



UNDERGROUND

Fall 2003

MWD ISSUES STATEMENT TO AGWA REGARDING GUIDELINES FOR DELIVERY OF REPLENISHMENT SERVICE AND DELIVERY TO CONJUNCTIVE USE STORAGE ACCOUNTS

In recent months, the Association of Ground Water Agencies has expressed concern regarding Metropolitan Water District of Southern California

(MWD)'s policies regarding conjunctive use programs versus replenishment water programs. AGWA's concern was taken to MWD's Water Surplus & Drought Management Team, a group that meets regularly at MWD to discuss issues relative to the Water Surplus & Drought Management Plan. Once addressed at the meeting, the group announced that it recommends, and MWD management has accepted, a policy that replenishment water orders would get priority over water put into conjunctive use programs—although this would be subject to supply and system constraints.

During AGWA's June 2003 meeting, members also discussed other issues relative to the purchase of replenishment water from MWD. Amy Gallaher of MWD noted that the sooner the agency heard thoughts and concerns from member agencies relative to replenishment water policy, the sooner analysis by MWD on the issues would take place.

In August, Metropolitan Water District of Southern California sent a letter to AGWA to clarify its guidelines for delivery of replenishment service and delivery to conjunctive use storage accounts. The letter was sent by Jill T. Wicke, manager of water system operations.

The letter confirmed MWD's position on replenishment water versus conjunctive use. Specifically, it discussed the Water Surplus and Drought Management Plan, which states: "The resource

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Visit the AGWA website at: www.agwa.org

management framework does not dictate a scripted response to shortage or surplus. The framework recognizes the complexity and variety of conditions that require action...these steps depend on shortage stage, account for monthly delivery requirements, and depend on when various supplies would be available.”

In other words, MWD’s basic procedure is to consider replenishment deliveries before storing water in a conjunctive use or surface storage account. “This is consistent with WSDM policies, but operational factors and short-term and long-term supply needs will dictate when replenishment deliveries are available,” the letter stated.

A subsequent letter was sent to AGWA from Ron Gastelum, Chief Executive Officer of MWD, inviting AGWA members to participate in any discussions the agency has regarding changes to replenishment water rates or policies.

In the letter, Gastelum noted that some member agencies requested MWD’s staff provide an analysis of the replenishment program and the discount price associated with the purchase of replenishment water. Gastelum stated that MWD will be working with its member agencies over the next several months on this issue, and its goal is to reach consensus on the appropriate approach in time to set water rates in March 2004. Further, Gastelum said he welcomes AGWA’s comments and participation in this process.

Please contact Mr. Brian Thomas at (213) 217-7121, or Mr. Shane Chapman at (213) 217-6005, if you have questions regarding this effort.

[PRINT VERSION](#)

EMWD CAPITAL IMPROVEMENT PROGRAM TO ADDRESS REGION’S GROWING WATER DEMANDS

AGWA member agency Eastern Municipal Water District (EMWD) will continue to keep pace with unprecedented development growth, thanks to a

comprehensive Capital Improvement Plan (CIP) that calls for more than 100 new infrastructure projects over the next 5 years.

The new projects, totaling approximately \$280 million, will provide another 24-million gallons per day of fresh water by 2007 and will accommodate higher corresponding demands for sewer service. According to EMWD, if this year’s increase in water and sewer connection requests is any indication, the additional water will be sorely needed.

The total number of water and/or sewer connection projects for the second quarter reveals an overall increase in activity from last year. The 51 reported water and/or sewer connection projects requested for the second quarter slightly surpassed the total requests over the same three-month period in 2002.

“This year we’ve continued to experience increasing demands for new water and sewer connection project requests, which reflects the ongoing growth evident throughout our region,” said Tony Pack, EMWD general manager. “We know that our service population will double to approximately a million over the next 25 years and this proactive plan (CIP) is an important first step to accommodate the growing need for water today and for years to come.”

Pack added that the 110 project requests over the first two quarters of 2003 exceed the 87 total over the same period last year and puts EMWD on pace to exceed the overall total of 199 projects requests for 2002.

Likewise, 36 of the 51 requested projects reported over the second quarter came from residential development, an increase from 33 reported over the same period in 2002. The largest of the new residential water and sewer connection projects requested was a 183-unit residential development located in Moreno Valley.

There appears to be no end in sight to the increasing demand for water and/or sewer connection projects. During July, the beginning of the third quarter, another 24 new projects were reported—

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the highest number for the month of July since 1989.

“The frequency of new connection requests is a testimony to the appeal of our region despite ongoing economic struggles throughout other parts of California,” said Pack. “The increasing number of requests also underscores the importance of having a long-term plan in place to ensure ample facilities—both fresh water and wastewater reclamation—once these development projects begin construction.”

A few examples of major CIP projects nearing completion or in design or construction during the next five years include:

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- Expansion of that same plant once again to accommodate another 12-14,000 homes and businesses (\$27 million).
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Current board vice-president Cheryl Tubbs was elected as president, and Director Clare Henry Day was elected as vice president.

During Woodbury’s tenure at SBVWCD, he spent

10 years serving as board president. He also represents the Water Conservation District as Chairman of the Santa Ana River Wash Area and has coordinated the Planning Activities Committee, working diligently to implement the Land Management and Habitat Conservation Plan. Woodbury also represents SBVWCD on a number of committees, including the Association of California Water Agencies (ACWA) Region 9, Federal Affairs Committee, Water Environment Subcommittee, Groundwater Committee and Caucus of Water Conservation Agencies; AGWA; the San Bernardino Valley Municipal Water District Advisory Commission; the ACWA-Joint Powers Insurance Authority and the Redlands and Highland Chambers of Commerce.

The Water Conservation District states that it is very appreciative of Director Woodbury’s hard work and dedication during his tenure and looks forward to his continuing services to the District. AGWA also thanks him for his continued membership.

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CALIFORNIA SUPREME COURT REFUSES TO REVIEW APPELLATE COURT RULING THAT SIDED WITH WRD

The California Supreme Court has decided against reviewing an appellate court decision, which held that AGWA member agency the Water Replenishment District of Southern California (WRD) has the authority to manage the Central Groundwater Basin.

“The supreme court’s decision to deny review means that the Court of Appeal’s decision serves as governing law in the Central Basin,” said WRD Attorney Ed Casey. “The decision strongly supports the replenishment and conjunctive use activities that the WRD has carried out in the Central Basin for the past 40 years.”

Last June, a California state appellate court agreed

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with Los Angeles Superior Court Judge Reginald Dunn's ruling to deny private water companies and groundwater purveyors control over available groundwater storage space in the Central Basin. The Southern California Water Company argued in its recent petition that the Supreme Court should not allow the court of appeal decision to stand as the governing law. The state's high court, however, disagreed.

"We have always maintained that the California Supreme Court and the state legislature already determined that storage space in a groundwater basin should be utilized as a public resource," said WRD Board President Willard H. Murray, Jr. "This decision to let the appellate court ruling stand validates the WRD's long-standing legal position."

In the ruling, the appellate court unequivocally held that "the storage space in the Central Basin is a public resource." The decision states that a 1965 Central Basin judgment did not grant the groundwater pumpers separate rights to all of the basin's storage space. The court held that the pumpers' right to extract groundwater from the Central Basin does not create a corresponding right to store water in the Central Basin.

Additionally, the ruling stated that the WRD's management authority included conjunctive use. As a general principle, the appellate court decision shows that available underground storage space should be managed as a public resource through a local, yet centralized public authority, Casey said. WRD officials remain committed to working with groundwater basin stakeholders to optimize this resource for the benefit of the public.

Through surface spreading operations, pumping water into the seawater barrier wells, groundwater cleanup and reclaimed water projects, the WRD has restored more than 250,000 acre-feet of water to the basin. Under the Court of Appeal decision, these and other beneficial programs and projects will continue to operate in the Central Basin.

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ORANGE COUNTY WATER DISTRICT ENTERS INTO HISTORIC GROUNDWATER STORAGE AGREEMENT

AGWA member agency the Orange County Water District (OCWD) has entered into a historic water storage agreement with the Metropolitan Water District of Southern California (MWD) and the Municipal Water District of Orange County (MWDOC). Signed in June, the 25-year agreement allows for nearly 20 billion gallons of water to be stored in Orange County's groundwater basin for use during dry years and emergencies.

Signed during a joint meeting of the OCWD and MWDOC boards of directors, the agreement provides for the management of Orange County's water resources and enhances water quality and reliability for Southern California. It also provides for additional protection from seawater intrusion and improved groundwater quality. The project will cost \$29.8 million and will be funded by MWD.

"This partnership will help stretch available supplies for 18 million Southern Californians, while helping to assure Orange County will have a reliable, high-quality water supply for recharging the groundwater basin, which serves 2.3 million people in northern and central Orange County," said MWD board chairman Phillip J. Pace.

Under the program, MWD, in cooperation with MWDOC and OCWD, will store more than 60,000 acre-feet of imported water in Orange County's groundwater basin during wet periods (an acre-foot is about 326,000 gallons or enough water for two small families for a year). During dry spells, or extended droughts or other water emergencies, up to 20,000 acre-feet per year—enough for more than 40,000 families—can be withdrawn for use.

MWD will provide eight groundwater extraction wells to local city and water agency participants to ensure that the stored water can be pumped in

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addition to the existing pumping demand. The participants will be able to use MWD's new wells as backup for their existing systems and will own the wells when the agreement expires in 25 years. Participating cities and water agencies include Buena Park, Fullerton, Garden Grove, Orange, Santa Ana, Southern California Water Company, Westminster, and Yorba Linda Water District.

In addition to water storage, the agreement also outlines MWD's role in funding improvements to Orange County's seawater barrier (which keeps ocean water out of the groundwater basin) and constructing a bypass pipeline around MWD's Diemer Water Purification Plant in Yorba Linda. The pipeline will provide OCWD with better access to water from Northern California for use in refilling the groundwater basin.

"Implementing this storage program will help our continual efforts to prevent seawater intrusion into the groundwater basin," said OCWD board president Denis R. Bilodeau. "Every groundwater basin in California should participate in conjunctive use programs to meet future water needs."

The signing of the three-agency agreement is the culmination of a two-year process in which MWDOC, the MWD member agency and imported water wholesaler for two-thirds of Orange County, coordinated many of the planning and logistical elements between OCWD and MWD. In addition to working with OCWD to address the future water needs of the entire county, MWDOC also is leading the county's water planning effort.

"This groundwater storage program is a major step forward for OCWD and MWDOC as the agencies begin working more closely together to address the county's overall water supply and infrastructure needs," said MWDOC vice president Larry D. Dick. "I would also pledge that our agencies will continue their collaboration with MWD as the agency works to plan Southern California's overall water future."

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NATIONAL COALITION OPPOSES 'SAFE HARBOR' IN ENERGY BILL

A growing national coalition is working together to defeat language in the pending national energy bill which provides a controversial new legal exemption for oil companies involved in groundwater contamination.

Language currently in HR 6 provides producers of methyl-tertiary butyl-ether (MTBE) with a "safe harbor" from liability in defective product claims used to compel their help in cleaning up MTBE contamination. This language places the burden of paying for replacement water supplies and contamination cleanup on communities and their citizens, according to a letter sent September 15 from the Association of California Water Agencies (ACWA), the National League of Cities, the U.S. Conference of Mayors, the Association of Metropolitan Water Agencies, the American Water Works Association, the National Association of Water Companies and the National Rural Water Association.

"It is hard to imagine a worse precedent for Congress to set in a national energy bill," said ACWA Executive Director Steve Hall. "In cities like Santa Monica, 75 percent of the drinking water wells are now unusable due to MTBE. Giving a pass to the parties responsible for this mess will devastate current and future MTBE cleanups for years to come."

Contrary to claims by some, MTBE was never mandated by Congress. Neither the Clean Air Act nor EPA regulations require the use of MTBE or any particular oxygenate. Fuel companies chose to blend MTBE into gasoline well after its environmental risks were well known in the oil industry. Water groups have therefore argued that Congress has no obligation to shield the producers from liability.

MTBE contamination has occurred throughout California and is currently found in 55 percent of large urban water systems nationally, according to

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the U.S. Geological survey. The South Tahoe Public Utilities District recently settled a lawsuit with eight major oil companies over MTBE contamination using the 'defective product' claim. South Tahoe received \$69 million from these companies, and several other MTBE lawsuits are pending nationwide.

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- * After five public-comment periods and an exhaustive scientific review, the U.S. Fish and Wildlife Service (USFWS) September 22 published a "notice of removal" determination to remove the splittail fish from the list of threatened and endangered species. USFWS analyzed Sacramento splittail population information, as well as threats to the species. It found that threats to the species are being addressed through habitat restoration actions such as the CALFED Bay-Delta Program and the Central Valley Project Improvement Act, and that as a result, the splittail is not likely to become endangered in the foreseeable future.
- * *The Wall Street Journal* has reported that the Federal Emergency Management Agency (FEMA) will attempt to begin a nationwide effort to redraw the maps that predict where floods are likely to occur. This effort, which comes on the heels of the devastation caused by Hurricane Isabel on the East

Coast, would likely have major financial implications for homeowners, property developers and the government-run flood-insurance program.

- * The California Senate approved legislation requiring some cities to install water meters on August 27. The 23-11 vote came on a scaled-down bill that was crafted after a broader effort forcing meter installation in all cities, including Sacramento, was killed earlier this year. The narrower bill also includes Fresno, and would force meters on about a third of all state households currently without meters. The bill would allow the cost for retrofitting homes, which is expected to total millions of dollars in each city, to be passed on to customers.
- * SB 18, by Senate Pro Tem John Burton (D-San Francisco), failed to be passed by the Assembly before the September 13 conclusion of the first year of the two-year 2003-04 legislative session. The so-called Native American "sacred sites" bill would have impaired water agencies' ability to build and maintain critical infrastructure, such as pipelines, flood control channels, culverts, pumping stations and treatment plants.
- * The state legislature adjourned the first year of the 2003-04 session in the wee hours on September 13. One of the most closely followed issues was SB 407 (D-Torlakson), which would have repealed the current exemption from the Educational Revenue Augmentation Fund (ERAF) for certain special district water agencies. Thanks to outreach efforts by many water organizations, SB 407 was defeated.
- * The latest effort by the Imperial Irrigation District (IID) to reach a negotiated settlement with the Department of the Interior over the District's use of water came in the form of a letter, the Imperial Valley Press reported. IID Director Bruce Kuhn said in the September 17 letter: "I believe it is fair and equitable...I believe it does not upset the basis for the understanding between the basin states or the deal between the water agencies. I think they can live with it. It's indicative of our trying to get the issue resolved."

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- * *The Wall Street Journal* has reported that the Federal Emergency Management Agency (FEMA) will attempt to begin a nationwide effort to redraw the maps that predict where floods are likely to occur. This effort, which comes on the heels of the devastation caused by Hurricane Isabel on the East Coast, would likely have major financial implications for homeowners, property developers and the government-run flood-insurance program.
- * The California Senate approved legislation requiring some cities to install water meters on August 27. The 23-11 vote came on a scaled-down bill that was crafted after a broader effort forcing meter installation in all cities, including Sacramento, was killed earlier this year. The narrower bill also includes Fresno, and would force meters on about a third of all state households currently without meters. The bill would allow the cost for retrofitting homes, which is expected to total millions of dollars in each city, to be passed on to customers.
- * SB 18, by Senate Pro Tem John Burton (D-San Francisco), failed to be passed by the Assembly before the September 13 conclusion of the first year of the two-year 2003-04 legislative session. The so-called Native American "sacred sites" bill would have impaired water agencies' ability to build and maintain critical infrastructure, such as pipelines, flood control channels, culverts, pumping stations and treatment plants.
- * The state legislature adjourned the first year of the 2003-04 session in the wee hours on September 13. One of the most closely followed issues was SB 407 (D-Torlakson), which would have repealed the current exemption from the Educational Revenue Augmentation Fund (ERAF) for certain special district water agencies. Thanks to outreach efforts by many water organizations, SB 407 was defeated.
- * The latest effort by the Imperial Irrigation District (IID) to reach a negotiated settlement with the Department of the Interior over the District's use of water came in the form of a letter, the Imperial Valley Press reported. IID Director Bruce Kuhn said in the September 17 letter: "I believe it is fair and equitable...I believe it does not upset the basis for the understanding between the basin states or the deal between the water agencies. I think they can live with it. It's indicative of our trying to get the issue resolved."