill does not change the voting power or the assessed valuation per member agency; and
- The establishment of alternates is not unusual for governing bodies i.e. Orange County Sanitation District includes this provision.

However, there are potential concerns that are not clearly addressed in this bill that could impact the manner in which MWD conducts business. They are:

- Do the five largest Metropolitan water agencies with multiple representatives also have the ability to appoint alternates? And how many?
- Is the bill clear that if the primary representative is in attendance the alternate cannot participate in committee meetings? Are the alternates able to sit at the committee table and ask questions to MWD staff?
- What are the potential costs to Metropolitan related to services, resources, and staff support with the addition of twenty-one or thirty-seven new alternate board members?
- Are alternates entitled to the same benefits as primary representatives i.e. Inspection Trips, laptops, Per Diem, etc.?
- Are there any consequences in opening up the Metropolitan Act for amendments?



DISCUSSION ITEM

June 4, 2008

TO: Board of Directors

FROM: Kevin Hunt
General Manager

Staff Contact: Harvey De La Torre
Matt Stone

SUBJECT: MWD Items Critical To Orange County

STAFF RECOMMENDATION

Staff recommends the Board of Directors to review and discuss this information.

SUMMARY

This report provides a brief update on the current status of the key MWD issues that may affect Orange County.

DETAILED REPORT

Budgeted (Y/N):	Budgeted amount:
Action item amount:	Line item:
Fiscal Impact (explain if unbudgeted):	

Issue	Recent Activity	Upcoming Activity
<p>Water Supply Allocation Plan Development</p>	<p>In April, Metropolitan staff reported projected firm demand of 2.19 MAF (excluded replenishment and 30% agriculture deliveries) for 2008 could be fulfilled by a combination of Colorado River deliveries of 781 TAF, State Project deliveries (35% allocation) of 731 TAF, water transfers of 133 TAF, and by drawing water out of various storage accounts and DVL totaling 545 TAF. Resulting in a staff recommendation not to implement the supply allocation plan for 2008.</p> <p>On April 16, Metropolitan was served with a lawsuit filed by Central Basin Municipal Water District essentially challenging the legality of MWD's Water Supply Allocation Plan adopted by the Board in February. The lawsuit contains 17 causes of action including claims that Metropolitan has violated CEQA, preferential rights, imposed special taxes in violation of Propositions 13 and 218, and anticipatorily breached the terms and conditions of the Purchase Order signed by Central Basin MWD and Metropolitan in 2003. The matter has been send to the Legal and Human Resources Committee for discussion and action</p>	<p>With current water supply conditions at below average deliveries and Metropolitan drawing significant amounts from its reserves, Metropolitan staff along with the member agencies have started to develop a 5-year Action Plan to enhance the service area's reliability. As part of the plan, Jeff Kightlinger has called for extraordinary conservation measures and an acceleration of local projects. Meetings are being schedule to later this month to begin this process.</p>
<p>Integrated Resource Plan</p>	<p>Last month, MWD staff presented to the Water Planning and Stewardship Committee the schedule for updating the Integrated Resource Plan (IRP). Due to the importance of this document, there will be a number of workgroups, public & stakeholder forums, and Board & Special Committee workshops.</p>	<p>This month, Metropolitan staff will update the Water Planning and Stewardship Committee on the IRP update process. The first meetings are expected to be held in June.</p>

Issue	Recent Activity	Upcoming Activity
	<p>The schedule calls for the overall process to be completed and presented to the Board for adoption by June 2009.</p> <p>In April Chairman Tim Brick announced the creation of an “IRP Steering Committee” lead by Los Angeles Director Nancy Sutley. Directors Daniel Griset (Vice-Chair- Santa Ana), James Barrett (San Diego), and Randy Record (Eastern) are the other members assigned to the Committee.</p>	
<p>Long Range Finance Plan</p>	<p>The Long Range Finance Plan (LRFP) workgroup held a meeting at Metropolitan last month. The items discussed were an update on the Committee’s response to the Interim Agricultural Water (IAWP) and Replenishment Program options, a review of the Growth Charge options, and a presentation on a Treated Water Peaking Charge.</p> <p>Both the Business & Finance and Water Planning & Stewardship Committees were presented the IAWP and Replenishment Program’s options and workgroups recommendation in a Board information letter. A review of the replenishment program was recommended to be moved to the Integrated Resource Plan discussion. However, the Water Planning and Stewardship Committee recommended the IAWP should be brought back to the Committee next month for action.</p> <p>A review of all the options for the Growth infrastructure Charge was discussed by the workgroup in detail. Although there was no general</p>	<p>The next LFRP workgroup meeting is schedule for June 5 at Metropolitan. The items for discussion will be further review on the Growth Charge options, the Treated Water Peaking Charge options, and review sections on the draft Long Range Financial Plan.</p>

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	<p>agreement on any particular option there was consensus to refine the three most promising options (Status Quo, Contract for new Facilities, and a Connection Charge). The next step is to develop a white paper on these remaining options and determine the impact per member agency on each approach.</p> <p>MWD staff presented different alternatives for imposing a Treated Water Peaking Charge. Among the alternatives presented were:</p> <ul style="list-style-type: none"> ➤ Treated Capacity Approach – Similar to the existing Capacity Charge format – three-year summer peak day use. MWD estimates MWDOC would see a savings of 3.3% (\$1.24 million) on our treatment costs under this methodology ➤ Treated Peaking Approach – This methodology would determine the base load average demand on each member agency and take the peak flow above this baseline and assess a charge. MWD estimates MWDOC would see a savings of 3.2% (\$1.2 million) under this methodology ➤ Treated Water Declining Block Approach – Similar to how the energy industry assesses peaking. This approach follows a declining block structure that ties monthly volume to monthly peak capacity use. MWD estimates MWDOC would see a savings of 0.4% (\$150K) under this methodology. Overall, 	

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	<p>very difficult to implement and not favored by most agencies.</p> <p>There was much discussion on the first two options with plans to refine them for the next meeting.</p>	
<p>Colorado River Issues</p>	<p>The Colorado River Basin snowpack, as of April 30, decreased slightly from its March estimates of a 124% above average down to 106%. This is mainly due to early spring heat and decrease runoff by increased soil moisture. Lake Powell is reported to have 11.2 MAF (46% of total capacity), while Lake Mead is currently at 12.5 MAF (48% of total capacity)</p>	<p>MWD staff plans to provide an update on Colorado River matters at it Water Planning and Stewardship Committee next month.</p>
<p>Bay Delta/State Water Project Issues</p>	<p>Under direction of the Governor, DWR has initiated preparation of a joint EIR and EIS for the Bay Delta Conservation Plan (BDCP) by recently finishing a series of statewide Scoping Meetings where they solicit public comments on the BDCP planning process. The first draft of the plan will not be developed until 2009, but DWR has begun scientific work for the joint EIR and EIS in hopes of streamlining the environmental review process once the plan is completed. The plan will include some form of an isolated conveyance facility and several habitat conservation measures.</p> <p>Last month, DWR and the Bureau of Reclamation released new Biological Assessments for the Delta Smelt. Both U.S. Fish and Wildlife Service and the National Marine Fisheries Service have begun working with DWR to determine whether these Biological Assessments are sufficient for preparing</p>	<p>Later this month, the Delta Vision Blue Ribbon Task Force will present their first draft of their Strategic Plan for review and comment. It is anticipated the final plan will adopted by October 2008.</p> <p>On June 6, Judge Wanger will hold a hearing on the Winter & Spring-run Chinook Salmon and its potential impacts the Delta pumps operations. If the Judge calls for further pumping restrictions it will be on top of the already existing Delta Smelt operational guidelines that have impact SWP allocations by as much as 20%.</p>

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	<p>the new Biological Opinions.</p>	
<p>Central Pool Augmentation Project</p>	<p>Last month, MWD staff presented the results of a geotechnical investigation on the EIR-identified tunnel alignment for the Central Pool Augmentation (CPA) Program to the Engineering and Capital Programs Committee. The investigations included the drilling of deep borings to reach the approximate tunnel depth, field and laboratory testing, and installation of observation wells.</p> <p>The investigation found that there are “no insurmountable impediments” to construct such a tunnel, but will require a longer mining duration and greater construction costs than previously estimated in the 1994 EIR. Mining duration would increase from 36 months to 80-90 months and construction costs would increase from \$481 million to \$680-\$770 million (all in 2008 dollars).</p> <p>Metropolitan intends to preserve the viability of the alignment and will continue to monitor activity along the identified alternative alignments, including the work be done by the Riverside County Transportation Commission for a transit tunnel alignment.</p>	<p>Metropolitan will continue to monitor the activity along the alignment.</p>
<p>Metropolitan’s Desalination Policy</p>	<p>Metropolitan staff has become more aggressive on this issue of forming partnerships with its members for the desalination projects. MET Staff was planning on taking an item to the Board in June to discuss this item on a conceptual basis; however, it got pushed off until July. In June they will be considering the Five Year Water Supply Plan, which could include ocean desalination. In Orange County</p>	<p>Further discussion on this partnership concept is expected to take place over the next few months.</p>

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	<p>both Huntington Beach and Dana Point could be developed in the next five years.</p> <p>Other concepts being discussed with MET staff at Dana Point includes MET funding of some of the research aspects and MET coming in as a full partner for 3 to 5 MGD of capacity. MET would also likely assist in the areas of water quality and metallurgy to help agencies with certain aspects of their projects.</p> <p>It is likely that discussions will begin with MET on the Poseidon Huntington Beach Project. Debra Man has requested a MWDOC briefing on the Dana Point and Huntington Beach Projects.</p>	