

**THE GOVERNANCE
OF THE
METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA:
AN OVERVIEW OF THE ISSUES**

By

Dennis E. O'Connor

August 1998

EXECUTIVE SUMMARY

Assembly Member Bruce Thompson asked the California Research Bureau to investigate the governance of the Metropolitan Water District of Southern California (MWD). This report presents the results of that investigation.

MWD is the largest water district in California. Through its 27 member agencies, MWD provides about 60 percent of the water to 16 million people in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura counties.

Recently, there has been much interest in the governance of the Metropolitan Water District of Southern California (MWD). Much of the current interest in MWD's governance results from conflicts within MWD, principally between San Diego County Water Authority (SDCWA) and some, but not all, of MWD's other member agencies. However, while the catalyst for the current conflicts is a proposed water transfer between SDCWA and the Imperial Irrigation District (IID), the fundamental issues run deeper.

This report contends that much of the current interest in MWD's governance has focused on symptoms of problems, and not the sources of the problems. Moreover, there is a logical hierarchy of issues, which must be addressed in sequence, in order to resolve these questions about MWD's governance. Simply stated, before examining the form of MWD's governance, one must examine MWD's functions. That said, the three key issues explored in this report are:

- (1) What is and is not MWD's job?
- (2) Who is best suited to ensure MWD does this job properly?
- (3) How should (2) make these decisions?

The report finds that there is no consensus among MWD's member agencies of what is and is not MWD's proper role in providing water to Southern California. Indeed, it is this lack of common purpose that has led to many of MWD's internal conflicts.

Considering just (1), there are at least three points of contention:

- Should MWD be the sole supplier of supplemental water to Southern California?
- What should MWD's official rules under the Metropolitan Water District Act be for allocating water during periods of drought?
- Whose interests should MWD primarily represent – member agencies, retail water agencies, end users, the taxpayers, or someone else?

Furthermore, despite current efforts by the MWD board to clarify its role, it is not clear they can reach a consensus. There are many reasons for this assessment. First, the report shows that member agencies differ greatly – in their size, organizational structure, service area, dependence upon MWD of water, and rights to MWD water. Second, the report demonstrates that a number of member agencies benefit from the status quo. Therefore,

any change in MWD could potentially weaken their clout in MWD decision making or possibly limit their ability to provide water to their customers during periods of shortages. Third, the report points out that there are many legitimate questions regarding how changing or refining MWD's role would affect member agency equity and financial security for MWD. Finally, despite the moderating views of a number board members, many other board members have very strongly held positions based on their personal views of fairness and equity. Again, there is no consensus on what is fair or equitable.

In addition, even if the MWD board could resolve these issues itself, it is not clear that it would do so consistent with the interest of either the local ratepayers or the greater statewide public. The report describes how the MWD board consists of 51 representatives from 27 member agencies. It is difficult to see how such a member agency driven board would ever conclude that MWD's principal job is something besides simply meeting each member agency's parochial needs. If these larger public interests are important, then perhaps someone besides the board of directors or MWD staff should direct the governance resolution process.

Lastly, report concludes that until the conflicting views of what is and is not MWD's role are resolved unambiguously, questions such as the size and composition of the MWD board are premature.

It might well be that in answering these questions, it is found that MWD's current governance structure requires just a little fine-tuning. However, it might just as easily be that such an investigation would lead to a dramatically different governance structure. The outcome depends at least in part on who is answering the questions, and who is not.

CONTENTS

EXECUTIVE SUMMARY.....	i
CONTENTS.....	iii
INTRODUCTION	1
THIS REPORT	2
RESEARCH APPROACH.....	2
ORGANIZATION OF REPORT	2
OVERVIEW OF MWD’S GOVERNANCE.....	5
MEMBER AGENCIES	5
THE GOVERNANCE DOCUMENTS	14
THE BOARD OF DIRECTORS	15
PREFERENTIAL WATER RIGHTS.....	19
WHAT ARE THE PROBLEMS?.....	25
THE ISSUES	29
WHAT IS AND IS NOT MWD’S JOB?	29
WHO IS BEST SUITED TO ENSURE MWD DOES THIS JOB PROPERLY?.....	34
HOW SHOULD THOSE IN CHARGE MAKE DECISIONS?	40
CURRENT EFFORTS TO REFORM MWD.....	45
MWD	45
CALIFORNIA LEGISLATURE	46
CONCLUSIONS.....	49
APPENDIX: A BRIEF HISTORY OF THE FORMATION OF MWD.....	53
END NOTES.....	59

INTRODUCTION

The Metropolitan Water District of Southern California (MWD) is the largest water district in the state. The Legislature originally created MWD in 1927 to provide Colorado River water to Southern California.* Today, MWD provides about 60 percent of the water to 16 million people in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura counties.

Southern California has changed greatly since MWD incorporated in 1928. The population has grown nearly seven-fold, an additional 107 cities have incorporated (an increase of 124 percent), and the region transformed itself from a largely agricultural economy into a vibrant and diverse manufacturing and services based economy.

MWD's role in supplying water to Southern California has changed greatly too. Membership in the district has grown from 13 cities in two counties in 1931, to 14 cities, 12 Municipal Water Districts, and one County Water Authority in six counties today. The service population has grown from 1.5 million to over 16 million. In addition to water from the Colorado River, MWD now delivers water from Northern California via the State Water Project and water from other areas of the State through various water transfers. Moreover, MWD now functions not just as a water wholesaler, but as a regional water resources manager, providing technical assistance and sponsoring water conservation, groundwater conjunctive use, desalination, and water recycling projects.

While Southern California, its water needs, and MWD's role in meeting those needs have changed greatly over the past 70 years, there have been few changes to MWD's governing structure. The few substantive changes that have been made to MWD's governing structure generally have been reactions to the economic growth of Southern California instead of changes made in anticipation of future demands.

Today, many people both within and outside of MWD have serious concerns about MWD's governance. Some believe MWD's 51-member board of directors is simply too large. Others focus on the alleged unethical behavior of some member agencies in their dealings with each other. Still others believe MWD's board's does not focus on critical regional water issues. There are other concerns as well.

Several California legislators have introduced bills that address various aspects of MWD's governance. Indeed, the California Senate was so concerned about some of the complaints that it established the Senate Select Committee on Southern California Water Districts' Expenditures and Governance (Senate Select Committee) to study MWD governance and other related issues. Also, the MWD board is currently conducting an in-house evaluation of its governance system.

* For a brief history of the formation of MWD, see Appendix.

THIS REPORT

Assembly Member Bruce Thompson asked the California Research Bureau to investigate MWD's governance. This report presents the results of that investigation.

This report takes the position that much of the current debate has focused on symptoms of problems, and not the sources of the problems. Moreover, there is a logical hierarchy of issues, which must be addressed in sequence, in order to resolve these questions about MWD's governance. Simply stated, before examining the form of MWD's governance, there must be an examination of MWD's functions. That said, the three key issues explored in this report are:

- (1) What is and is not MWD's job?
- (2) Who is best suited to ensure MWD does this job properly?
- (3) How should (2) make these decisions?

This report does not attempt to answer (1), (2), or (3). Instead, it presents the current range of perspectives on these issues and the rationale behind these perspectives.

RESEARCH APPROACH

The research for this report took a three-pronged approach. First, the author studied the early beginnings of the MWD. The author read the original newspaper accounts as well as modern histories of the origins of MWD. The author traced the original legislation from its introduction through its many iterations. And the author read MWD's Annual Reports and its various published histories.

Second, the author has studied the current conflicts with an eye to identifying breakdowns in MWD's decision making process. This included reviewing various analyses, reports, and news accounts of MWD and its problems. In addition, the author has attended, and testified, at the Senate Select Committee's investigative hearings.

Third, and perhaps most importantly, the author interviewed many people and observed MWD's board in action. The author interviewed about a quarter of MWD's board members, along with MWD's General Manager John R. "Woody" Wodraska, Former Attorney General John Van de Kamp, who is currently advising the board on governance issues, and various other interested parties.

ORGANIZATION OF REPORT

This report is organized into six main sections. After this introductory section, the report continues with an overview of MWD's current governance structure and processes. Next, it presents anecdotal evidence of the need to change MWD's governance structure.

In the section titled “The Issues,” the report analyzes MWD’s governance issues and describes a range of perspectives on the issues. That is, the report looks at the who, what, when, where and hows of MWD’s governance. First, the report investigates MWD’s mission – what MWD is and is not supposed to do. Next is a discussion of who should be in charge of implementing MWD’s mission. Finally, there is a short discussion of how whoever is in charge should make the necessary decisions.

The following section describes the processes both MWD and the California State Legislature have initiated to resolve governance issues. In the final main section, the author draws some conclusions.

In addition, this report includes an appendix, which presents a brief history of the formation of MWD.

OVERVIEW OF MWD'S GOVERNANCE

MWD provides water wholesale to its member agencies. Each of these member agencies then delivers water to other wholesale and/or retail customers. In concept, MWD's governance structure is designed to ensure MWD meets all of its member agencies' supplemental water supply needs. To understand the current governance structure, one must first understand the characteristics of the 27 member agencies and how their needs might differ from one another. This, then, provides a context for a discussion of MWD's governance structure.

This section of the report describes four key aspects of MWD current governance environment:

1. The member agencies
2. The Metropolitan Water District Act
3. The board of directors
4. Preferential water rights

MEMBER AGENCIES

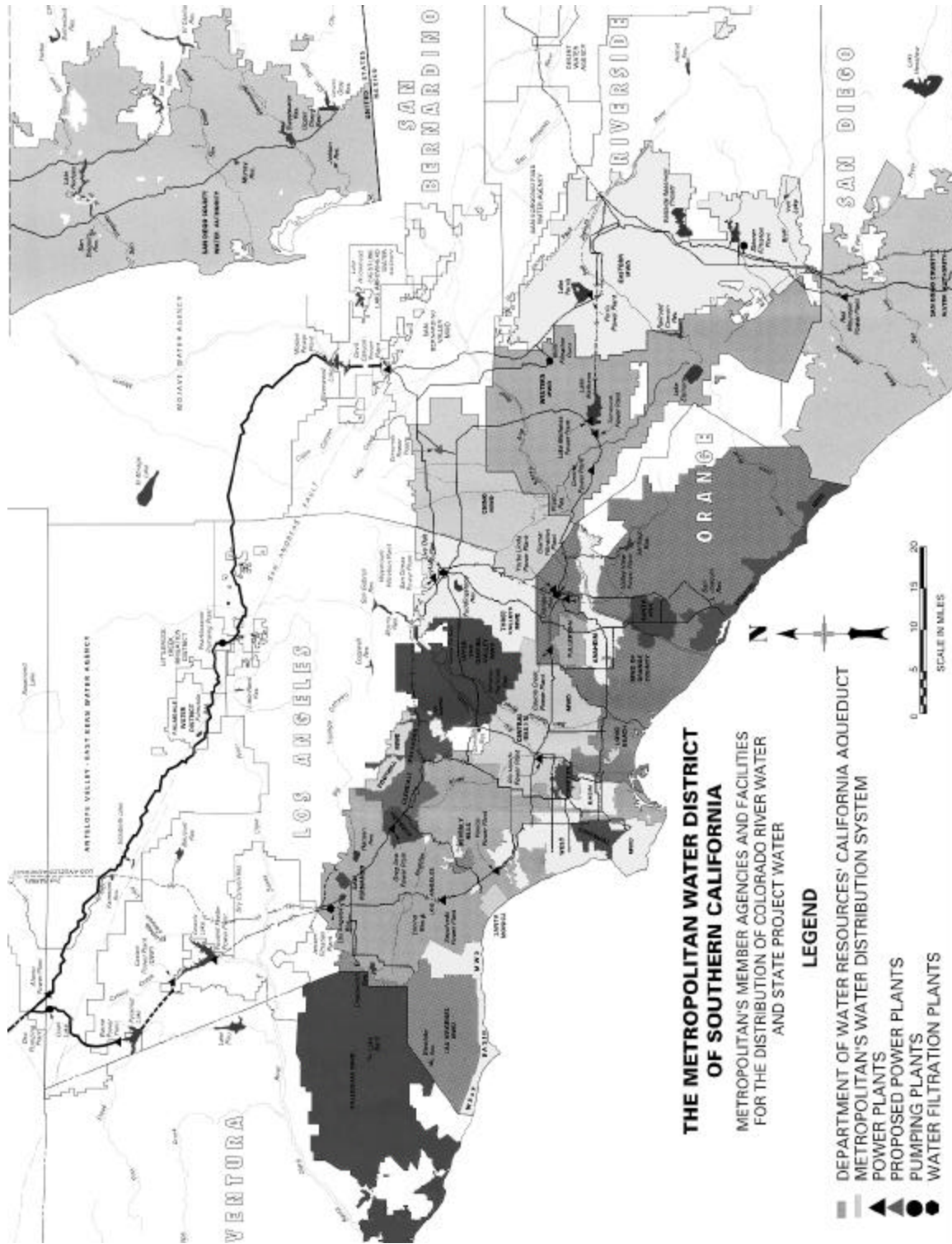
MWD has 27 member agencies in six counties: Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura. (See Figure 1.) Each member agency is one of three types of organizations:

- City (14) – provides mostly retail water service;
- Municipal Water District (12) – provides mostly wholesale water to their own member agencies; or
- County Water Authority (1) – provides wholesale water to their own member agencies.

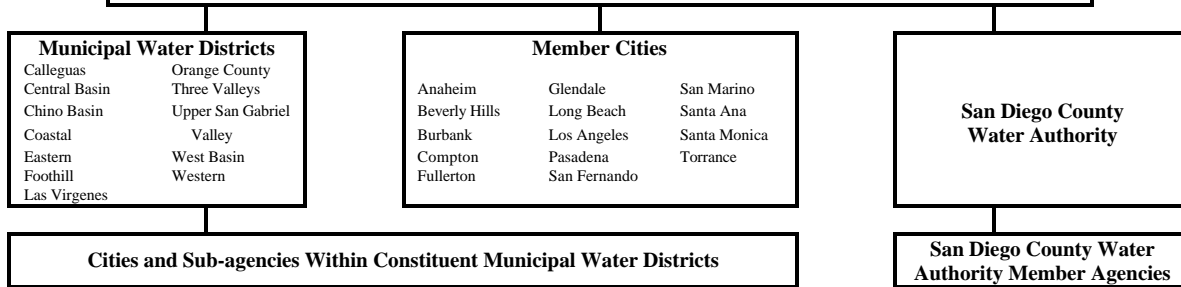
Until the 1940s, MWD was composed solely of cities.¹ In 1942, Coastal Municipal Water District became the first non-city member of MWD. Later, in 1946, San Diego County Water Authority (SDCWA) joined MWD. The post World War II era saw an increased level of new annexations into MWD, all of which were municipal water districts.* Finally, after an eight-year break in annexations, in 1971 the City of San Fernando became the latest member of MWD. Table 1 lists the member agencies and the year they became members of MWD.

* The shift from city memberships to municipal water districts was the result of a MWD board policy, adopted in 1938, limiting annexations to entire groundwater basins or sub-basins. For a good discussion on the dynamics of MWD's annexation policies, see Kazuto Oshio, *Urban Water Diplomacy: A Policy History of the Metropolitan Water Supply in the Twentieth Century Southern California*, (Ann Arbor, MI: University Microfilms International, August 1992)

**Figure 1:
Metropolitan Water District of Southern California**



**Figure 2
The Metropolitan Water District of Southern California**



Municipal Water Districts
 Calleguas
 Central Basin
 Chino Basin
 Coastal
 Eastern
 Foothill
 Las Virgenes
 Orange County
 Three Valleys
 Upper San Gabriel Valley
 West Basin
 Western

Member Cities
 Anaheim
 Beverly Hills
 Burbank
 Compton
 Fullerton
 Glendale
 Long Beach
 Los Angeles
 Pasadena
 San Fernando
 San Marino
 Santa Ana
 Santa Monica
 Torrance

San Diego County Water Authority

Cities and Sub-agencies Within Constituent Municipal Water Districts

San Diego County Water Authority Member Agencies

Calleguas
 Berylwood Heights Mutual Water Co.
 Brandeis Mutual Water Company
 Butler Ranch
 California-American Water Company
 California Water Service Company
 (Russell Valley MWD)
 City of Camarillo
 Camrosa Water District
 Crestview Mutual Water Company
 Mesa Water Company
 Naval Air Weapons Station Point Magu
 Newbury Park Academy Water Co.
 Oak Park Water Service
 City of Oxnard
 Pleasant Valley Mutual Water Co.
 Port Hueneme Water Agency
 City of Simi Valley
 Southern California Water Company
 City of Thousand Oaks
 Triunfo Sanitation District
 V.C.W.W.D. No. 1 & 19
 Zone Mutual Water Co.

Central Basin
 Bellflower
 Bell Gardens
 California Water Service Co.
 Cerritos
 LA Co. Waterworks Dist #10 & 16
 Rancho Los Amigos Hospital
 Department of Public Works
 Huntington Park
 La Habra Heights County Water Dist.
 Lakewood
 Lynwood
 Maywood Mutual Water Co. # 1, 2, & 3
 Montebello
 Norwalk Municipal Water System
 Orchard Dale Water District
 Paramount
 Park Water Company
 San Gabriel Valley Water Co.
 Santa Fe Springs
 Signal Hill
 Southern California Water Company
 South Gate
 Suburban Water System
 Vernon
 Walnut Park Mutual Water Co.
 Water Replenishment Dist. of So. Cal.

Chino Basin
 Chino
 Chino Hills
 Cucamonga County Water District
 Fontana Water Company
 Monte Vista County Water District
 Ontario
 San Bernardino Co. Water Works # 8
 Southern California Edison
 Upland
 Water Facilities and Authorities

Coastal
 Irvine Ranch Water District
 Laguna Beach County Water District
 Mesa Consolidated Water District
 Newport Beach
 South Coast County Water District
 Tri-Cities Municipal Water District

Eastern
 Edgemont Gardens Mutual Water Co.
 Hemet
 Lake Hemet Municipal Water district
 Nuevo Water Company

Foothill
 Crecenta Valley County Water District
 La Canada Irrigation District
 Las Flores Water Company
 Lincoln Avenue Water Company
 Mesa Crest Water Company
 Rubio Canon Land & Water Assoc.
 Valley Water Company

MWD of Orange County
 Brea
 Buena Park
 Capistrano Valley Water District
 East Orange County Water District
 El Toro Water District
 Fountain Valley
 Garden Grove
 Huntington Beach
 Irvine Ranch Water District
 La Habra
 La Palma
 Los Alisos Water District
 Mesa Consolidated Water District
 Moulton Niguel Water District
 Orange
 Orange County Water District
 Santa Margarita Water District

Santiago Aqueduct Commission
 Santiago County Water District
 Seal Beach
 Serrano Irrigation District
 Southern California Water Company
 Trabuco Canyon Water District
 Tustin
 Westminster
 West Orange County Water Board
 Yorba Linda Water District

Three Valleys
 Boy Scouts of America
 California State Polytechnic University
 Covina
 Glendora
 Lanterman Development Center
 La Verne
 Mt. San Antonio Jr. College
 Pomona
 Rowland Water District
 Southern California Water Company
 Walnut Valley Water District

Upper San Gabriel Valley
 Arcadia
 Azusa
 Monrovia
 Southern California Water Company
 South Pasadena Water Department
 Valley County Water District
 West Covina

West Basin
 California American Water Company
 California Water Service Company
 Department of Public Works Hydraulic/
 Water Conservation Dist.
 Dominguez Water Corporation
 El Segundo
 Hawthorne
 Inglewood
 Lomita
 Los Angeles Co. Water Works Districts
 #13 & #29
 Manhattan Beach
 Southern California Water Company

Western of Riverside County
 Bedford Heights Mutual Water Co.
 Corona
 Eagle Valley Mutual Water Company
 El Sobrante Mutual Water District
 Elsinore Valley Municipal Water Dist.
 March Air Force Base
 Rancho California Water District

Carlsbad Municipal Water District
 Del Mar
 Escondido
 Fallbrook Public Utility District
 Helix Water District
 National City
 Oceanside
 Olivehain Municipal Water District
 Otay Water District
 Padre Dam Municipal Water District
 Pendleton Military Reservation
 Poway
 Rainbow Municipal Water District
 Ramona Municipal Water District
 Rincon del Diablo Municipal Water Dis
 San Diego
 San Dieguito Water District
 Santa Fe Irrigation District
 South Bay Irrigation District
 Vallecitos Water District
 Valley Center Municipal Water District
 Vista Irrigation District
 Yuima Municipal Water District

Contracting Agencies
 State of California
 Cactus City Safety Roadside Rests
 Vidal Junction
 Coachella Valley Water district
 Desert Water Agency
 San Gabriel Basin Water Quality Auth.
 San Gabriel Valley Municipal Water
 District

Source: MWD, *Annual Report*, Los Angeles: MWD, 1995

Table 1 MWD Member Agencies		
Agency	County	Year Joined MWD
City of Anaheim	Orange	1928
City of Beverly Hills	Los Angeles	1928
City of Burbank	Los Angeles	1928
City of Glendale	Los Angeles	1928
City of Los Angeles	Los Angeles	1928
City of Pasadena	Los Angeles	1928
City of San Marino	Los Angeles	1928
City of Santa Ana	Orange	1928
City of Santa Monica	Los Angeles	1928
City of Compton	Los Angeles	1931
City of Fullerton	Orange	1931
City of Long Beach	Los Angeles	1931
City of Torrance	Los Angeles	1931
Coastal MWD	Orange	1942
San Diego County Water Authority	San Diego	1946
West Basin MWD	Los Angeles	1948
Three Valleys MWD	Los Angeles	1950
Chino Basin MWD	San Bernardino	1950
Eastern MWD	Riverside	1951
MWD of Orange County	Orange	1951
Foothill MWD	Los Angeles	1953
Central Basin MWD	Los Angeles	1954
Western MWD	Riverside	1954
Calleguas MWD	Ventura	1960
Las Virgenes MWD	Los Angeles	1960
Upper San Gabriel Valley MWD	Los Angeles	1963
City of San Fernando	Los Angeles	1971
Source: MWD, <i>MWD Fact Sheet</i> , Los Angeles: MWD, 1998		

Member agencies differ in their size – population, service area, and population density. Generally, cities have smaller populations and service areas and higher population densities than municipal water districts and county water authorities. (The notable exception is the City of Los Angeles.) The range in size is large. For example, the service areas of both the cities of San Marino and San Fernando are less than four square miles each. (See Table 2.) This compares to Western MWD, Eastern MWD, and MWD of Orange County (MWDOC) with service areas of over 500 square miles each, and SDCWA with its 1,400 square mile service area.

The cities of San Marino and San Fernando also serve the smallest populations, with 13,254 and 23,410 people respectively. In contrast, the City of Los Angeles, with its 3.7 million population, is 100 times larger than San Marino and San Fernando combined. In fact, the three most populous member agencies, Los Angeles, SDCWA, and MWDOC together encompass nearly ½ the population of the entire MWD.

Table 2 Population, Service Area, and Population Density						
Member Agency	Population		Service Area		Population Density	
	1996 Pop.	Rank	Square Miles	Rank	Pop. Per Sq. Mile	Rank
City of Anaheim	295,120	14	49.67	15	5,942	12
City of Beverly Hills	40,410	25	5.06	25	7,986	7
City of Burbank	99,930	20	17.14	22	5,830	13
Calleguas MWD	492,830	10	363.11	6	1,357	24
Central Basin MWD	1,473,620	4	178.52	8	8,255	6
Chino Basin MWD	618,540	7	242.24	7	2,553	22
Coastal MWD	223,980	15	59.12	13	3,789	18
City of Compton	84,500	23	7.81	24	10,819	3
Eastern MWD	398,200	12	539.45	3	738	26
Foothill MWD	86,610	22	21.66	20	3,999	17
City of Fullerton	116,700	19	22.14	19	5,271	15
City of Glendale	191,960	16	30.36	16	6,323	10
Las Virgenes MWD	61,680	24	121.91	12	506	27
City of Long Beach	432,150	11	50.26	14	8,598	5
City of Los Angeles	3,686,540	1	461.89	5	7,981	8
MWD of Orange County	1,666,330	3	541.21	2	3,079	21
City of Pasadena	136,750	17	22.60	18	6,051	11
San Diego County WA	2,544,250	2	1,420.24	1	1,791	23
City of San Fernando	23,410	26	2.37	27	9,878	4
City of San Marino	13,254	27	3.75	26	3,534	20
City of Santa Ana	307,890	13	27.43	17	11,225	2
City of Santa Monica	90,530	21	8.05	23	11,246	1
Three Valleys MWD	499,750	9	132.96	11	3,759	19
City of Torrance	127,490	18	19.54	21	6,525	9
Upper San Gabriel Valley MWD	830,000	5	143.71	10	5,776	14
West Basin MWD	803,370	6	165.72	9	4,848	16
Western MWD	583,330	8	509.96	4	1,144	25
Total MWD	15,929,124		5,167.88		3,082	
Source: MWD						

Most of MWD's future population growth is expected to be within the more outlying member agencies. While there are not official state population forecasts for member agencies, the California Department of Finance (DOF) does project county populations. DOF's most current forecast shows Riverside and San Bernardino Counties growing much faster than the rest of the region. (See Table 3.) Nonetheless, all areas of Southern California will see a significant population increase.

**Table 3
Projected Regional Population Growth**

County	Estimated Population		Projected Growth	
	1996	2020	Population	Percent
Riverside	1,393,300	2,914,700	1,521,400	109%
San Bernardino	1,592,600	3,095,800	1,503,200	94%
Ventura	714,800	1,023,100	308,300	43%
San Diego	2,694,900	3,851,100	1,156,200	43%
Los Angeles	9,396,400	12,795,100	3,398,700	36%
Orange	2,649,800	3,282,300	632,500	24%
Six County Total	18,441,800	26,962,100	8,520,300	46%

Source: State of California, Department of Finance, *Interim County Population Projections*, Sacramento, California, April 1997

While San Fernando has the smallest service area and one of the smallest populations, it is also one of the most densely populated member agencies. With nearly 10,000 people per square mile, only the cities of Santa Monica, Santa Ana, and Compton have more dense populations, with about 11,000 people per square mile. By comparison, Las Virgenes MWD, which serves the Santa Monica Mountains area, and Eastern MWD in Riverside County are sparsely populated, both with well under 1,000 people per square mile.

Interestingly, the service area of about half the member cities does not cover the entire incorporated area of the city. As the various Municipal Water Districts formed, they usually established their boundaries up to the boundaries of adjacent member cities. As the cities grew, they annexed adjacent areas that were parts of the Municipal Water Districts. However, for water supply purposes, these newly incorporated areas remained part of the original Municipal Water District. Despite consolidations that have occurred over the last 15 years, there are still areas of some member cities that are not represented by that city on MWD. Instead, they continue to be represented by the Municipal Water District.

As shown in Table 4, the total incorporated area of Compton is 10.17 square miles. However, only 7.81 square miles or 76.8 percent of the city is represented on the MWD by Compton's director. The other 23.2 percent of the city is represented by someone else – 23.1 percent by Central Basin MWD, 0.1 percent by West Basin MWD.

On the other hand, most non-city member agencies include no incorporated areas of member cities. In those that do, the areas of overlap account for only a small portion of the member agency. As shown in Table 5, West Basin MWD includes the most area within the incorporated boundaries of another member agency. However, it accounts for just over 4 percent of West Basin MWD's service area.

Table 4						
Service Area of Member Cities						
City	Service Area of Member City		Area Served By Other Agencies		Total Incorporated Area of City	
	Square Miles	Percent	Square Miles	Percent	Square Miles	Percent
City of Anaheim	49.67	99.8%	0.10	0.2%	49.77	100.0%
City of Beverly Hills	5.06	88.8%	0.64	11.2%	5.70	100.0%
City of Burbank	17.14	100.0%	0.00	0.0%	17.14	100.0%
City of Compton	7.81	76.8%	2.36	23.2%	10.17	100.0%
City of Fullerton	22.14	100.0%	0.01	0.0%	22.15	100.0%
City of Glendale	30.36	99.2%	0.23	0.8%	30.59	100.0%
City of Long Beach	50.26	100.0%	0.00	0.0%	50.26	100.0%
City of Los Angeles	461.89	98.5%	6.95	1.5%	468.84	100.0%
City of Pasadena	22.60	97.6%	0.55	2.4%	23.15	100.0%
City of San Fernando	2.37	100.0%	0.00	0.0%	2.37	100.0%
City of San Marino	3.75	100.0%	0.00	0.0%	3.75	100.0%
City of Santa Ana	27.43	100.0%	0.00	0.0%	27.43	100.0%
City of Santa Monica	8.05	100.0%	0.00	0.0%	8.05	100.0%
City of Torrance	19.54	90.9%	1.95	9.1%	21.49	100.0%

Source: MWD

Table 5						
Service Area of Non-City Member Agencies						
Member Agency	Service Area Within Member Cities		Area Exclusive of Member Cities		Total Service Area	
	Square Miles	Percent	Square Miles	Percent	Square Miles	Percent
Calleguas MWD	0.00	0.0%	363.11	100.0%	363.11	100.0%
Central Basin MWD	2.36	1.3%	176.16	98.7%	178.52	100.0%
Chino Basin MWD	0.00	0.0%	242.24	100.0%	242.24	100.0%
Coastal MWD	0.00	0.0%	59.12	100.0%	59.12	100.0%
Eastern MWD	0.00	0.0%	539.45	100.0%	539.45	100.0%
Foothill MWD	0.60	2.8%	21.06	97.2%	21.66	100.0%
Las Virgenes MWD	2.64	2.2%	119.27	97.8%	121.91	100.0%
MWD of Orange County	0.11	0.0%	541.10	100.0%	541.21	100.0%
San Diego CWA	0.00	0.0%	1,420.24	100.0%	1,420.24	100.0%
Three Valleys MWD	0.00	0.0%	132.96	100.0%	132.96	100.0%
Upper San Gabriel Valley MWD	0.18	0.1%	143.53	99.9%	143.71	100.0%
West Basin MWD	6.90	4.2%	158.82	95.8%	165.72	100.0%
Western MWD	0.00	0.0%	509.96	100.0%	509.96	100.0%

Source: MWD

Water Use

Water service is probably the most obvious way to compare member agencies. Perhaps not surprisingly, the three most populous agencies, Los Angeles, SDCWA, and MWDOC, buy the most amount of water from MWD. (See Table 6.) Between 1984-85 and 1994-95, SDCWA has purchased on average nearly ½ million acre-feet of water each year.*

Member Agency	Local Production Use		MWD Direct Deliveries		Total Water Use		Dependence On MWD	
	AF	Rank	AF	Rank	AF	Rank	Percent	Rank
City of Anaheim	44,712	10	25,891	13	70,603	13	37%	18
City of Beverly Hills	0	27	13,836	20	13,836	24	100%	1
City of Burbank	2,220	25	20,412	16	22,632	20	90%	2
Calleguas MWD	27,377	13	93,221	5	120,598	10	77%	8
Central Basin MWD	171,328	4	83,975	6	255,304	4	33%	21
Chino Basin MWD	158,865	6	36,606	12	195,470	6	19%	25
Coastal MWD	6,695	19	41,550	11	48,245	14	86%	3
City of Compton	5,487	21	4,751	25	10,238	25	46%	16
Eastern MWD	94,627	7	44,262	10	138,889	9	32%	22
Foothill MWD	6,192	20	9,893	23	16,085	23	62%	12
City of Fullerton	19,174	15	13,256	21	32,430	17	41%	17
City of Glendale	4,464	22	25,213	14	29,677	18	85%	5
Las Virgenes MWD	3,444	24	17,452	18	20,896	21	84%	6
City of Long Beach	27,286	14	47,275	9	74,560	12	63%	11
City of Los Angeles	412,344	1	238,474	2	650,818	1	37%	19
MWD of Orange County	209,643	2	208,434	3	418,078	3	50%	15
City of Pasadena	13,198	16	23,898	15	37,096	16	64%	10
San Diego County WA	86,888	8	496,815	1	583,703	2	85%	4
City of San Fernando	2,050	26	826	27	2,876	27	29%	23
City of San Marino	4,439	23	971	26	5,410	26	18%	26
City of Santa Ana	31,690	12	16,517	19	48,207	15	34%	20
City of Santa Monica	8,126	18	8,443	24	16,569	22	51%	14
Three Valleys MWD	53,343	9	62,208	7	115,551	11	54%	13
City of Torrance	9,264	17	20,124	17	29,389	19	68%	9
Upper San Gabriel Valley MWD	163,833	5	10,852	22	174,685	8	6%	27
West Basin MWD	39,961	11	148,484	4	188,445	7	79%	7
Western MWD	188,326	3	60,239	8	248,565	5	24%	24
Total	1,794,976		1,773,877		3,568,853		50%	

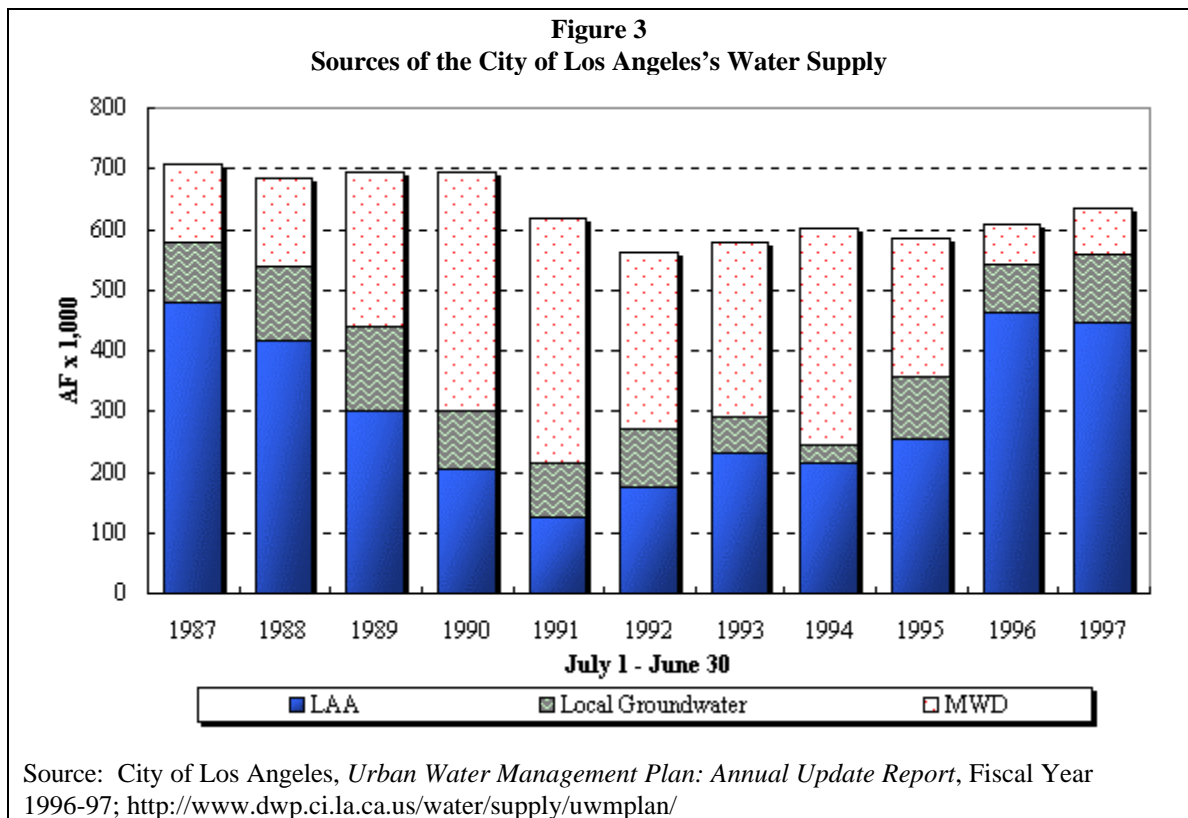
Source: MWD data summarized by CRB

* One acre-foot (af) is a volume or quantity of water covering one acre to the depth of one foot. One acre-foot is equal to 325,851 gallons. The average family of four uses just under ½ af per year.

making it by far the largest buyer of MWD water. Los Angeles and MWDOC follow, averaging 238,000 and 208,000 acre-feet per year respectively. Combined, these three agencies account for 53 percent of water sold by MWD.

However, quantity is only part of the picture. Some agencies are much more dependent on MWD for their local water supply than others.* On one extreme, Upper San Gabriel Valley MWD and the City of San Marino rely very little on MWD for water. On the other end of the spectrum are the cities of Beverly Hills and Burbank. Beverly Hills is 100 percent reliant on MWD for its water supply. Burbank has some local supplies, but still relies on MWD for 90 percent of its water. However, in aggregate MWD provides about 50 percent of member agency demands; the remainder is met through local water supplies, including groundwater, the Los Angeles Aqueduct, reclamation, and conservation.

This is not to imply that member agencies' water needs are static. One of the major challenges to MWD is the constantly changing water need of the member agencies. Periods of drought are a special challenge. Agencies that typically rely on MWD for relatively small amounts of water often turn to MWD for increased supplies as member agencies' local supplies literally start to dry up. Perhaps the most dramatic example is



* Similarly, some sub-agency members of MWD member agencies are more dependent upon the member agency (hence MWD) than other sub-agency members of the same MWD member agency.

the City of Los Angeles. During periods of abundance, such as the mid-1980s and mid-1990s, Los Angeles buys a relatively small amount of water from MWD. However, as shown in Figure 3, the City of Los Angeles's MWD purchases rose tremendously during the most severe periods of the 1988-93 drought.

THE GOVERNANCE DOCUMENTS

MWD's governance authorities derive from two sources: the Metropolitan Water District Act and the Metropolitan Water District Administrative Code.

The Metropolitan Water District Act

In 1927, the California State Legislature passed the Metropolitan Water District Act.* This Act was unique in that for the first time it allowed non-contiguous local governments to form a regional entity. Only one agency, MWD, has incorporated under this Act or its successor.

MWD now operates under the Metropolitan Water District Act of 1969² (MWD Act), which succeeded the original Act. The MWD Act broadly defines what MWD can and cannot do and how it is to do it. Among other things, the MWD Act establishes the basic governance structure of MWD, which include defining:

- The general purpose of MWD,
- The representation on the board of directors,
- The voting rules for the board of directors,
- The officers and key employees,
- The member agencies' preferential rights to water, and
- The right to fix water rates and to levy and collect taxes and fees.

Only the California State Legislature can change the MWD Act.[†]

Metropolitan Water District Administrative Code

Under the MWD Act:

The board may make and pass ordinances, resolutions and orders necessary for the government and management of the affairs of the district, for the execution of the powers vested in the district and for carrying into effect the provisions of this act.³

* For a more complete history of the formation of MWD, see Appendix.

† The same is true of the enabling act or statute of all other political subdivisions of the State as well; e.g., cities, counties, special districts, joint authorities, etc.

The Administrative Code codifies these ordinances, resolutions, and orders. The Administrative Code covers such governance issues as:

- Defining operational rules for the MWD board,
- Creating board officers,
- Establishing standing, special, and ad hoc committees, and
- Defining the MWD board's ethics policy for directors.

The Board of Directors can change the Administrative Code by a simple majority.*

THE BOARD OF DIRECTORS

Under the MWD Act, MWD is governed by a Board of Directors. Each member agency is entitled to one director on the board.⁴ In addition, member agencies are entitled to one additional director for each full 3 percent of assessed valuation the member agency holds relative to the entire MWD.⁵ As shown in Table 7, 10 member agencies currently have more than one director on the board.[†]

Because each member agency has at least one director on the board, this tie to assessed value is not strictly proportional. In general, very high assessed value agencies have proportionally fewer directors than very low assessed value agencies. For example, the City of Los Angeles has 20.6 percent of MWD's assessed value and has 13.7 percent of the directors on the board. At the other end of the spectrum, the City of San Fernando has less than 0.1 percent of MWD's assessed value and has 2 percent of the directors on the board.

While the number of board members is not proportional to assessed value, the number of votes each member agency has is proportional. Each member agency receives one vote on the board for each \$10 million in assessed valuation.⁶ This means that when voting, member agencies currently cast a total of 87,794 votes. Table 7 also shows the votes each agency has on the board.

* The board uses a weighted voting system. The weighted voting system is described later in this section.

† For background on the tie between assessed valuation and representation on the MWD, see page 34 and page 40.

Table 7
Assessed Valuation, Director Entitlements & Votes
August 1997

Member Agency	Assessed Valuation		Director Entitlements		Votes on Board of Directors
	\$ Millions	Percent of Total	Number	Percent of Total	
City of Los Angeles	\$180,986	20.6%	7	13.7%	18,099
San Diego County WA	137,397	15.7%	6	11.8%	13,740
MWD of Orange County	114,848	13.1%	5	9.8%	11,485
West Basin MWD	62,568	7.1%	3	5.9%	6,257
Central Basin MWD	57,112	6.5%	3	5.9%	5,711
Upper San Gabriel Valley MWD	36,137	4.1%	2	3.9%	3,614
Calleguas MWD	33,861	3.9%	2	3.9%	3,386
Chino Basin MWD	32,511	3.7%	2	3.9%	3,251
Coastal MWD	26,937	3.1%	2	3.9%	2,694
Western MWD	26,649	3.0%	2	3.9%	2,665
Three Valleys MWD	25,118	2.9%	1	2.0%	2,512
Eastern MWD	18,036	2.1%	1	2.0%	1,804
City of Long Beach	17,721	2.0%	1	2.0%	1,772
City of Anaheim	16,120	1.8%	1	2.0%	1,612
City of Torrance	11,134	1.3%	1	2.0%	1,113
City of Glendale	10,713	1.2%	1	2.0%	1,071
City of Santa Ana	10,132	1.2%	1	2.0%	1,013
City of Santa Monica	9,492	1.1%	1	2.0%	949
City of Pasadena	8,821	1.0%	1	2.0%	882
City of Burbank	8,567	1.0%	1	2.0%	857
Las Virgenes MWD	8,496	1.0%	1	2.0%	850
City of Beverly Hills	8,197	0.9%	1	2.0%	820
City of Fullerton	6,505	0.7%	1	2.0%	650
Foothill MWD	5,507	0.6%	1	2.0%	551
City of San Marino	1,973	0.2%	1	2.0%	197
City of Compton	1,640	0.2%	1	2.0%	164
City of San Fernando	747	0.1%	1	2.0%	75
Total*	\$877,924	100.0%	51	100.0%	87,794

* Detail may not add due to independent rounding
Source: MWD

When voting, the votes for member agencies with more than one board member are distributed proportionately among its members present. Assuming all board members are present, each MWD director has on average 1,328 votes. However, the actual number varies greatly. As Table 8 shows, each of the City of Los Angeles's seven directors as well

as Three Valleys MWD's lone director controls over 2,500 votes. In contrast, the directors for the cities of San Marino and Compton control less than 200 votes, and the City of San Fernando has only 75 votes.

Under the MWD Act, member agencies have a number of options when appointing their representatives to MWD's board of directors. The representative can be appointed by:

- The chief executive officer of the member agencies with the consent and approval of the governing body of the agency, or
- A majority vote of the governing body of the agency.⁷

Table 8 Votes per Director August 1997				
Member Agency	Votes	Directors	Votes per Director	Percent of Total MWD Votes
City of Los Angeles	18,099	7	2,586	2.9%
Three Valleys MWD	2,512	1	2,512	2.9%
MWD of Orange County	11,485	5	2,297	2.6%
San Diego County WA	13,740	6	2,290	2.6%
West Basin MWD	6,257	3	2,086	2.4%
Central Basin MWD	5,711	3	1,904	2.2%
Upper San Gabriel Valley MWD	3,614	2	1,807	2.1%
Eastern MWD	1,804	1	1,804	2.1%
City of Long Beach	1,772	1	1,772	2.0%
Calleguas MWD	3,386	2	1,693	1.9%
Chino Basin MWD	3,251	2	1,626	1.9%
City of Anaheim	1,612	1	1,612	1.8%
Coastal MWD	2,694	2	1,347	1.5%
Western MWD	2,665	2	1,333	1.5%
City of Torrance	1,113	1	1,113	1.3%
City of Glendale	1,071	1	1,071	1.2%
City of Santa Ana	1,013	1	1,013	1.2%
City of Santa Monica	949	1	949	1.1%
City of Pasadena	882	1	882	1.0%
City of Burbank	857	1	857	1.0%
Las Virgenes MWD	850	1	850	1.0%
City of Beverly Hills	820	1	820	0.9%
City of Fullerton	650	1	650	0.7%
Foothill MWD	551	1	551	0.6%
City of San Marino	197	1	197	0.2%
City of Compton	164	1	164	0.2%
City of San Fernando	75	1	75	0.1%
Total/Average	87,794	51	1,328	1.5%

Source: MWD

The member agency can appoint their representative for:

- An indefinite term at the pleasure of the appointing power, or
- Four-year fixed terms.⁸

In addition, while board members serve without compensation by MWD, a number of member agencies either:

- Pay their directors a per diem,
- Reimburse their directors' expenses, or
- Pay them a salary, as is the case when a director is also an employee of the member agency.

Decision Making Process

The board operates as a legislative body. Under the Administrative Code, the board has seven officers: a chair, five vice-chairs, and a secretary.⁹ Officers serve for two years and cannot serve more than two consecutive full two-year terms.¹⁰ In addition, the board has seven standing committees:¹¹

1. Executive Committee
2. Engineering and Operations Committee
3. Budget and Finance Committee
4. Legal and Claims Committee
5. Organization and Personnel Committee
6. Water Planning and Resources Committee
7. Committee on Communications and Legislation

Except for the Executive Committee, the Chair of the Board appoints the members, chair and vice chair of the standing committees. Each board member is to serve on at least one and no more than three standing committees, besides the Executive Committee. The Chair and Vice Chair of the standing committees serve two year terms, not to exceed two consecutive full terms.¹²

The full board meets for its regularly scheduled meeting each month for two days. The first day opens with a plenary session. There, MWD staff and possibly others give background presentations on the issues before the board that month. After the plenary session, the standing committees meet successively. The committees discuss, debate, and make recommendations on issues within their jurisdiction to the full board. Unlike the full board, votes in the Committees are one vote per director. The standing committees meet through the first day and into the second. The Executive Committee meets after the standing committees. It is charged, in part, with reconciling divergent committee recommendations or actions prior to the regular board meeting. The full board meets on the second day. Under the Administrative Code, this is the second Tuesday of each month, at 12:30 p.m.¹³

The board conducts its regular business at its full board meeting. For most items on the agenda, one or more standing committees will make a recommendation to the full board. The full board then discusses the item and takes a vote. Usually, the chair calls for a voice vote. The board rarely needs to use the full weighted voting system to determine the outcome of a vote.

In addition to the regular board meetings, the board often holds special meetings and ad-hoc committee meetings.

Under the Administrative Code, the General Manager is the chief executive officer of MWD. The board appoints the General Manager by a majority vote. The General Manager oversees the day-to-day operations of MWD and “shall exercise all executive, administrative, and ministerial powers not specifically reserved to the Board, General Counsel or Auditor.”¹⁴ The board similarly appoints the General Counsel and Auditor by a majority vote. The General Manager, along with the General Counsel and Auditor, serves at the pleasure of the Board.

PREFERENTIAL WATER RIGHTS

Under Section 135 of the MWD Act, each member agency has a *preferential right to water*. This right is determined by each agency’s total historic payments to MWD for capital expenditures, excluding payments for the purchase of water. Therefore, agencies that have paid the most property tax and “ready-to-serve” charges to MWD have the largest right to water. Under the preferential rights rules, during periods of water shortage, MWD would allocate water without regard to historic water use or dependence on MWD.*

It is important to note at the outset, that there is controversy over whether the preferential water rights rules would ever be implemented, or if they are even legal. The MWD board has never implemented preferential water rights; not even with the severe shortages during the 1976-77 or 1988-92 droughts. Instead, during the recent drought the board reduced all water deliveries proportionally the same.† Moreover, the board is considering a drought management plan that would purportedly dismiss preferential rights as a means of allocating water.

* In 1925, the California Senate, in one of its first amendments to the proposed Act, created the preferential water rights. The apparent rationale was that because the initial construction of the Colorado Aqueduct and the appurtenant facilities would be financed with local property tax revenues (which are based on assessed value), those agencies with the greatest financial burden should have the greatest rights to the water. For additional history of the formation of MWD, see Appendix.

† The reductions were based on 1989-90 sales. Interruption water was reduced a greater percentage than firm water sales.

Furthermore, MWD's Deputy General Counsel argues that California Water Code sections 350 et seq. supercede the provisions of the MWD Act regarding preferential water rights.* Section 350 states:

§350. The governing body of a distributor of a public water supply ... may declare a water shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.¹⁵

Later sections of that same chapter declare that under such an emergency declaration, the governing boards may adopt regulations and restrictions on the delivery of water that will conserve the water supply for the greatest public benefit.¹⁶ Furthermore, the provisions of §§350 et seq. prevail over any conflicting laws, such as the MWD Act.¹⁷

However, §§350 et seq. apply only when the governing body declares a water shortage emergency. If, during a period of shortage, the MWD board chose not to follow the provisions of §§350 et seq. and did not declare such an emergency, §§350 et seq. would not be in effect.[†] In such a situation, preferential water rights under the MWD Act would apply.

In addition, while developing drought management plans before the beginning of a drought is laudable, MWD board policy cannot supercede state law; in this case the MWD Act. Again, in the absence of a declared water shortage emergency, preferential water rights under the MWD Act would apply.

Generally, member agencies with the highest assessed value have the highest preferential rights. (See Table 9.) However, the more interesting question is how well do these preferential rights fit with local water resources needs.

* It is interesting to note that two previous General Counsels came to different conclusions on the question of §§350 et seq. For a history of MWD's actions regarding preferential water rights, including legal opinions by various General Counsels, see: MWD, "Source Materials on Metropolitan Water District Act Section 135: Preferential Rights," January 11, 1996.

† Moreover, there is nothing in §§350 et seq. that compels a water district to declare such an emergency. In addition, as long as water was being put to a "reasonable and beneficial use," restrictions under Article X, section 2 of the California Constitution would also not apply. The definition of "reasonable and beneficial use" is also subject to debate.

Table 9
Preferential Water Rights: 1997
(\$ Thousands)

Member Agency	Tax Collected	Ready-to-Serve Charges	Misc. Other	Total*	Preferential Rights (% of Total)
City of Los Angeles	\$667,333	\$33,007	\$5,763	\$706,104	23.78%
San Diego County WA	343,580	60,618	1,174	405,372	13.65%
MWD of Orange County	300,573	27,020	5,412	333,005	11.21%
Central Basin MWD	255,246	13,631	3,196	272,073	9.16%
West Basin MWD	220,558	19,277	1,473	241,308	8.13%
Upper San Gabriel Valley MWD	131,513	5,664	2,018	139,195	4.69%
Western MWD	82,789	11,553	2,272	96,613	3.25%
Calleguas MWD	80,282	11,265	472	92,019	3.10%
City of Long Beach	77,587	5,694	398	83,678	2.82%
Eastern MWD	66,995	10,622	3,443	81,060	2.73%
Chino Basin MWD	61,814	6,847	1,927	70,587	2.38%
Coastal MWD	64,474	5,334	412	70,220	2.36%
Three Valleys MWD	54,982	8,933	2,212	66,127	2.23%
City of Glendale	32,767	3,219	187	36,173	1.22%
City of Torrance	32,276	2,702	284	35,261	1.19%
City of Pasadena	31,285	1,838	94	33,216	1.12%
City of Beverly Hills	28,914	1,209	323	30,446	1.03%
City of Santa Monica	29,301	985	33	30,319	1.02%
City of Burbank	26,696	2,305	288	29,290	0.99%
City of Santa Ana	19,278	2,077	58	21,413	0.72%
City of Anaheim	18,069	2,883	78	21,030	0.71%
Foothill MWD	19,195	1,342	28	20,566	0.69%
City of Fullerton	16,513	1,497	383	18,394	0.62%
Las Virgenes MWD	14,632	2,534	114	17,281	0.58%
City of Compton	7,699	739	41	8,479	0.29%
City of San Marino	6,403	206	0	6,610	0.22%
City of San Fernando	3,238	182	38	3,458	0.12%
Total*	\$2,693,992	\$243,183	\$32,121	\$2,969,296	100.00%

* Detail may not add due to independent rounding
Source: MWD

Two agencies, the City of Anaheim and SDCWA, typically buy twice the amount of water that they would have under preferential rights. As shown in Table 10, about half of the member agencies have used a greater share of water than they have under their preferential rights. If during shortages, MWD allocated water under the preferential rights rules, these agencies would be the first to be cut. Conversely, a near equal number of agencies use less water than they have preferential rights. Depending on the severity of a shortage, many of these agencies could completely avoid any delivery reductions simply by exercising their preferential rights.

Table 10
Average MWD Direct Deliveries:
Actual vs. Preferential Rights

Member Agency	10 Year Average (Table 6)		10 Year Average Under Preferential Rights		Percent Difference
	AF	% of Total	AF	% of Total	
City of Anaheim	25,891	1.5%	12,563	0.7%	-51.5%
San Diego County WA	496,815	28.0%	242,172	13.7%	-51.3%
Calleguas MWD	93,221	5.3%	54,973	3.1%	-41.0%
Las Virgenes MWD	17,452	1.0%	10,324	0.6%	-40.8%
Three Valleys MWD	62,208	3.5%	39,505	2.2%	-36.5%
City of Santa Ana	16,517	0.9%	12,792	0.7%	-22.5%
City of Fullerton	13,256	0.7%	10,989	0.6%	-17.1%
City of Pasadena	23,898	1.3%	19,844	1.1%	-17.0%
City of Glendale	25,213	1.4%	21,610	1.2%	-14.3%
City of Burbank	20,412	1.2%	17,498	1.0%	-14.3%
MWD of Orange County	208,434	11.8%	198,939	11.2%	-4.6%
Western MWD	60,239	3.4%	57,717	3.3%	-4.2%
West Basin MWD	148,484	8.4%	144,159	8.1%	-2.9%
Coastal MWD	41,550	2.3%	41,950	2.4%	1.0%
City of Torrance	20,124	1.1%	21,065	1.2%	4.7%
City of Long Beach	47,275	2.7%	49,990	2.8%	5.7%
City of Compton	4,751	0.3%	5,065	0.3%	6.6%
Eastern MWD	44,262	2.5%	48,426	2.7%	9.4%
Chino Basin MWD	36,606	2.1%	42,169	2.4%	15.2%
Foothill MWD	9,893	0.6%	12,286	0.7%	24.2%
City of Beverly Hills	13,836	0.8%	18,189	1.0%	31.5%
City of Los Angeles	238,474	13.4%	421,831	23.8%	76.9%
Central Basin MWD	83,975	4.7%	162,538	9.2%	93.6%
City of Santa Monica	8,443	0.5%	18,113	1.0%	114.5%
City of San Fernando	826	0.0%	2,066	0.1%	150.1%
City of San Marino	971	0.1%	3,949	0.2%	306.7%
Upper San Gabriel Valley MWD	10,852	0.6%	83,156	4.7%	666.3%
Total*	1,773,877	100.0%	1,773,877	100.0%	

* Detail may not add due to independent rounding

Source: Tables 6 & 9

However, the effect such cuts would have on each member agency are complicated by the agency's dependence on MWD for water. MWD supply reductions affect agencies with large local supplies less than agencies with small local supplies. That is because for agencies with large local supplies, MWD supplied water makes up a relatively small portion of their total water budget. Consequently, reductions in MWD deliveries would affect a small part of their total water budget.

Table 11 Total Local Water Supplies Actual vs. Hypothetical 20% MWD Shortage & Preferential Rights			
Member Agency	Average Annual Use (Table 6)	Hypothetical 20% MWD Shortage & Preferential Rights	Percent Difference
San Diego County WA	583,703	280,625	-51.9%
Las Virgenes MWD	20,896	11,703	-44.0%
Calleguas MWD	120,598	71,355	-40.8%
City of Burbank	22,632	16,218	-28.3%
City of Glendale	29,677	21,752	-26.7%
Three Valleys MWD	115,551	84,947	-26.5%
City of Anaheim	70,603	54,763	-22.4%
City of Pasadena	37,096	29,073	-21.6%
West Basin MWD	188,445	155,288	-17.6%
Coastal MWD	48,245	40,255	-16.6%
City of Fullerton	32,430	27,965	-13.8%
City of Santa Ana	48,207	41,924	-13.0%
MWD of Orange County	418,077	368,794	-11.8%
City of Torrance	29,388	26,116	-11.1%
City of Long Beach	74,561	67,278	-9.8%
City of Compton	10,238	9,539	-6.8%
Western MWD	248,565	234,500	-5.7%
Eastern MWD	138,889	133,368	-4.0%
Chino Basin MWD	195,471	192,600	-1.5%
Foothill MWD	16,085	16,021	-0.4%
City of Beverly Hills	13,836	14,551	5.2%
City of Los Angeles	650,818	749,809	15.2%
Central Basin MWD	255,303	301,359	18.0%
City of San Fernando	2,876	3,702	28.7%
Upper San Gabriel Valley MWD	174,685	230,358	31.9%
City of Santa Monica	16,569	22,616	36.5%
City of San Marino	5,410	7,598	40.4%
Source: CRB			

To illustrate these interactions, Table 11 shows how a hypothetical 20 percent reduction in MWD supplies would affect member agencies' total supplies under preferential water rights rules.* The table compares the agency water use from Table 6 to the hypothetical scenario. This scenario assumes shortfalls only in MWD supplies – each member agency's local supplies are assumed to remain constant.

* This scenario is strictly for illustrative purposes only and does not purport to reflect a realistic drought scenario. For example, it does not reflect the fact that some agencies, such as the City of Los Angeles, place significantly higher demands on MWD for water during droughts than during average water years.

The comparison shows that under strict preferential rights rules, a 20 percent reduction in MWD supplies would lead to a 51.9 percent reduction in total water available to SDCWA. Similarly, Las Virgenes MWD and Calleguas MWD would both experience a more than 40 percent reduction. Conversely, some agencies would, hypothetically, gain water. Naturally, such agencies would in reality turn back some of their MWD supplies to be redistributed among the other member agencies. However, this scenario does illustrate how under current rules, agencies like Los Angeles, Upper San Gabriel Valley and San Marino have very secure supplies compared to highly vulnerable such as to SDCWA, Las Virgenes MWD and Calleguas MWD.

WHAT ARE THE PROBLEMS?

Over the last few years, a number of people have begun to question MWD's governance. MWD's Blue Ribbon Task Force raised the issue in 1994. MWD formed this task force, composed of 33 private sector community leaders, because of:

concerns that Metropolitan did not enjoy sufficient public support, the perceived low general understanding of the District's role in providing wholesale water supplies to Southern California, and a desire to enlist the private sector to obtain fresh perspectives about the MWD's business practices and identify new solutions that might exist.¹⁸

The Blue Ribbon Task Force made nearly 100 separate recommendations on ways MWD could become a more effective and efficient organization. However, the report also noted there were a number of issues outside of its scope that were still a concern. These issues included:

Board member selection. There is ongoing concern about whether the Board selection process adequately generates representative, diverse leadership typical of the communities that make up the MWD's member agencies.¹⁹

Board member allocation. Many Task Force members were concerned about potential inequities that may arise as patterns of actual MWD water use increasingly diverge from the *ad valorem* criteria that currently governs the allocation and number of Board seats among member agencies.²⁰

Board oversight capabilities and functions. The general impression of the Task Force is that the Board's oversight functions may be less comprehensive than in previous periods. Despite a heavy meeting schedule, and numerous specialized committees and subcommittees, the Board often seems to be presented with limited options and choices for final approval largely defined and developed by MWD staff, rather than conduct an independent inquiry of the relevant matters.²¹

MWD implemented most of the 100 recommendations made by the Task Force.²² However, the board apparently paid little attention to the Task Force's concerns regarding governance at the time.*

In the intervening period, a few legislators have introduced bills that would have changed some aspect of MWD's governance.[†] However, much of the current legislative interest in MWD governance result from the alleged reactions of MWD and some of its member agencies to a proposed water transfer between SDCWA and the Imperial Irrigation District (IID).

* The board did initiate its own internal examination of governance structure and function in 1997. This was also the year both Assembly Member Bruce Thompson and Senator Ruben Ayala introduced bills (AB 928 and SB 926) that would reduce the MWD board to 15 members to be appointed by the Governor.

† Most notably the aforementioned AB 928 and SB 926.

As previously noted, SDCWA currently relies on MWD for 85 percent of its water supplies and is expected to gain more than one million people by the year 2020. However, SDCWA's water supply options are limited. SDCWA has already exhausted most of its local supply options. Moreover, while population demands within MWD's service area will likely push demand for additional supplies higher, many believe MWD is unlikely to develop significant new water sources in the future.* From SDCWA's perspective, the combination of growing local and regional demands for water and limited supply options, coupled with MWD Act's preferential water rights system, left SDCWA in an untenable situation.

In order to improve its supply reliability, SDCWA has been working since 1995 to secure a long-term transfer of water from IID. Under the current agreement, SDCWA would buy 200,000 acre-feet per year for the next 50 years. This would satisfy about a third of SDCWA's water needs and would reduce its current dependence on MWD by about 40 percent.†

Critics point to a number of alleged actions by MWD and some of its member agencies in response to the proposed transfer as evidence that MWD is "a classic example of bureaucracy run amok."²³ The Senate Select Committee has been investigating many of these complaints. Without getting into details or weighing in on the validity of the claims, the alleged actions the Senate Select Committee has investigated include:

- MWD tried to obstruct the transfer by establishing an unreasonably high price to "wheel" or transport the transferred water to SDCWA via MWD's Colorado Aqueduct.
- SDCWA, through its regular MWD payments, is being forced to pay a portion of the legal fees MWD is incurring in MWD's legal fight against SDCWA.
- MWD, without prior board approval under the general manager's contracting authority, hired the firm Edelman Public Relations Worldwide to conduct a public relations campaign to fight the proposed water transfer.

* This is not a consensus view. Many within MWD believe that through its Integrated Resources Plan (IRP), MWD has laid out a plan for meeting all of Southern California's supplemental water needs. Nonetheless, it remains to be seen if MWD can meet all of the IRP's water management goals.

† MWD and SDCWA just signed a MOU regarding implementing the SDCWA-IID transfer. The MOU is contingent upon a number of items, not the least of which being that the State is to provide \$200 million for lining the All American Canal, including the Coachella Branch, and another \$30 million for groundwater conjunctive use programs that are a part of the California 4.4 Plan. It is too early to tell whether or not all the contingency items will likely come to fruition.

- MWD or a coalition of member agencies, under the guise of “The Partnership for Regional Water Reliability,” conducted “opposition research” – research intended to embarrass, leverage, and neutralize legislators who did not oppose the proposed transfer.
- The Partnership, which consists of member agencies controlling 67 percent of MWD vote entitlements, violates the Ralph M. Brown Act, by holding closed meetings that they do not publicly notice.
- There is a “Kitchen Cabinet” of board members that secretly determines MWD policy. This Kitchen Cabinet excludes board members from SDCWA – in particular one director who is a Vice Chair of the MWD board.

In defense, many board members assert that the proposed transfer violates the fundamental purpose of MWD, which in their view is to be the sole supplier of water from outside of the Southern California coastal basin. Some oppose the transfer because they claim the transfer, as initially proposed, would increase their costs for water through “cost shifting.” In addition, some board members maintain that SDCWA believes that because it buys the most water, it should get special treatment. These board members point out that SDCWA has received special treatment in the past, and imply that SDCWA ought to be grateful for these special accommodations. Instead, some assert that SDCWA, through its actions, is trying to break up MWD. In private, some go as far as describing SDCWA as a cancer feeding upon MWD, intent on destroying it.

In addition to these two polar views, some board members hold views that are more moderate. While such moderates find merit in parts of SDCWA’s arguments, they suggest that fairness and consistency are not served without considering the needs and investments of each of MWD’s member agencies.

However, there are other issues raised by state legislators and others beyond the SDCWA-IID-Partnership debate. Some of these issues include:

- MWD is not responsive, especially to local issues,
- MWD has an ineffective ethics policy,
- MWD’s board is too large to ever operate efficiently,
- MWD’s staff – not the MWD board – drive MWD’s policies,
- MWD’s rate structure is too high in light of its \$1.2 billion cash reserve, and
- MWD is involved in improper “profit generating” ventures.

Finally, some suggest that after 70 years of existence, perhaps this structure simply is no longer appropriate, and it is time to modernize. As a recent bill analysis notes, “The whole world seems to agree that the MWD Board needs revamping, but the question is how to do it.”²⁴

THE ISSUES

As noted in the introduction, much of the current debate seems to be focused on symptoms of problems, and not the sources of the problems. Indeed, there have been a number of suggested solutions to MWD's problems. But few if any of these solutions started with the fundamental questions:

- (1) What is and is not MWD's job?
- (2) Who is best suited to ensure MWD does this job properly?
- (3) How should (2) make these decisions?

It is a maxim in organizational theory that *form follows function*. This implies that before one can rationally discuss the governance structure of an organization – that is, its form – one must know what the organization is and is not supposed to do. This report takes that approach.

Questions (1), (2), and (3) are addressed in order. This report does not take attempt to answer (1), (2), or (3). Instead, it presents the current range of perspectives on these issues, and the rationale behind these perspectives.

WHAT IS AND IS NOT MWD'S JOB?

Perhaps the easiest way to determine if MWD has a governance problem is to look at how well MWD has achieved its goals and objectives. Presumably, if MWD fulfills its purpose, then any governance issues must be minor. On the other hand, if MWD does not fulfill its purpose, then governance might indeed be a problem.

The difficulty with this approach is that there does not seem to be universal agreement on what MWD's purpose either is now or should be into the future. Many feel *they* know what MWD's purpose is, it is *those other guys* who don't get it. This section describes the evolution of MWD's mission and explores some of the implications.

Background

On September 17, 1924, about 250 delegates from thirty-eight Southern California cities and communities met in Pasadena and formed the Colorado River Aqueduct Association.* At this meeting, they established a committee to draft “an act authorizing the formation of a public district for the purpose of bringing water from the Colorado River ...”.²⁵

On January 19, 1925, Senator A. B. Johnson of Imperial County and Senator Ralph E. Swing of San Bernardino County introduced the draft legislation as SB 178. The California State Senate, in one of its first amendments to the proposed act, established the

* For a history of the early formation of MWD, see Appendix.

purpose of metropolitan water districts as “developing, storing and distributing water for domestic purposes ...”. The Legislature later expanded the purpose of MWD to allow it to generate electricity. However, the legislated purpose of MWD is otherwise unchanged from that defined in 1925.*

In 1930, MWD’s first Chief Engineer, Frank E. Weymouth, was the first to lay out MWD’s mission. It was:

1. Meet current and future water needs,
2. Replenish and restore ground water levels, and
3. Protect underground supplies from saltwater intrusion.²⁶

Then, in 1931, the board adopted a more comprehensive vision of MWD:

Those portions of the Coastal Plain to which the aqueduct system can economically deliver water are regarded as the ultimate area that should be included within the Metropolitan Water District.

Water will be made available to all areas within the District in accordance with their requirements, domestic use being the dominant use.²⁷

In this policy statement, MWD defined its ultimate service area as the Los Angeles Basin, most of Orange County, and what is now known as the Inland Empire. It also implied that it would meet all water demands within the constraints of the aqueduct’s capacity.

This policy stood for 20 years. However, during the 1940’s MWD changed greatly. It completed the aqueduct, began delivering water to the member agencies, and a number of agencies annexed into the district, including one from outside of the coastal plain – the SDCWA Water Authority. Given all the changes, the 1931 policy needed revising. The result was the famous 1952 “Laguna Declaration”:

The Metropolitan Water District of Southern California is prepared, with its existing governmental powers and its present and projected distribution facilities, to provide its service area with adequate supplies of water to meet expanding and increasing needs in the years ahead. The District is now providing its service area with a supplemental water supply from the Colorado River. When and as additional water resources are required to meet increasing needs for domestic, industrial and municipal water, The Metropolitan Water District of Southern California will be prepared to deliver such supplies.

Tax payers and water users residing within The Metropolitan Water District of Southern California already have obligated themselves for the construction of an aqueduct supply and distribution system This system has been designed and constructed in a manner that permits orderly and economic extensions and enlargements to deliver the District’s full share of Colorado River water as well as water from other sources as required in the years ahead. Establishment of overlapping and paralleling governmental authorities and

* The amendment was to the first version of the Act, which did not clear the Assembly. That same language, however, was included in the 1927 version of the bill, which became law.

water distribution facilities to service Southern California areas would place a wasteful and unnecessary financial burden upon all of the people of California, and particularly the residents of Southern California.²⁸

This statement did two things. First, it committed MWD to meeting *all* supplemental water supply needs for Southern California. Second, it declared that MWD would be the *sole* supplier of supplemental water for the region. With minor modification, chiefly specifying the State Water Project (SWP) as the “other sources,” the Laguna Declaration is still the official policy of the MWD.²⁹

Since the Laguna Declaration, MWD experienced more changes. More of Southern California annexed into MWD, it became a member of the state water project, and its role broadened beyond simply supplying water. MWD’s Integrated Resources Plan Assembly recognized these changes in its 1994 Assembly Statement:

During the past two decades, Metropolitan has broadened its role not just to function as a supplier of imported water, but also to play a part in region-wide water management. Metropolitan has used financial incentives and other means to encourage its Member Agencies to develop alternative water supplies and to become less dependent on Metropolitan for water supplies. On their own and in response to Metropolitan’s incentives, Member Agencies have developed additional groundwater resources, promoted conservation, developed water reclamation projects, and supported Metropolitan at the State and federal level to improve imported supplies.³⁰

These changes, however, are not fully reflected in MWD’s official Mission Statement. Adopted January 14, 1992, it reads:

The mission of The Metropolitan Water District of Southern California is to provide its service area with adequate and reliable supplies of high quality water to meet present and future needs in an environmentally and economically responsible way.³¹

Discussion

The issue here is not whether MWD met its objectives in the past. With the notable exception of not meeting all supplemental water needs during droughts, MWD has largely met them. The issue instead is what should and should not be MWD’s role in the future. And on this there is no agreement.

In interviews with many of MWD’s board members, MWD’s senior staff, and other interested observers, most say MWD’s mission is “provide supplemental water to Southern California.” However, while they use largely the same words, they often mean something quite different. Some *mean* that MWD’s job is to “Be the *sole* supplemental water source for Southern California.” Others *mean* MWD’s charge is to “Be a supplemental water source, *among others*, for Southern California.” This is not a trivial distinction.

However, the range of views is broader than that. Some suggest MWD has no business being involved in water conservation, wastewater reclamation, or water transfer projects. Instead, they believe MWD’s job is to deliver whatever SWP and Colorado River water is

available to its member agencies, short and simple. Indeed, some go as far as suggesting that MWD ought to completely separate its services into water supply and water transportation, and price each service separately.

On the other hand, others argue that MWD needs to go farther in the direction of being the regional water resource manager for all of Southern California. For example, they contend:

- MWD sponsored water conservation projects provide both local, regional, and statewide water supply benefits.
- Only MWD has the financial resources to facilitate the diverse kinds of projects needed in the region.
- Only MWD has the technical expertise necessary to resolve many of the region's water problems.

The issue of preferential water rights also has profound implications of what is and is not MWD's job. Under the MWD Act, purpose is "developing, storing and distributing water for domestic purposes." Moreover, during periods of water shortages, MWD's job is to deliver water in accordance with each member agency's preferential water rights. This could be described as MWD's *technical* job.

However, the MWD board has developed a *revealed* job. Through past actions, MWD has established its task during periods of shortage to be to "share-the-cuts" among all member agencies. A third option suggested by some is for MWD to take a "common pool" approach to managing water shortages. MWD's job would be to ensure that each local water agency within MWD's purview would have the same proportionate total supply of water, local and MWD sources combined.

The State Legislature is interested in MWD's mission as well. For example, Senator Tom Hayden has a bill, SB 1875,^{*} that in an earlier draft would have established:

the first priority of the Metropolitan Water District of Southern California shall be to develop and implement cost-effective conservation, recycling, groundwater storage and replenishment, and alternative supply programs. To the maximum extent feasible, those programs should include the conservation of water through demand-side, as well as supply-side, strategies.

Observations

The issue of defining or clarifying MWD's job is key, and not simply academic. Indeed, the heart of the dispute with SDCWA is the question, "Should MWD hold a monopoly on supplying additional water supplies to the region?" Until this question is resolved to

^{*} This clause was amended out of the bill on June 24, 1998. There are also a number of other bills that would affect other aspects of MWD's governance. These bills are recognized at the appropriate place in the discussion.

everyone's satisfaction, and necessary conforming changes are made to MWD's governance structure, policies, and pricing structure, there will continue to be conflict.

The second main point of contention has to do with MWD's job during periods of water shortage. The official policy of the MWD board has always been to provide *all* the supplemental water needed by its member agencies.* Moreover, all member agencies that annexed into MWD after the original 13 cities, joined MWD under such policies. These member agencies joined MWD quite possibly believing that although the MWD Act established rules for allocating water during periods of shortage, there would never be a shortage. Therefore, they might easily have concluded that the preferential water rights established under the MWD Act were essentially meaningless.

The problem is that during each of the last two major droughts, MWD has been unable to meet all member agencies' supplemental water needs fully. Consequently, member agencies are reassessing their expectations of MWD's water delivery practices during droughts. This inevitably includes a reexamination of their preferential water rights.

While the board has adopted alternate drought policies in the past, and is striving to develop a new drought policy, the simple fact is that MWD policies legally are subordinate to state law. This includes the MWD Act. MWD's General Counsel is correct in pointing out that, during periods of water supply emergency, the board can establish alternative allocation rules. However, the fact remains that the MWD board must first make an emergency declaration.

Given the winners and losers under preferential water rights and their relative voting strengths on the board, such a declaration is by no means a certainty. Moreover, if it were certain that the board would declare an emergency under §§350 et seq. for every water supply shortage, then preferential water rights would indeed be a moot point. The legislature, therefore, could eliminate the preferential water rights section of the MWD Act without any concern on the part of member agencies. At this point, such a "non-reaction" seems unlikely.

Not just representatives of a specific agency, county, or region raise defining MWD's job as being a major issue. This issue is important to a broad range of interests, including MWD board members, other wholesale and retail water agencies, public interest groups, and others. Without a common vision of purpose, it is almost impossible for a board to run the organization effectively.³²

People's views on what role they would like to see MWD play does not show a bias based on geography, agency type, or even dependence on MWD. While some have characterized this as a SDCWA versus the World issue, representatives in a variety of

* The Laguna Declaration, which replaced the board's 1931 policy statement, is still part of MWD's Administrative Code.

areas and agency types say similar types of things. Indeed, often one representative of an agency would have a drastically different perspective than another from the same agency.

In spite of the board's best intentions, it is not at all clear that MWD can resolve these issues itself.* One problem is that given the broad range of perspectives, finding common ground will be difficult – this is especially true since there is not consensus on whether or not there even is a problem in the first place. A second problem will be resolving the equity implications of MWD's newly defined role. Those who are comfortable with status quo will likely seek some form of compensation or other recognition of their changed situation. Those who find status quo inherently unfair are likely to resist such efforts.

Moreover, even if MWD could resolve this issue itself, it is not clear that it would do so consistent with the water resources interest of either the local general public, other regional agencies, or the greater statewide public. A common complaint about special districts (like MWD) is that they are single purpose. That is, they do not consider competing local or regional priorities. Another complaint is that special districts lead to balkanization. That is, for every area, there are innumerable governments responsible for services. These governments often do not coordinate their actions and can conflict in their priorities. Since MWD is a governmental agency ultimately created by the public to serve the public's interests, this should be a concern.³³

Finally, resolving what MWD's job is and is not will have significant implications beyond that of governance. It will redefine how MWD does business. For example, if MWD officially loses its monopoly status, then there will be increasing pressure by some member agencies (and perhaps others) to use MWD's facilities to move "non-MWD" water to their service areas. This, in turn, might lead MWD to abandon its current "postage stamp" water rate, forcing it to separate the price of water supply from the price of water delivery, and pricing each separately. Conversely, if MWD is to maintain its monopoly status, it might need to explore the demand average versus dry year supplies and price each separately.

WHO IS BEST SUITED TO ENSURE MWD DOES THIS JOB PROPERLY?

Once MWD's job is better defined, the next question is who should oversee MWD's operations. There are a number of facets to this question. These include:

- Characteristics – What type(s) of person(s) are best suited to oversee MWD?[†]
- Number – How many persons does it take?
- Allocation – If it takes more than one person, how should the positions be allocated?
- Selection – How should these persons be appointed?

* MWD's current efforts at reform are described beginning on page 45.

[†] Such characteristics might include which constituency they represent, personal or professional background, time availability, etc.

- Terms – How long should these persons serve?
- Representation – As a governmental agency, how well do those in charge represent the people?

The answers to these questions depend in large part on what MWD's job is and is not. Nonetheless, this section presents the rationale for the current system and explores alternatives.

Background

The initial Metropolitan Water District Act, as introduced by Senators A. B. Johnson and Ralph E. Swing, proposed that each member agency would have one representative on the Board of Directors.* In 1927, the California Senate, in one of its last amendments to the proposed Act, allowed member agencies to appoint one additional director for each \$200 million of assessed value. The apparent rationale was that because the initial construction of the Colorado Aqueduct and the appurtenant facilities would be financed with local property tax revenues (which are based on assessed value), those agencies with the greatest financial burden should have a greater presence on the board.

As new agencies joined MWD, and as property values of some areas grew faster or slower than others, the composition of the MWD board changed. As shown in Table 12, Los Angeles dominated the early boards. Within 12 months of MWD's formation, Los Angeles had appointed five board members and was actually entitled to ten. By the mid-1930s, Los Angeles filled more than one third of the seats on the board. However, post World War II growth in both the number and relative wealth of other member agencies started the decline in relative size Los Angeles's board presence.

As the assessed value of member agencies grew, the Legislature periodically raised the threshold for additional directors. By 1968, member agencies needed \$1 billion in assessed value before they received an additional director. Finally, in 1972, Assembly Member Porter introduced AB 412. This bill changed the allocation of directors to one per member agency plus one director for each full 3 percent share of the total assessed value any member agency had relative to the entire MWD. This change eliminated the periodic need to adjust the threshold and stabilized the size of MWD's board.

Currently, there are 51 directors on the MWD board. Most member agencies have one director. The three agencies with the most directors are:

- The City of Los Angeles – 7 Directors
- SDCWA – 6 Directors
- MWDOC – 5 Directors

These three agencies combined currently hold just over one third of the positions on the board.

* For a more complete history of the formation of MWD, see Appendix.

Table 12
MWD Board Members
1928 - 1998*

Member Agency	Year Joined MWD	1928	1938	1948	1958	1968	1978	1988	1998
City of Anaheim	1928	1	1	1	1	1	1	1	1
City of Beverly Hills	1928	1	1	1	1	1	1	1	1
City of Burbank	1928	1	1	1	1	1	1	1	1
Calleguas MWD	1960	-	-	-	-	1	1	2	2
Central Basin MWD	1954	-	-	-	4	4	4	3	3
Chino Basin MWD	1950	-	-	-	1	1	1	2	2
Coastal MWD	1942	-	-	1	1	1	1	1	2
City of Compton	1931	-	1	1	1	1	1	1	1
Eastern MWD	1951	-	-	-	1	1	1	1	1
Foothill MWD	1953	-	-	-	1	1	1	1	1
City of Fullerton	1931	-	1	1	1	1	1	1	1
City of Glendale	1928	1	1	1	1	1	1	1	1
Las Virgenes MWD	1960	-	-	-	-	1	1	1	1
City of Long Beach	1931	-	1	2	2	2	1	1	1
City of Los Angeles	1928	3	7	7	8	7	7	8	7
MWD of Orange County	1951	-	-	-	2	2	6	5	5
City of Pasadena	1928	1	1	1	1	1	1	1	1
San Diego County WA	1946	-	-	2	2	3	5	6	6
City of San Fernando	1971	-	-	-	-	-	1	1	1
City of San Marino	1928	1	1	1	1	1	1	1	1
City of Santa Ana	1928	1	1	1	1	1	1	1	1
City of Santa Monica	1928	1	1	1	1	1	1	1	1
Three Valleys MWD	1950	-	-	-	1	1	1	1	1
City of Torrance	1931	-	1	1	1	1	1	1	1
Upper San Gabriel Valley MWD	1963	-	-	-	-	2	2	2	2
West Basin MWD	1948	-	-	1	2	4	4	3	3
Western MWD	1954	-	-	-	1	1	1	1	2
City of Colton**	1928	1	-	-	-	-	-	-	-
City of San Bernardino**	1928	1	-	-	-	-	-	-	-
Total		13	19	24	37	43	49	50	51

* December of each year. 1998 as of July.

** Withdrew from MWD in 1931.

Sources: "Cities Meet for Water District", *Pasadena Star News*, December 29, 1928; MWD, *Annual Report*, Los Angeles: MWD, 1995; and <http://www.mwd.dst.ca.us/docs/board.html>, 7/1/98

Discussion

The current system assumes that to best meet MWD's mission, each member agency must have at least one board member. This guarantees a board of at least 27 members. It further assumes that agencies with a greater financial stake in MWD need more representatives on the board. Moreover, it assumes that assessed valuation is the best

measure of the financial stake and that a three-percent relative share is the appropriate threshold.

Perhaps not surprisingly, most directors interviewed agree that all member agencies need their own representative on the board. A few suggested that some of the smaller agencies might share a position on the board, but all agreed member agencies require some type of direct representation. In general, the smaller agencies are indifferent about the mechanisms for gaining additional board members. As a director for one small agency said, this is something for the big agencies to work out.

The big agencies have considered different thresholds for additional board members. For example, Table 13 shows that increasing the threshold to five percent relative assessed value would reduce the MWD board to 38 members. Five agencies would no longer have multiple representatives, but the five largest still would.*

Some question whether assessed valuation is the appropriate measure, especially because property tax revenue now accounts for about 9 percent of MWD's gross annual income. They suggest that if financial participation is an appropriate mechanism for apportioning additional directors, some other measure might be more appropriate, such as total financial contribution (including operations and maintenance charges), contributions to capital facilities, or water sales revenues.

A number of people both within and without MWD observe that even if each member agency had only one director, that MWD would still have a very large board. They point to research showing that reducing the size of corporate boards makes them more efficient.³⁴ So, they ask, why not invigorate the MWD board by reducing it even more?

Others counter that with the large number of members, the MWD board is beginning to show greater ethnic diversity. They point to the positive influence that diverse viewpoints bring to board deliberations. Some go as far as suggesting that the benefits of adding even more board members to increase ethnic diversity would outweigh any additional inefficiency.

The issue of diverse representation is interesting, and gets to the question of whose interest board members should represent. The majority of board members interviewed answered "my member agency." Some would suggest that they also had a regional water resources perspective or perhaps a ratepayer perspective. However, first and foremost they were responsible to their member agency – otherwise they would be fired or wouldn't be reappointed. There was one set of notable exceptions to the member agency perspective – those elected to their member agency board and who were then appointed by their member agency to the MWD board. Those directors answered "the rate payers – otherwise I won't be reelected."

* On July 14, 1998, the MWD board adopted a position in favor of changing the threshold for additional directors to five percent relative assessed value.

Table 13
MWD Board Members
Alternative Thresholds For Additional Directors

Member Agency	Assessed Valuation (\$ billions)	Relative Percent of MWD	Directors Allocated By Relative Percent						
			3%	4%	5%	7.5%	10%	15%	20%
City of Anaheim	\$16.120	1.84%	1	1	1	1	1	1	1
City of Beverly Hills	8.197	0.93%	1	1	1	1	1	1	1
City of Burbank	8.567	0.98%	1	1	1	1	1	1	1
Calleguas MWD	33.861	3.86%	2	1	1	1	1	1	1
Central Basin MWD	57.112	6.51%	3	2	2	1	1	1	1
Chino Basin MWD	32.511	3.70%	2	1	1	1	1	1	1
Coastal MWD	26.937	3.07%	2	1	1	1	1	1	1
City of Compton	1.640	0.19%	1	1	1	1	1	1	1
Eastern MWD	18.036	2.05%	1	1	1	1	1	1	1
Foothill MWD	5.507	0.63%	1	1	1	1	1	1	1
City of Fullerton	6.505	0.74%	1	1	1	1	1	1	1
City of Glendale	10.713	1.22%	1	1	1	1	1	1	1
Las Virgenes MWD	8.496	0.97%	1	1	1	1	1	1	1
City of Long Beach	17.721	2.02%	1	1	1	1	1	1	1
City of Los Angeles	180.986	20.62%	7	6	5	3	3	2	2
MWD of Orange County	114.848	13.08%	5	4	3	2	2	1	1
City of Pasadena	8.821	1.00%	1	1	1	1	1	1	1
San Diego County WA	137.397	15.65%	6	4	4	3	2	2	1
City of San Fernando	0.747	0.09%	1	1	1	1	1	1	1
City of San Marino	1.973	0.22%	1	1	1	1	1	1	1
City of Santa Ana	10.131	1.15%	1	1	1	1	1	1	1
City of Santa Monica	9.492	1.08%	1	1	1	1	1	1	1
Three Valleys MWD	25.118	2.86%	1	1	1	1	1	1	1
City of Torrance	11.134	1.27%	1	1	1	1	1	1	1
Upper San Gabriel Valley MWD	36.137	4.12%	2	2	1	1	1	1	1
West Basin MWD	62.568	7.13%	3	2	2	1	1	1	1
Western MWD	26.649	3.04%	2	1	1	1	1	1	1
	\$877.924	100.00%	51	41	38	32	31	29	28

Source: MWD, CRB calculations

The greater ethnic diversity on the board has been brought on in part by a higher turnover of directors. It used to be directors routinely served very long terms. However, the recent trend has been towards shorter terms. Current directors have served on the MWD board an average of six years. The “newest” members have served about half a year; the longest serving member has been on the board nearly 35 years. However, as little as ten years ago, board members had served on average more than nine years. In 1989, one quarter of the board had served 12 or more years and there were six board members who had served over 20 years. Now two-thirds of the board have served less than eight years and only two members have served 20 years or more.

A number of board members assert that it takes many years on the board before one truly understands the business of MWD. This is especially a problem now that more and more directors are not in the water business full time. "In the old days," they argue, "directors weren't expected to open their mouths until they had been on the board for four or five years." Now, the four-year terms used by some member agencies mean that just as directors are really getting up to speed, they are out and new directors are in. Others counter that the shorter terms have helped MWD. If directors know they only have four years to accomplish their goals, they don't have time to wait, especially if they have to stand for reelection. They have to be involved early and have a much more immediate effect on MWD policies.

Some outside observers contend that MWD's board is insulated from greater regional interests. Indeed, this is a common complaint about special districts in general. The concern is that insulated boards are not visible, and so are not representative of the public. Some board members argue that the insulation is a good thing. They contend that water boards lose their focus when they become "politicized." Others outside of MWD counter that what some call politicization is really a sign of boards grappling with the kinds of trade-offs representative governments are supposed to make.

Observations

The fundamental question remains: Who is best suited to ensure MWD does its job properly?

If MWD's job is only to meet the needs of its member agencies, then perhaps the current structure or some variant makes sense. This includes issues such as the length of terms, selection processes, etc. However, if MWD's job is substantively different from only meeting member agency needs, then that begs for a different structure. For example, if MWD's focus broadens from member agency needs to end-users or the general public, then perhaps population based representation makes more sense. This would lead directly to the issue of popularly elected board members.

It is highly unlikely that MWD board will conclude that member agency representation is not the best basis for board representation, regardless of the ultimate resolution of MWD's job. Moreover, despite statements that board members should take a regional or ratepayer view, member agencies most likely will appoint only board members that look out for the member agencies' parochial interests. Sometimes these interests will coincide with those of "good" regional water resources management or those of the ratepayers, sometimes they will not.

Simply changing the number of directors will do little to resolve the current conflicts between SDCWA and other member agencies. While the board might make decisions somewhat more efficiently, the fundamental issue of MWD's job remains.

The MWD board has opposed all previous attempts to change the director selection process. For example, in 1992, then Assembly Member Polanco introduced AB 3522. This bill would have required MWD directors to be elected to two-year terms from 25

electoral districts of approximately equal population. The board opposed that bill on the basis that it would remove local control. The board's position was that the member agencies were the customers of MWD and the member agencies paid the bills. Without direct representation on board, there would be little accountability to the member agency.

The board has taken similar positions on bills introduced in the current session. For example, SB 926 (Ayala) and AB 928 (Thompson) would reduce the board to 15 members to be appointed by the Governor with Senate confirmation. Without weighing in on the merits of these bills, they implicitly assume MWD's job is something besides simply meeting member agency needs.

From a ratepayer perspective, the current system makes little sense. Consider two families. Family A lives in the City of Fullerton, Family B lives across the street in the City of Brea. Family A's water supplier, being a member agency (the City of Fullerton), has one director on the MWD board. That director can focus all their attention on meeting the retail water needs of this rather small geographical region. Family B's water supplier is not a member agency. Instead, their water supplier buys its water from MWDOC. Family B's representation on the MWD board, then, is via the five MWD directors for the MWDOC – an agency that provides wholesale water to areas and customers as diverse as the cities of Seal Beach and Buena Park, the El Toro and the Capistrano Valley Water Districts, and the Santa Ana Heights Water Company and the Southern California Water Company. MWDOC's directors must first look out for the wholesale water needs of their agency, and then needs of all their wholesale customers, before they get to all the Family Bs in their district. Two families, right across the street from each other, vastly different representation on the MWD board.

HOW SHOULD THOSE IN CHARGE MAKE DECISIONS?

Once the membership on the board is resolved, the question is how should they make decisions. Under MWD's current governance system, that means determining whether or not there should be weighted voting on the board, and if so how the votes should be weighted.

Background

The original draft legislation introduced by Senators Johnson and Swing provided that each member agency would have one vote for every 15,000 population.* In 1925, the California Senate, in one of its first amendments to the proposed MWD Act, changed the vote allocation to one vote for each \$10 million dollars of assessed value. Again, the rationale presumably was that because the initial construction of the Colorado Aqueduct and the appurtenant facilities would be financed with local property tax revenues, those agencies with the greatest financial burden should have a greatest voting presence on the board. The \$10 million threshold for votes remains in place to this day.

* For a more complete history of the formation of MWD, see Appendix.

In addition, the Senate limited each agency to not more than 50 percent of the total votes. Without this limit, the City of Los Angeles would have held 82 percent of the votes on the original board. This 50 percent limit, too, remains in place, though because of the relative growth in assessed value of other member agencies, the limit has long ceased to be a constraint.

Finally, the Act as adopted required that for member agencies with more than one representative on the board, that their directors must vote as a block. The rationale apparently was to force each member agency to take a unified position on every issue before the board. This restriction held until 1968 when it was repealed by Assembly Member Carley Porter's AB 923.³⁵ It is not clear precisely why Assembly Member Porter wanted to repeal block voting. Still, many member agencies strongly urge their representatives on the board to vote as a block, at least on "important" issues.

Discussion

The MWD Board of Directors engaged former Attorney General John Van de Kamp in January 1998 to help them work through some of its governance issues.* As part of that process, Mr. Van de Kamp surveyed the board members about their views on alternative methods of allocating votes. Board members representing 15 member agencies responded.[†] For member agencies with more than one representative, some presented a single member agency response, for others, individual directors responded separately.

Two sets of survey questions are particularly relevant here. One asked respondents to rank in order of preference alternative methods of allocating votes. The other asked respondents to identify the single factor or combination of factors (and relative weights) they preferred for allocating votes. Respondents were given the following potential factors from which to choose:

- 10-year water sales by volume (acre-feet)
- Cumulative water sales by volume (acre-feet)
- Cumulative total financial contribution, adjusted for inflation
- Cumulative total financial contribution, not adjusted for inflation
- Cumulative contributions to capital, adjusted for inflation
- Cumulative contributions to capital, not adjusted for inflation
- Current population
- Assessed valuation

* For more details on MWD's current efforts to resolve its governance problems, see page 45.

[†] This discussion is based on a draft summary of results dated April 14, 1998. Responses received by Mr. Van de Kamp after this date are not reflected here.

Table 14 MWD Vote Allocation Alternative Methods Under Consideration																
Member Agency	Current Law: Assessed Valuation \$ Nominal		10-year Water Sales Acre-feet		Cumulative Water Sales Acre-feet		Cumulative Total Financial Contribution \$ Constant		Cumulative Total Financial Contribution \$ Nominal		Contribution to Capital \$ Constant		Contribution to Capital \$ Nominal		Current Population	
	Vote %	Rank	Vote %	Rank	Vote %	Rank	Vote %	Rank	Vote %	Rank	Vote %	Rank	Vote %	Rank	Vote %	Rank
City of Los Angeles	20.62%	1	12.37%	3	8.03%	5	16.66%	2	12.48%	2	22.69%	1	16.12%	2	23.07%	1
San Diego County WA	15.65%	2	25.30%	1	25.59%	1	18.28%	1	21.11%	1	15.70%	2	19.17%	1	16.15%	2
MWD of Orange County	13.08%	3	12.52%	2	14.02%	2	10.75%	3	11.63%	3	9.90%	3	11.47%	3	10.43%	3
West Basin MWD	7.13%	4	8.74%	4	10.63%	3	10.47%	4	10.36%	4	9.35%	4	9.73%	4	5.01%	6
Central Basin MWD	6.51%	5	6.16%	5	8.39%	4	9.25%	5	7.70%	5	8.94%	5	7.79%	5	9.19%	4
Upper San Gabriel Valley MWD	4.12%	6	2.45%	12	1.69%	13	2.87%	9	2.76%	12	2.96%	8	3.08%	8	5.18%	5
Calleguas MWD	3.86%	7	4.91%	6	3.80%	6	3.82%	6	4.84%	6	3.22%	7	4.34%	6	3.00%	10
Chino Basin MWD	3.70%	8	2.97%	9	1.88%	12	1.89%	13	2.10%	13	1.88%	12	2.16%	13	3.94%	7
Coastal MWD	3.07%	9	2.28%	13	3.30%	7	3.12%	8	3.68%	7	2.74%	9	3.37%	7	1.40%	15
Western MWD	3.04%	10	3.58%	7	2.76%	10	2.67%	10	3.09%	8	2.44%	10	3.01%	9	3.72%	8
Three Valleys MWD	2.86%	11	3.31%	8	2.51%	11	2.59%	11	3.07%	9	2.29%	11	2.82%	11	3.13%	9
Eastern MWD	2.05%	12	2.76%	10	2.81%	9	2.32%	12	3.03%	10	1.88%	13	2.75%	12	2.60%	12
City of Long Beach	2.02%	13	2.49%	11	3.04%	8	3.38%	7	2.93%	11	3.64%	6	2.96%	10	2.70%	11
City of Anaheim	1.84%	14	1.24%	15	1.09%	17	0.82%	21	0.93%	18	0.68%	23	0.87%	19	1.86%	14
City of Torrance	1.27%	15	1.07%	17	1.37%	15	1.32%	16	1.28%	15	1.30%	17	1.29%	15	0.79%	18
City of Glendale	1.22%	16	1.37%	14	1.11%	16	1.39%	15	1.41%	14	1.52%	15	1.41%	14	1.20%	16
City of Santa Ana	1.15%	17	0.83%	20	0.97%	20	0.87%	20	0.85%	21	0.83%	20	0.82%	22	1.92%	13
City of Santa Monica	1.08%	18	0.41%	24	0.99%	19	1.01%	19	0.73%	23	1.22%	19	0.85%	20	0.56%	21
City of Pasadena	1.00%	19	1.04%	18	1.62%	14	1.52%	14	1.19%	16	1.56%	14	1.17%	16	0.85%	17
City of Burbank	0.98%	20	1.00%	19	1.04%	18	1.21%	17	1.13%	17	1.30%	16	1.12%	17	0.62%	20
Las Virgenes MWD	0.97%	21	1.11%	16	0.74%	23	0.69%	24	0.90%	20	0.59%	24	0.82%	21	0.39%	24
City of Beverly Hills	0.93%	22	0.69%	21	0.76%	22	1.04%	18	0.90%	19	1.24%	18	0.98%	18	0.25%	25
City of Fullerton	0.74%	23	0.58%	22	0.94%	21	0.80%	22	0.77%	22	0.76%	21	0.74%	23	0.73%	19
Foothill MWD	0.63%	24	0.50%	23	0.65%	24	0.77%	23	0.68%	24	0.71%	22	0.66%	24	0.54%	22
City of San Marino	0.22%	25	0.06%	26	0.02%	26	0.14%	26	0.10%	26	0.22%	26	0.14%	26	0.08%	27
City of Compton	0.19%	26	0.22%	25	0.24%	25	0.30%	25	0.27%	25	0.36%	25	0.28%	25	0.53%	23
City of San Fernando	0.09%	27	0.04%	27	0.02%	27	0.06%	27	0.07%	27	0.06%	27	0.07%	27	0.15%	26

Note: Columns may not add to 100% due to independent rounding

Source: General Manager, Memo to Board of Directors, Weighted Voting Alternatives and Governance Models, December 22, 1997

The survey results show a general dissatisfaction with the current system of one vote for every \$10 million assessed valuation. Only one agency supported the current system over any other system. However, while the dissatisfaction of the current system seemed widespread, there was little consensus on an appropriate alternative. Six of the eight factors were both someone's most preferred (rank 1 or 2) and someone else's least preferred (rank 7 or 8) option. By a 2 to 1 margin, respondents preferred using a combination of factors to using a single factor. However, there was little consensus among those preferring multiple factors as to which combination and in what proportions.

Interestingly, the different approaches lead to very similar results. As shown in Table 14, the three member agencies with the most votes, Los Angeles, SDCWA, and MWDOC, remain the top three vote holders under most alternatives. (The exception is cumulative water sales, where Los Angeles drops to fifth behind West Basin MWD and Central Basin MWD.) Agencies currently holding around one percent of the vote or less generally remain holding around one percent or less. Indeed, according to MWD staff, few votes in the history of MWD would have been reversed under any of the alternative voting structures examined to date.

There is one alternative – ten-year water sales – which would push the combined voting power of the top three agencies above 50 percent. It is also possible that under some of the other alternatives they would hold over 50 percent in the relatively near future. Some have suggested that to limit the power of the larger agencies, votes should be capped at no more than 15 percent for any one member agency.

Notable by their absence are options that might help resolve the current conflict between SDCWA and some of the other member agencies. Such options might include assigning votes based on relative dependence on MWD. Other options notably absent were to assign votes based on preferential rights or simply one vote per director.

A number of directors question the relevance of the current discussion. They take two approaches. One group makes the case that MWD has bigger problems than weighted voting. To their minds, time spent talking about alternative voting rules is time better spent trying to resolve more pressing governance issues.

Another group takes a more results oriented perspective. They argue that no matter how voting rules change, nothing will really change. "The big guys stay big – the little guys stay little." Besides, they note, motions of the board rarely go to a full weighted vote. Generally motions are decided by a voice vote with perhaps one or two member agencies asking their votes to be recorded as abstentions or contrary to the majority decision.

Others counter that the one vote per \$10 million of assessed value is clearly inequitable. As noted previously, property tax revenue now accounts for about 9 percent of MWD's gross annual income. They argue that regardless of its relevance in the past, assessed valuation no longer reflects the relative burden each agency carries.

Observations

Despite the current level of interest, vote apportionment is not important until MWD's job is clearly defined, and those best suited to oversee MWD's operations are identified. Only if MWD's job is limited to meeting the needs of the member agencies *and* only if all member agencies have at least one representative on the board of directors does the current discussion of weighted voting even begin to make sense.

Weighted voting for board members is important only if all representatives are not created equal *and* it is important to capture the nuances of this inequality in the governance structure. Moreover, weighted voting is not the only available tool. For example, super majorities (e.g., two-thirds votes) are often required to protect minority interests. The appropriate questions then are:

- (1) Why is this inequality important to the effective governance of the agency?
- (2) How does this inequality affect the effective governance of the agency?
- (3) What is it about weighted voting that makes it the most effective tool to resolve (1) and (2)?

If the answers to these questions are not obvious to all, then perhaps weighted voting is not appropriate.

The results of Mr. Van de Kamp's survey are consistent with information gathered through the author's interviews with board members, senior MWD staff, and other MWD observers. That is, there seems to be little agreement among the member agencies on the proper way to apportion votes. Indeed, there are a number of directors who question the need to even discuss changing voting rules. The question "What's broke?" is often raised.

Nonetheless, the question of the equity of the current system does seem legitimate. It is not clear why one vote per \$10 million of assessed value is still appropriate. If, after resolving everything else about MWD's governance, the current governance system remains, then changing or eliminating the current vote allocation system probably will make sense.

CURRENT EFFORTS TO REFORM MWD

Two groups, MWD and the California Legislature, are trying to resolve some of MWD's governance issues. At times, members of each of these two groups have appeared antagonistic towards the other. The press has carried many stories detailing claims and counter claims. Not surprisingly, neither group seems to trust the other to solve the problems.

MWD

The MWD board has taken a three-pronged approach to resolving its governance issues:

- Van de Kamp Consultations
- Strategic Planning
- John Carver Process

Van de Kamp Consultations

In January 1998, the board engaged former Attorney General John Van de Kamp to act as a mediator and provide advice to the board's Chair. Through a series of internal reports and board workshops, the board considered changes in board size, voting structure, and general board operations. On July 14, 1998, the board voted to support legislation to change the threshold for additional members from 3 percent to 5 percent. This would change the size of the board from 51 to 38 members.

Strategic Planning

MWD initiated a strategic planning process in January 1998. Through this process, the board hopes to clarify and refine MWD's mission. To facilitate this process, MWD has hired Pricewaterhouse Coopers and the Rand Corporation; Pricewaterhouse Coopers as a prime contractor and Rand as a subcontractor.

The consulting team is developing three issue papers, due September 1998, which will:

1. Address broad water policy issues, e.g., is water a commodity or public resource;
2. Describe global and domestic trends in utilities industry, e.g., deregulation of the power and gas industries; and
3. Analyze the current dynamics at MWD, e.g., wheeling rates and member agency relations.

Meanwhile, Pricewaterhouse Coopers is conducting research on MWD's role in Southern California water. The consultants intend to interview a great many people knowledgeable about MWD or California's water resources management, as well as prominent civic leaders. The goal of these efforts is to analyze all the governance issues and provide an objective baseline for further deliberations.

In Late September, MWD plans to hold a two-day board workshop on governance. The purpose of the workshop is for the board to review, validate, and discuss the findings and to explore the more fundamental public policies related to MWD and water resources management. Then, in October, the board plans to hold a one-day workshop to set the stage for developing about six alternative visions of MWD. After the workshop, Rand will develop the six or so visions. For each vision, Rand will identify approximately 12 practical implications. Once Rand develops these visions, the board intends to hold broad public hearings on the visions. The goal is for the board to select a vision by the end of December 1998. This would complete Phase One. In Phase Two, MWD plans to restructure itself in line with its new vision.

John Carver Process

To help the board operate more efficiently, MWD has hired governance specialist John Carver. Mr. Carver's approach is to:

- Develop "Ends" policies – which define the organization's policy objectives; and
- Define "Executive Limitations" – which define the scope and limitations of management.

Mr. Carver has held three workshops for the board, which has begun applying these concepts to its own structure. The board expects to take greater advantage of Mr. Carver's expertise once Phase One of the Strategic Management Plan is complete.

CALIFORNIA LEGISLATURE

MWD is a creation of the Legislature, and not just in a technical or legal sense. The Legislature took a very active role in defining MWD when it was first created.* Consequently, the Legislature can play a very legitimate role in reforming MWD.

There are three bills currently active in the Legislature that would affect MWD's governance.† They are:‡

- Senate Bill 1875 (Hayden)
- Senate Bill 1885 (Ayala)
- Assembly Bill 1919 (Thompson)

* For a history of the formation of MWD, including the Legislature's role, see Appendix.

† There were two other bills introduced this session that have died. SB 926 (Ayala) and AB 928 (Thompson) both would have reduced the board to 15 members to be appointed by the Governor with Senate confirmation. Neither bill cleared its house of origin.

‡ This information was accurate as of 8/14/98

Senate Bill 1875 (Hayden)

This bill changes specific aspects of MWD's governance. The bill has two main governance themes, refinement of MWD's mission and ethics reform.

Under SB 1875, MWD's mission would be implicitly expanded to place "increased emphasis on sustainable, environmentally sound and cost-effective water conservation, recycling, and groundwater storage and replenishment measures." The bill calls for MWD to take a number of specific measures to help achieve this expanded mission. The bill further requires MWD, each year beginning February 1, 2000, to submit to the Legislature a report on the progress that it is making in achieving these goals.

Besides expanding or clarifying MWD's mission, SB 1875 directly addresses the ethics of MWD and its member agencies. The bill would require MWD to establish and operate an Office of Ethics. It would require the office to adopt rules regarding internal disclosure, lobbying, conflicts of interest, contracts, campaign contributions, and ethics. The bill would also prohibit MWD and its member agencies from contracting for "opposition research" on elected officials who vote on MWD policies. It would also prohibit similar contracts concerning advocacy groups or interested parties that may have matters pending before the board or its member public agencies. SB 1875 would enhance, not replace, MWD's current ethics policies.

Senate Bill 1885 (Ayala)

The initial focus of Senator Ruben Ayala's SB 1885 was on the size of the MWD board and relative voting strength of the member agencies. As introduced, the bill would have limited the size of the MWD board to one representative per member agency. Member agencies would no longer be entitled to additional representatives for each 3 percent of MWD's total assessed value. In addition, the bill would have frozen each member agency's votes at the December 31, 1998, level.

Recently, Senator Ayala amended out the provisions changing the board's size and voting rules. The bill currently includes just language that "it is the intent of the Legislature to review the makeup of the Board of Directors of the Metropolitan Water District of Southern California and to make proper changes determined to be necessary." The Senator's stated purpose is to take this bill to a conference committee to work out a compromise with MWD.

Assembly Bill 1919 (Thompson)

Assembly Member Bruce Thompson's AB 1919 makes no assumptions about the answer to MWD's governance issues. Instead, AB 1919 would create a 17-member "Special Commission on the Metropolitan Water District of Southern California" to identify the strengths and weaknesses of the MWD Board and to investigate alternatives. The Commission would consist of the Legislative Analyst, the Director of the Department of Water Resources, and 15 additional members who would represent specific interest groups.

Upon enactment, AB 1919 would require the Commission to submit a report to the Legislature and the Governor by April 1, 2000. The Commission's report must address a comprehensive list of governance issues, including recommendations regarding:

- The appropriate number of board members
- The appropriate process for selecting board members,
- Whether members should serve full-time or part-time,
- Whether members should be subject to a code of ethics, and what that ethics policy should contain.
- Whether to keep MWD's voting allocation system or adopt some alternative system.
- Mechanisms to ensure that the MWD Board is diverse regarding ethnicity and gender.
- Any other issues relating to MWD governance.

CONCLUSIONS

As noted in the introduction, it seems that much of the current debate has been focused on symptoms of problems, and not the sources of the problems. Some examples:

- There has been much debate regarding the proposed water transfer between SDCWA and the IID and the actions and reactions of various parties. While questions of ethical behavior are clearly important, the root cause of the conflict stem from a fundamental disagreement on what MWD's job is and is not. SDCWA and others believe MWD job is to be *a* source of supplemental water for the region, *among possible other sources*. Others believe MWD' job is to be *the sole* source of supplemental water. This distinction is not trivial, and it is this lack of consensus that led to the current conflicts.
- A number of people observe that MWD has sizable unrestricted reserves and question MWD's resolve to keep rates low for the ratepayer. While not specifically addressed in this report, this issue again gets to what is and is not MWD's job. If MWD's principal job is to meet member agency needs, then there could be advantages to MWD carrying large reserves instead of each member agency. However, if MWD's principal job is to provide water at the lowest possible cost, then perhaps the rate structure needs adjusting.
- There have been a number of questions regarding the appropriate size of the board. In particular, some feel that the board would operate much more efficiently with fewer members. It is generally true that smaller boards operate more efficiently than larger boards. And, efficiency is an important goal in designing or reforming a governance structure. However, efficiency is a question of ensuring *things are done right*. The more important governance issue is ensuring that *the right things are done*. By focusing on size, one avoids the question of who is best suited to oversee the organization. It might be the case that only representatives of each member agency can ensure MWD achieves its mission. However, if it is not, then simply changing the number of board members is a largely meaningless exercise.

These issues illustrate the need to address the root governance issues, and not simply the symptoms.

The current conflicts between SDCWA and other member agencies warrant special comment. Some have complained that SDCWA is trying to destroy MWD. In their view, SDCWA has received a number of benefits from MWD in the past and ought to be grateful for those benefits. They complain that SDCWA is looking for special treatment

because it is the largest customer. In essence, they complain that SDCWA is trying to change the *status quo* fundamentally, and MWD with it.*

What these critics ignore is that under the *status quo*, SDCWA has the most at risk and with only 15.7 percent of the vote, simply has not power within MWD to reduce that risk.† No other agency is as dependent on MWD for water AND as disadvantaged by the preferential water rights rules. If MWD faced a 20 percent supply shortfall and, for some reason, the board did not declare a water emergency under §§350 et seq., SDCWA would be in a potentially dangerous situation. If just one member agency pressed its preferential rights, the dominos would begin to fall, numerous law suits and counter suits would be filed, and SDCWA could be facing a 50 percent shortfall. Given its situation, it would be both irrational and irresponsible for SDCWA not to try to improve its water supply reliability. If SDCWA is unable to improve its reliability within MWD, then it must do so outside of MWD.

The maxim *form follows function* fits. To resolve MWD's governance problems, it is important to answer each of the three questions:

- (1) What is and is not MWD's job?
- (2) Who is best suited to ensure MWD does this job properly?
- (3) How should (2) make these decisions?

Considering just (1), there are at least three key issues:

- Should MWD be the sole supplier of supplemental water to Southern California?
- What should MWD's official rules under the MWD Act be for allocating water during periods of drought?
- Whose interests should MWD primarily represent – member agencies, retail water agencies, end users, the taxpayers, or someone else?

It might well be that in answering these questions, it is found that the current system requires just a little fine-tuning. Nonetheless, it might just as easily be that such an investigation would lead to a dramatically different governance structure. The outcome depends at least in part on who is and is not answering the questions.

However MWD's job is defined, there are many legitimate questions regarding member agency equity and financial security for MWD. Still, it is possible to change or clarify MWD's mission and still protect common goals. For example, one concern is that if member agencies can transfer water from outside the MWD service area, potential water sellers could play one member agency against another to get a higher price and therefore increase profits. One solution would be for MWD to act as a broker for any such

* They also assert that SDCWA representatives have acted unethically. That is a separate issue.

† Moreover, it is doubtful that SCDWA could form a coalition of similarly affected agencies with sufficient vote strength to change their situation.

transfers. Sellers could be required to make their offer to MWD. Then, MWD, if not interested itself, would act as an agent for any and all interested member agencies. The challenge facing the board is to find similar solutions to other such legitimate concerns

Despite its best intentions, it is not at all clear that MWD can resolve these issues itself. One problem is that given the broad range of perspectives, finding common ground will be difficult – this is especially true since there is not consensus on whether or not there even is a problem in the first place. However, there is another obstacle, and that related to the character of MWD problems. In interviews, the author asked if the sources of MWD’s problems were structural or personality. While a few said it was all personality or all structural, most responded that it was about 50-50. If this is the case, it is probably the worst possible proportion if MWD is to resolve its problems itself. Personalities would likely get in the way of resolving structural problems, and structural problems would likely hamper resolving personality conflicts.

However, even if MWD could resolve these issues itself, it is not clear that it would do so consistent with the interest of either the local general publics or the greater statewide public in Southern California water resources development. Indeed, it is difficult see how such a member agency driven board would ever possibly conclude that MWD’s principal job is something besides simply meeting member agency needs. If these larger interests are important, then perhaps someone besides MWD should lead the governance resolution process.

Finally, resolving what MWD’s job is and is not will have significant implications beyond that of governance. It will redefine how MWD does business. For example, if MWD officially loses its monopoly status, then there will be increasing pressure by some member agencies (and perhaps others) to use MWD’s facilities to move “non-MWD” water to their service areas. This, in turn, might lead MWD to abandon its current “postage stamp” water rate, forcing it to separate the price of water supply from the price of water delivery, and pricing each separately. Conversely, if MWD is to maintain its monopoly status, it might need to explore the demand average versus dry year supplies and price each separately.

Clearly defining MWD’s job is critically important. Moreover, the ramifications of MWD’s newly defined role will extend well beyond MWD’s service area. Water systems in the west are highly interconnected. What MWD’s job is and is not, and how MWD does this job, could affect water resources management throughout California, the Colorado River States, and even into Mexico. It is essential, therefore, that all stakeholders be comfortable with whatever new role MWD takes on.

APPENDIX: A BRIEF HISTORY OF THE FORMATION OF MWD

*Origin of MWD*³⁶

Southern California is blessed with a wonderful year-round climate, but not an abundant water supply. So, it did not take long for the rapid growth of the late 1800s to begin to tax these meager supplies. The City of Los Angeles, under the direction of famed superintendent of the water system William Mulholland, looked outside of Southern California's coastal plain for a solution. In 1913, Mulholland's efforts were rewarded when he first delivered Owens Valley water to the San Fernando Valley. While this provided water for Los Angeles, it did nothing to alleviate problems of other Southern California cities.

These cities were faced with few options. They could:

- Continue to try and make do with existing resources,
- Annex into Los Angeles to get Owens Valley water, or
- Band together and, like the City of Los Angeles, look outside of the coastal plain for their own supplemental supply.

Many cities chose the latter. In Pasadena, on September 17, 1924, about 250 delegates from thirty-eight Southern California cities and communities* met and formed the Colorado River Aqueduct Association. At their first meeting, they established a committee to draft "an act authorizing the formation of a public district for the purpose of bringing water from the Colorado River..."³⁷

James H. Howard, City Attorney of Pasadena, and W. B. Mathews, Special Counsel of the Los Angeles Public Service Commission, drafted the legislation that would create the Metropolitan Water District of Southern California.

The Legislative Battles

On January 19, 1925, Senator A. B. Johnson of Imperial County and Senator Ralph E. Swing of San Bernardino County introduced the legislation as SB 178. *The Los Angeles Daily Times* later referred to the bill as introduced as "one of the most radical and socialistic proposals ever submitted to the State Legislature."³⁸

The Senate heavily amended the bill. On March 17, it amended the bill in 80 places. On April 10, it amended the bill another 18 places. Many of the amendments corrected

* These communities included: Altadena, Arcadia, Banning, Beverly Hills, Covina, Coachella Valley, Colton, El Segundo, Fullerton, Glendale, Glendora, Huntington Park, Imperial Irrigation District, Los Angeles, Long Beach, Ontario, Pasadena, Perris, Redlands, Riverside, San Bernardino, San Dimas, San Fernando, Santa Ana, Seal Beach, South Pasadena, Tujunga, Van Nuys, and Whittier. The representative from San Diego, Mayor Bacon, was unable to attend due to illness.

technical errors or omissions. However, most of the amendments were substantive. Key amendments included the following. The Senate established the purpose of metropolitan water districts as “developing, storing and distributing water for domestic purposes ...”. Another amendment expanded the definition of “municipality and city” to include any water district incorporated for the service of water in other than municipal territory. The Senate reduced the amount of debt metropolitan water districts could incur from the proposed 20 percent of assessed valuation to 15 percent. They added a section that created a *preferential right* for cities and municipalities to buy water from metropolitan water districts in the same ratio as their assessed value bore to the assessed value of the entire district. The Senate changed the appointment and allocation of directors for each city from one director with one vote for every 15,000 population and appointed by the legislative body of the city to one director per city, who shall be the chief executive officer of the city and will have one vote for each \$10 million dollars of assessed value. The Senate further provided that each director shall have at least one vote and no director shall have more than 50 percent of the votes. It also limited the MWD’s power of eminent domain, prohibiting it from condemning water or water rights.

The Senate passed the bill on April 15 on a 29 to 9 vote. Four of the Senators voting against the measure represented Los Angeles County. They argued that it was premature to create the district. “What need is there of legislation nine years in advance of any possible availability of water from the Colorado River?” ask Senator Harry Chamberlin of Los Angeles.³⁹ Chamberlin also complained about the excessive taxing ability of the district.

On April 22, the Assembly defeated the bill on a 33 to 44 vote. It seems the bill failed because of opposition by private power companies to the creation of public power projects. It was apparently a nasty fight. However, accounts of why the bill failed conflict. The *Los Angeles Daily Times* reported that the measure failed:

because a majority of the members of the California Assembly are convinced that those in charge of the Los Angeles Bureau of Power and Light are actuated by political motives and have sought to coerce and intimidate other communities in Southern California.⁴⁰

The Times further reported pressure to vote for the bill came from “Boss” Al McCabe of San Francisco and “the representatives of a Los Angeles Newspaper who sought to intimidate by threats of public attack Assemblymen now seeking election to the Los Angeles City council.”⁴¹ The *Los Angeles Examiner* countered that the measure lost for two reasons. First, was the apparent vote trading made in support of Senator Chamberlin’s controversial reapportionment bill.* Second, was “the presence of the greatest number of hired men of the power companies ever seen to grace the Assembly.”⁴²

Interestingly, after the defeat of the Swing-Johnson bill, public sentiment began to shift strongly in favor of the bill. Historians point to two key developments. First, on June 2,

* The reapportionment bill failed as well.

1925, the City of Los Angeles held a municipal election. Among the measures was Proposition 7. The *Los Angeles Daily Times* characterized the measure as a “straw ballot to determine popular sentiment toward the project to bring Colorado River Water here.”⁴³ The measure passed by a 6 to 1 margin. Then, in the gubernatorial race, Clement C. Young successfully ran on a platform of strong support for all the Colorado River projects. Then, in his inaugural speech on January 4, 1927, Governor Young called for the Legislature to authorize the formation of a metropolitan water district to permanently solve southern California’s water problems.

Two weeks later, on January 17, 1927, Senator Swing introduced SB 132. This bill was essentially the last amended version of SB 178 from the previous session. There were only two differences: The previous version had a two-stage limit on taxing authority – 1 cent per \$100 of assessed value the first four years, 5 cents thereafter. The new bill deleted the lower limit for the first four years. The other difference was that the legislative body of the city would appoint directors, as originally proposed.

The Senate again amended the bill, though not as heavily as in the prior session. On March 29, it amended the bill in 13 places; on April 1, it amended the bill another three places. Again, some of the amendments were technical clarifications. Substantive amendments focused on the appointment process for directors and further limitations on the district’s power of eminent domain. The Senate again changed the appointing authority, finally becoming appointed by the chief executive officer subject to approval of the governing bodies of the cities. The Senate also allowed cities to appoint one additional director for each \$200 million of assessed value, so long as the cities’ directors voted as a block. They also changed the voting rules, eliminating the requirement that directors representing at least four cities vote in favor for a measure, in addition to the 50 percent of the total number of votes for all members. Finally, they further limited the MWD’s eminent domain powers, excluding the right to condemn water or rights to water stored within reservoirs.

With these changes, the bill saw smooth sailing. It passed the Senate on April 6 without a dissenting vote. It cleared the Assembly April 27 by a 63 to 2 vote. Governor C. C. Young signed the Metropolitan Water District Act into law 14 days later.⁴⁴

Incorporation

On February 15, 1928, the City of Pasadena started the formal incorporation process. In accord with the Act, it adopted an ordinance calling for the organization and incorporation of a metropolitan water district and named the cities proposed to be included in the new district (see table 15). It also set the stage for a validation suit. That November, cities would hold elections to determine if they would join the new district. To trigger a lawsuit that would test the validity of the Act, Bessie Chamberlain, Pasadena’s City Clerk, refused to sign bonds for construction of the aqueduct. The city then immediately sued her in the California State Supreme Court. On August 3, 1928, the Supreme Court found the Act valid.⁴⁵

Table 15 Cities Identified in Pasadena's MWD Incorporation Ordinance and the Results of the Local Incorporation Election, if Held					
Result	City	Result	City	Result	City
P	Anaheim	–	Fullerton	–	Redlands
–	Arcadia	P	Glendale	–	Riverside
P	Beverly Hills	F	Glendora	P	San Bernardino
P	Burbank	P	Los Angeles	P	San Marino
P	Colton	–	Ontario	P	Santa Monica
–	Covina	F	Orange	P	Santa Ana
–	Culver City	P	Pasadena	–	Whittier
Key: P Passed F Failed – No Incorporation Election Held					
Source: "Starts Test of Water District", <i>Pasadena Star New</i> , February 14, 1928, p. 1; "Cities Meet for Water District", <i>Pasadena Star News</i> , December 29, 1928, p. 1					

On November 6, 1928, voters in 11 of the 13 cities holding incorporation elections voted to join the new district. On December 28, with 122 representatives of southland municipalities looking on, 11 of the 13 directors of new district met to formally organize the Metropolitan Water District of Southern California.

The directors selected W. O. Harris of San Bernardino to be the temporary Chairman and Pasadena as their temporary headquarters. By the board's third meeting, on February 9, 1929, the permanent organization of the District was formed and its top appointments made: William P. Whitsett of Los Angeles was Chairman of the board, Franklin Thomas of Pasadena as Vice-Chairman, and S. H. Finely of Santa Ana was Secretary. From then on the meetings were held in the Los Angeles Department of Water and Power building.

The City of Los Angeles held most of the power in the early years. As shown in Table 16, Los Angeles had half the votes and could seat half the directors.*

In 1931, when it came time to authorize construction bonds, two cities, Colton and San Bernardino withdrew. However, four additional cities joined (Compton, Fullerton, Long Beach and Torrance), thereby comprising the "original thirteen" cities.

* Los Angeles didn't actually seat ten directors until February 1961. By then, the board had expanded to 38 directors.

Table 16
Directors and Voting Rights
January 1, 1929

City	Assessed Valuation	Percentage of District	Allowable Number of Directors	Votes on the Board
Burbank	\$23,393,795	1.03%	1	2
Beverly Hills	\$59,412,840	2.61%	1	6
Glendale	\$74,424,860	3.28%	1	7
Los Angeles	\$1,863,559,210	82.02%	10	40*
Pasadena	\$124,126,620	5.46%	1	12
Santa Monica	\$63,923,940	2.81%	1	6
San Marino	\$14,607,065	0.64%	1	1
San Bernardino	\$18,239,928	0.80%	1	2
Colton	\$2,168,099	0.10%	1	1
Anaheim	\$7,878,185	0.35%	1	1
Santa Ana	\$20,336,065	0.90%	1	2
Total	\$2,272,070,607	100.00%	20	80

* Limited to 50% of total by the Metropolitan Water District Act. Without the limitation, Los Angeles would have had 186 votes.

Source: Franklin Thomas, "Metropolitan Water Distribution in the Los Angeles Area" *Annals of the American Academy of Political and Social Science*, Vol. 148, Part II, March 1930, p. 8

END NOTES

¹ Two excellent histories of MWD and its governance are:

Jerome W. Milliman, *The History, Organization and Economic Problems of the Metropolitan Water District of Southern California*, Unpublished Ph.D. Dissertation, UCLA, 1956.

Kazuto Oshio, *Urban Water Diplomacy: A Policy History of the Metropolitan Water Supply in the Twentieth Century Southern California*, Ann Arbor, MI: University Microfilms International, August 1992.

² Statutes of 1969, Chapter 209. (The Metropolitan Water District Act is not codified.)

³ Metropolitan Water District Act §61.

⁴ *Ibid.* §51.

⁵ *Ibid.* §52.

⁶ *Ibid.* §55.

⁷ *Ibid.* §51.

⁸ *Ibid.* §54.

⁹ Administrative Code of the Metropolitan Water District of Southern California §2200.

¹⁰ *Ibid.* §2201.

¹¹ *Ibid.* §2400.

¹² *Ibid.* §2401.

¹³ *Ibid.* §2100.

¹⁴ *Ibid.* §6410.

¹⁵ California Water Code §350.

¹⁶ California Water Code §353.

¹⁷ California Water Code §357.

¹⁸ Blue Ribbon Task Force, *Final Report*, Los Angeles: MWD, January 1994, p. i

¹⁹ *Ibid.*, p. 73.

²⁰ *Ibid.*

²¹ *Ibid.*, p. 74.

²² For a review of MWD's responses to the Blue Ribbon Task Force's recommendations, see: California State Auditor, *Metropolitan Water District of Southern California : A Review of Evaluations and Audits Conducted By Other Entities*, Sacramento, Calif. : California State Auditor, 1996.

²³ "Senators Go After Water District," *San Diego Union-Tribune*, March 4, 1988, p. A-3.

²⁴ Senate Local Government Committee, Bill Analysis: AB 1919 (Thompson), May 22, 1998.

²⁵ "Southland United for Colorado Aqueduct," *Los Angeles Daily Times*, September 20, 1924, Part II p. 1.

²⁶ Oshio, *op. cit.* p. 83.

-
- ²⁷ Board of Directors, Metropolitan Water District of Southern California, “Statement of Policy of the Metropolitan Water District of Southern California”, January 9, 1931.
- ²⁸ Board of Directors, Metropolitan Water District of Southern California, “Laguna Declaration: Statement of Policy”, December 16, 1952.
- ²⁹ Metropolitan Water District Administrative Code §4202.
- ³⁰ Metropolitan Water District of Southern California, Integrated Resources Plan Assembly, *Assembly Statement*, San Pedro, Calif.: MWD, June 9-11, 1994, p. 4.
- ³¹ Metropolitan Water District Administrative Code §4201.
- ³² See, for example, Mark G. Popovich, ed., *Creating High-Performance Government Organizations*, San Francisco: Jossey-Bass Inc., 1998.
- ³³ A very accessible discussion of the strengths and weaknesses of special districts is in April Manatt, *What's so special about special districts? : a citizen's guide to special districts in California*, 2nd ed. Sacramento, CA : California State Legislature, Senate Local Government Committee, 1993. A more theoretical discussion can be found in Kathryn A. Foster, *The Political Economy of Special-Purpose Government*, Washington D.C.: Georgetown University Press, 1997; especially Chapters 2 & 8.
- ³⁴ See, for example, The Conference Board, *Corporate Boards and Corporate Governance*, Report Number 1036, 1993.
- ³⁵ Statutes of 1968, Chapter 167.
- ³⁶ This appendix draws heavily on: Oshio, *op.cit*; and Metropolitan Water District, *History and Annual Report for the Period Ending June 30, 1938*, Los Angeles, Calif.: The District, 1939.
- ³⁷ “Southland United for Colorado Aqueduct”, *Los Angeles Daily Times*, September 20, 1924, Part II p. 1.
- ³⁸ “Water District Act”, *Los Angeles Daily Times*, April 22, 1925, Part II, p. 4.
- ³⁹ “Water District Bill Wins”, *Los Angeles Daily Times*, April 16, 1925, Part I, p. 2.
- ⁴⁰ “Power Bureau’s Water District Bill Defeated” *Los Angeles Daily Times*, April 23, 1925, Part I, p.1.
- ⁴¹ *Ibid.*
- ⁴² “Cities’ Water Defeated By Lower House” *Los Angeles Examiner*, April 23, 1925, p.1.
- ⁴³ “Vote For Water Bonds” *Los Angeles Daily Times*, June 1, 1925, Part II, p. 4.
- ⁴⁴ Statutes of 1927, Chapter 429.
- ⁴⁵ *City of Pasadena v. Chamberlain*, 204 Cal. 653 (1928).