

# CRB



CALIFORNIA  
STATE LIBRARY  
FOUNDED 1850

**California Research Bureau**

900 N Street, Suite 300  
P.O. Box 942837  
Sacramento, CA 94237-0001  
(916) 653-7843 phone  
(916) 654-5829 fax

## **Governance of the Metropolitan Water District of Southern California:**

### **Options for Change**

*By Dennis E. O'Connor*

DECEMBER 1998

CRB-98-018

C A L I F O R N I A R E S E A R C H B U R E A U

**Governance of the  
Metropolitan Water District  
of Southern California:  
Options for Change**

*By Dennis E. O'Connor*

**DECEMBER 1998**

**CRB-98-018**

# CONTENTS

<b>CONTENTS</b> .....	<b>i</b>
<b>INTRODUCTION</b> .....	<b>1</b>
THIS REPORT.....	1
CAVEATS.....	2
<b>THE GOVERNANCE DEBATE</b> .....	<b>4</b>
PREVENT REPEAT OF TURMOIL.....	4
PREPARE FOR FUTURE PROBLEMS .....	6
CHANGE TO PREFERRED FORM.....	10
SUMMARY .....	12
<b>WHOSE INTERESTS SHOULD MWD SERVE?</b> .....	<b>13</b>
CURRENT STATUS & CONFLICTS .....	13
THE QUESTION IN DETAIL.....	15
IMPLICATIONS FOR GOVERNANCE & STRUCTURE.....	16
<b>WHAT SHOULD BE MWD’S ROLE IN MEETING SOUTHERN CALIFORNIA’S WATER NEEDS?</b> .....	<b>18</b>
CURRENT STATUS & CONFLICTS .....	18
THE QUESTION IN DETAIL.....	20
IMPLICATIONS FOR GOVERNANCE & STRUCTURE.....	25
<b>WHO IS BEST SUITED TO MAKE THESE POLICIES &amp; HOW SHOULD THEY MAKE DECISIONS?</b> .....	<b>26</b>
CURRENT STATUS & CONFLICTS .....	26
THE QUESTION IN DETAIL.....	28
IMPLICATIONS FOR GOVERNANCE & STRUCTURE.....	30
<b>ALTERNATE GOVERNANCE STRUCTURES</b> .....	<b>31</b>
INTRODUCTION.....	31
FINELY FOCUSED <i>STATUS QUO</i> .....	32
SUPPLY & DELIVERY JOINT AUTHORITY .....	34
CORPORATE MODEL .....	36
REPRESENTATIVE GOVERNMENT.....	38
STATE BOARD .....	40
NO MWD – DWR OPERATES .....	42
<b>ENDNOTES</b> .....	<b>44</b>



## 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.

This is the second in a series of reports exploring the governance of MWD. The first report was *The Governance of the Metropolitan Water District of Southern California: An Overview of the Issues*.<sup>\*</sup> In that report, I described MWD's current governance structure. I then explored the root sources of MWD's conflicts. The three key issues I discussed were:

- (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?

I found 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), I found there were 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?

## THIS REPORT

On August 24, 1998, the Conference Committee on SB 1885 asked the California Research Bureau (CRB) to "prepare a report that identifies options for resolving the [MWD's] governance problems."<sup>1</sup> This report does just that. I begin by exploring why some people contemplate changing MWD's governance. I then explore a slightly modified list of questions posed in the last paper:

- Whose interests should MWD serve?
- What should be MWD's role in meeting Southern California's water resources needs?
- Who is best suited to make and oversee these policies?

---

<sup>\*</sup> Dennis E. O'Connor, *The Governance of the Metropolitan Water District of Southern California: An Overview of the Issues*, (Sacramento: California Research Bureau, California State Library August 1998)

Each of these questions is multifaceted, and I discuss each topic in relation to the various motives for changing MWD's governance.

I conclude the report by examining six optional governance structures for MWD. Each structure reflects a different set of answers to the questions posed above. Some of these structures are original, some are similar to those suggested by others.

## CAVEATS

Some caveats are in order.

### *Options – Not Recommendations*

This is not an exhaustive list of options. There are many variations on these themes. My intent is to illustrate how different sets of answers could lead to different organizational and governance structures. Also, some of the options presented are provocative. The CRB neither recommends nor embraces any one option. Rather, my goal is to help frame and stimulate debate.

### *Legal Implications*

Virtually all of the options presented would require changes to the law – almost certainly to the Metropolitan Water District Act and, depending on the option, perhaps others. However, I make no attempt to identify which laws would need to be changed for any given option. Similarly, I do not assess how easy or difficult implementing any given option might be. I only observe that when everyone agrees that a law needs to be changed a particular way, it is easily changed. However, if there is disagreement on the need or manner of change, otherwise simple changes can be difficult if not impossible.

### *Equity Adjustments*

Changing MWD's governance structure could raise equity issues. Member agencies joined MWD with certain expectations. They assumed a financial risk and contributed money to join MWD. In return, they understood that their priority to water would be based on contributions to capital, their voting strength would be determined by assessed value, etc. Assuming the Legislature decides to change MWD, the question is this. Is there a legal, ethical or moral requirement to compensate member agencies for their changed state? Member agencies that feel somehow diminished under the new organization would likely answer yes, and would seek some form of compensation or other recognition of their changed situation. However, those who find *status quo* inherently unfair are likely to resist such efforts. At this point, I simply note that this could be a major issue for the Legislature to resolve, and resolving it could be challenging.

***Not A Stand Alone Report***

This report is the second in a series. I assume the reader is familiar with MWD, its governance structure, and the debate of the last two or three years. Throughout this report, I try to note where in the previous report one can find additional information. However, if you are unfamiliar with MWD or are interested in a more full discussion MWD's governance and organization structure, I strongly encourage reading the first report.\*

---

\* Copies of the report are available from the California Research Bureau or can be down-loaded from our web site under "CRB Reports" at <http://www.library.ca.gov/>.

## THE GOVERNANCE DEBATE

Over the past two years, a number of legislators have expressed interest in changing MWD's governance.\* Moreover, these legislators are not alone. Those interested in changing MWD include various retail and wholesale water agencies, a number of public interest groups, and some MWD member agencies.

People contemplate changing MWD's governance for a variety of reasons. Most of these reasons fall into one of three categories:

- To prevent a repeat of the internal turmoil of the last 2-3 years;
- To prepare MWD for future policy problems; or
- To change to a more preferred form of governance.

I discuss each of these in turn.

### PREVENT REPEAT OF TURMOIL

MWD has just weathered a three-year storm of controversy. Most of the struggle stemmed from the alleged reactions of MWD and some of its member agencies to a proposed water transfer between the San Diego County Water Authority (SDCWA) and the Imperial Irrigation District (IID). However, as I described in the first report, much of the discord focused on symptoms of problems, not the sources of the problems.

At its root, two issues drove the conflict. One was the legal mechanism by which MWD allocates water during periods of shortage. The other was the question whether MWD was the *sole* supplemental water source for Southern California or *a* supplemental water source *among potential others*.

It appears that MWD is now on a path to resolve these two issues. However, successful resolution of either issue is by no means guaranteed. Moreover, even if these issues are resolved, nothing prevents similar conflicts from recurring without conforming changes to MWD's governance system.

### *Drought Water Allocations*

Under the MWD Act,<sup>2</sup> each member agency has a *preferential right to water*.<sup>†</sup> This right is based on each member agency's total historic payments to MWD for capital expenditures, excluding payments for the purchase of water. Under the preferential rights

---

\* For example, three bills were introduced in 1998 to change MWD's governance. They were AB 1919 (Thompson), SB 1875 (Hayden), and SB 1885 (Ayala). Governor Wilson signed SB 1885 into law as Chapter 781, Statutes of 1998. For a description of each bill, see O'Connor (1998), pp. 46-48.

† For a more full explanation of preferential rights, see O'Connor (1998), pp. 19-24.



rules, during periods of water shortage, MWD would allocate water in proportion to each agency's capital payments, instead of historic water use, dependence on MWD, or some other measure of water needs.

The problem with the preferential rights system is twofold:

- Some member agencies rely on MWD for much more water than they have preferential rights to. For example, Las Virgenes MWD bought over 80 percent more water from MWD than would have been allocated under preferential rights during 1984/85 – 1994/95.<sup>3</sup> Consequently, any shortage allocated under the preferential rights system would disproportionately reduce their supplies. For such agencies, it would be a one-two punch: First, reducing to the preferential rights level, then reducing to the allocated shortage level. In the case of Las Virgenes MWD, a 20 percent reduction in MWD supplies allocated under the preferential rights rules could lead to a more than a 44 percent reduction in Las Virgenes MWD's total supplies.<sup>4</sup>
- There is no mechanism under the MWD Act for such highly dependent water users to gain greater rights.

MWD is working to develop a "Water Surplus and Drought Management Plan." The plan's goals are:

- Avoid mandatory import water allocations to the extent practicable.
- Equitably allocate imported water on the basis of agencies' needs.  
Considerations to create an equitable allocation of imported water may include:
  - Impact on retail consumers and economy
  - Reclamation/Recycling
  - Conservation
  - Population and economic growth
  - Investment in local resources
  - Change and/or loss of local supply
  - Participation in Metropolitan's Non-firm (interruptible) programs
  - Investment in Metropolitan's facilities
- Encourage storage of surplus supplies to mitigate shortages and improve water quality.<sup>5</sup>

MWD is negotiating the plan with the member agencies. The current goal is for the board to adopt the plan by spring of 1999.

An agreement on a new drought policy could go a long ways towards reducing tensions regarding preferential rights. However, MWD policies legally are subordinate to state laws – laws such as the MWD Act and the sections defining preferential rights. As long as preferential rights are a part of the MWD Act, the threat of preferential rights remains. Moreover, while a majority on the board supports the new policy's goals, board approval of a final agreement might be a different matter. So, while the current situation is hopeful, there is no guarantee that the drought allocation rules will be resolved to everyone's satisfaction.

### ***“The” Vs “A” Supplemental Supplier***

When MWD first formed in 1928, the Legislature defined MWD’s job as “developing, storing and distributing water for domestic purposes....” The Act said nothing about whether MWD was responsible for providing all supplemental water or whether MWD had a monopoly on providing supplemental water.\* So, over the years the MWD board refined its job.

One key refinement was the board’s 1952 Laguna Declaration. The Laguna Declaration 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, the Laguna Declaration is still the official policy of the MWD.<sup>6</sup>

The problem is that the last drought demonstrated that MWD, despite its best intentions, simply could not meet all the supplemental water supply needs of Southern California. Consequently, SDCWA began looking for another source of supplemental water, and found it with IID.

The saga of MWD and the SDCWA-IID transfer is long and complicated, with hints of conspiracies, wealthy out-of-state land barons, and political intrigue.<sup>7</sup> However, MWD and SDCWA have finally worked out their differences, with the help of \$235 million from the State of California. In essence, SDCWA will deliver IID water to MWD’s Colorado River intakes in exchange for a like amount of water from MWD.

However, while MWD and SDCWA have agreed to terms for this exchange, the SDCWA-IID deal is by no means certain. A number of key steps remain.<sup>†</sup> And, the agreement does nothing to resolve the fundamental question, “Is MWD the *sole* supplier of supplemental water to Southern California, or is it *a* supplemental supplier, *among others?*” So, while the current agreements have lessened the animosities significantly for now, until this question is resolved, the potential for future conflicts remain.

### **PREPARE FOR FUTURE PROBLEMS**

With the turmoil of the last few years possibly behind us, many are interested in ensuring that MWD will be better able to solve the water resources problems ahead. Legislators, board members, and others have identified a number of issues likely to be problems in the future. These include issues such as:

---

\* Supplemental water is the water local areas need in addition to their local supplies to meet local water demands.

† Not the least of which being reaching a side agreement with Coachella Valley Water District regarding its priority to Colorado River water.

- How to accommodate the water needs of fast growing areas
- How to provide more reliable drought year supplies
- How to increase usable local supplies
- How to increase the efficient use of water
- How to ensure adequate drinking water quality

For most of these issues, the question is not so much what should be done but rather *who should pay* for it. A large number of board members already are concerned that MWD's current rate structure is inequitable.<sup>8</sup> A slightly smaller number of board members also complain that MWD does not allow member agencies to buy only those services that they want. Consequently, member agencies often pay for benefits they do not want or cannot receive. These two issues are different aspects of the same problem: MWD needs to better match its services with specific local needs and charge just for those services.

A second major problem facing MWD will be to become better at avoiding or resolving disputes. As one board member commented, "the MWD board as currently structured has demonstrated that it does not consistently and competently tackle key policy issues, such as preferential rights, menu of pricing, voting formulas, etc."<sup>9</sup> Many of those interested in changing MWD believe that MWD governance structure ensures that conflicts will continue to be a problem.

### ***Match Services With Local Needs & Price "Appropriately"***

The 27 member agencies of MWD are distinctly different.\* For example:

- Some, like the City of Beverly Hills, rely on MWD for virtually all their water supplies – others, like Upper San Gabriel Valley MWD, get less than 10 percent of their water from MWD.
- Some, like the City of Los Angeles, rely on MWD more for dry year supplies – others, like the MWD of Orange County, can shift almost entirely to local supplies during dry periods.
- Some, like the City of San Marino, are completely built out with zero population and service area growth over the last 40 years – others, like Calleguas MWD, are today annexing additional high population growth areas into their service area.
- Some, like the Three Valleys MWD, overlie polluted or otherwise unusable groundwater basins – others, like MWD of Orange County, overlie groundwater basins with large usable supplies.
- Some, like Calleguas MWD, receive only state water project (SWP) water from MWD – Others, like SDCWA, receive only Colorado River water.
- Some, like the City of Pasadena, provide primarily retail water directly to their customers – others, like Central Basin MWD, provide mostly wholesale water to a mix of cities, public water agencies, and private water companies, each with their own unique needs.

---

\* For a more thorough discussion of member agencies, see O'Connor (1998), pp. 5-14.

This diversity leads to different water resource needs. If MWD is to fulfill all these needs, MWD will need to offer a variety of different services. Some examples:

- Member agencies highly dependent on MWD supplies are interested in immediately improving their average and dry year reliability.
- Fast growing areas are interested in MWD developing additional supplies and transportation capacity.
- Member agencies overlying polluted or otherwise unusable groundwater basins are interested in groundwater cleanup or desalting facilities.
- Member agencies receiving principally State Water Project water are interested in advanced water treatment technologies to prevent disinfectant by-products such as trihalomethanes.
- Member agencies receiving principally Colorado River water are interested in receiving water with lower total dissolved solids (TDS).

No single member agency wants or needs all these different services. And, few member agencies want to help pay for services that do not benefit them. For example, build-out areas are unlikely to want to pay for additional supplies and transportation capacity. Yet, MWD's current structure does not allow agencies to pick and choose among the services they do and do not want.

However, even if MWD allowed member agencies to pick and choose services "cafeteria style," member agencies would still pay for services they did not receive. MWD's rate structure distributes all of MWD's costs among all member agencies. While the rate structure does attempt to adjust for different service requirements (for example, through ready-to-serve charges) there is no direct link between MWD charges and services received.

As one board member observed:

Growth should pay its fair share, but this is not the only problem. Different rates could be charged based upon real factors of economic reality, not some of the "trumped up" special rates that now exist where benefits are provided by [MWD] without a *quid pro quo* back to the MWD.<sup>10</sup>

Further complicating the issue are questions about how Proposition 218 will affect water agencies. At this point, it is not clear how the courts will resolve all the outstanding Proposition 218 issues.\* However, court decisions might force MWD to tie each member agency's water charges more closely to the costs of providing water to that specific member agency. Such a decision could force MWD to change how it does business.

---

\* For an assessment of the current debate, see Dean Misczynski, *Proposition 218 After Two Years*, (Sacramento: California Research Bureau, California State Library, October 1998).

### *Avoid or Resolve Future Disputes*

If the events of the last three years have shown anything, it is that MWD has a difficult time resolving major disputes itself. MWD was apparently unable or unwilling to help SDCWA improve its regional water reliability to SDCWA's satisfaction. SDCWA was similarly unable or unwilling to drop its pursuit of higher regional water reliability. It was only when, at the suggestion of the Director of the Department of Water Resources (DWR), the Legislature stepped in with \$235 million that the hostilities began to cool.

Still, the issues need not be so fundamental to lead to significant conflict. There are times in practically all democratic institutions when the minority strongly disagrees with a decision by the majority. MWD is no exception. Recent examples of where a vocal minority on the Board pushed hard for a different decision include:

- The Board's decision to retrofit two of its water treatment plants for ozonation – a number of board members argued MWD was getting too far ahead of the regulations.
- The Board's decisions regarding “wheeling” charges\* – the issue was so contentious, it went to court.
- The board's decision to construct the “Inland Feeder” pipeline – some board members remain seriously concerned about the need for the project and whether there are options to stage the project or otherwise reduce costs.

Moreover, not all disputes are internal. Occasionally MWD decisions are contrary to the interests of other groups. For example, the board decided to bar body contact recreation, such as swimming, water skiing, and personal watercraft, at its Eastside Reservoir. This decision was over the objections of nearby communities that wanted expanded water recreation opportunities in order to simulate additional local economic development. The reaction of the local area was so strong that they turned to their local legislator, who has twice introduced bills to overturn the decision.

There are at least two strategies to prevent these kinds of problems in the future:

- *Avoid Conflicts* – for example, the board could more flexibly tailor services with needs, the legislature could clarify MWD's role in providing certain services, or the legislature could mandate that MWD use a specific pricing system.
- *Resolve Conflicts* – for example, the board could allow member agencies to petition the board to address certain issues before they become critical, the board could develop a formal process to resolve disputes once they became critical, or the legislature could establish a formal mediation process.

Changing MWD's governance structure could promote either of these strategies.

---

\* Wheeling means to move or transport water. A wheeling charge is the price to move water from one point to another.

## CHANGE TO PREFERRED FORM

Southern California has changed greatly since MWD incorporated in 1928, and so too has MWD's role in supplying water to Southern California. 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.

Southern California, its water needs, and MWD's role in meeting those needs have changed greatly over the past 70 years. However, in that time there have been few changes to MWD's governing structure. The few substantive changes that have been made generally have been reactions to the economic growth of Southern California instead of changes made in anticipation of future demands. Simply stated, to some, MWD is facing 21<sup>st</sup> Century problems with an archaic, 1920s governance structure.

Advocates of reforming MWD often hold at least one of two sets of goals:

- Adopt an alternate governance structure, or
- Reduce or eliminate the amount of government.

### *Alternate Governance Structures*

When MWD formed in 1928, there were few examples of regional governments beyond the county level from which to learn. Consequently, the designers of MWD largely had to guess what structure would work best. One of their biggest challenges was to balance two major concerns. One concern was to keep the City of Los Angeles, which had the greatest population and largest property tax base, from dominating MWD. However, because MWD would finance construction of its facilities through property taxes, the other concern was to give those who would pay the most into MWD the most representation. The compromise was to give each member agency one board member, assign extra board members and weight votes based on assessed value, and to limit the City of Los Angeles to 50 percent of the vote.\*

Seventy years later, the need to balance those concerns is gone. The City of Los Angeles, with just over 20 percent of the vote, cannot dominate MWD alone. In fact, the three largest member agencies combined hold less than 50 percent of the votes.† There is also little need to tie representation to the property tax base, as property taxes now account for

---

\* For a history of the formation of MWD, see O'Connor (1998), pp. 53-57

† This would be true even if votes were assigned on the basis of population. See O'Connor (1998), 41-43

only 9 percent of MWD's annual revenues. With the elimination of these two concerns, many are questioning the need to keep MWD's current structure.

Now, local governments such as MWD are relatively common and take on a variety of forms. For example, some, like joint-powers authorities, are confederations of local governments that, through contracts and memoranda of understanding, agree to work cooperatively towards a specific common purpose. Others, such as the Fort Ord Reuse Authority, expressly include representatives from all the affected local governments. Still others, like the Regional Water Quality Control Boards, include representatives of not only affected local governments, but also representatives from water using industries, nongovernmental organizations, and the general public. But perhaps most relevant, is that for over 95 percent of all water agencies in California, the representatives stand for election.

Each of these approaches has its advantages and its advocates. Moreover, if the Legislature were to create a MWD today, it would likely take some variant of one of these alternative forms.

### ***Less Government***

Many advocate for smaller and more streamlined governments – what some refer to as “rightsizing.” “Rightsizing governments focus funding on core functions, deliver these services more efficiently, abolish unnecessary work, and reduce or eliminate nonpriority programs.”<sup>11</sup> Advocates argue that rightsizing has many benefits, such as:

- Save taxpayers money
- Increase flexibility
- Improve service quality
- Increase efficiency and innovation
- Streamline and downsize government
- Improve maintenance<sup>12</sup>

Promoters of these views offer a number of tools for reducing government or governmental costs. Some tools include:<sup>13</sup>

- Contracting out or “outsourcing” – governments contract with private organizations to provide specific services.
- Commercialization or “service shedding” – governments stop providing certain services.
- Corporatization – governments reorganize internally along business lines.
- Private infrastructure development and operation – governments finance capital projects using “build-operate-transfer” and “build-own-operate” arrangements.

Rightsizing, streamlining or otherwise reducing the size of MWD would likely require changing MWD's governance structure.

## SUMMARY

People contemplate changing MWD's governance for a variety of reasons. Some of these reasons are:

1. To prevent a repeat of the internal turmoil of the last 2-3 years, for example by clarifying:
  - Drought water allocations, and
  - "The" vs. "A" supplemental water supplier.
2. To prepare MWD for future policy challenges, such as
  - Matching services with needs and pricing accordingly, and
  - Avoiding or resolving disputes.
3. To change to a more preferred form of governance, for instance
  - Alternate governance structures, and
  - Less government.

Motives are important – but they only get you so far. There are whole sets of questions that one must answer to describe fully the necessary characteristics of a preferred form of governance. In the next three sections, I explore these sets of questions.



## WHOSE INTERESTS SHOULD MWD SERVE?

Perhaps the most important question for any organization is, “Whose interests does it serve?” The answer affects not only how an organization is structured or organized. It inherently shapes the organization’s corporate philosophy and fundamental way of doing business.<sup>14</sup>

### CURRENT STATUS & CONFLICTS\*

Most people have a simple and immediate answer to the question whose interests should MWD serve – the person at the tap. However, there are many other potential players. For example, there can be four layers of water providers between the source of water and the tap. Take a person in Simi Valley. The water flowing through his or her tap could have been captured first in Lake Oroville by DWR. DWR would have then transported the water through the state water project (SWP) to MWD, which is one of 29 SWP contractors. MWD would have then delivered the water to Calleguas MWD, which is one of MWD’s 27 member agencies. Next, Calleguas MWD would have delivered the water to one of its 23 retail customers – the Southern California Water Company. Finally, the Southern California Water Company would have delivered to one of its 12,000 customers in Simi Valley.

However, it is even more complicated than that. For example, a retail water supplier can be:

- A MWD member agency – such as the City of Pasadena
- A city sub-member agency – like the City of Carlsbad
- A public water agency – such as the Irvine Ranch Water District, or
- A private water company – like the California American Water Company.

Each water provider undoubtedly takes a different view as to whose interests it represents. For example, private water companies need to be concerned about their shareholders. Municipal water districts focus on their submember agencies. Locally elected directors of water districts are concerned about the voters in their electoral district. Mayors are concerned about all water users in their city. And so on.

For most MWD board members today, the issue of whose interest should they or MWD represent is almost a non-question – but not the way you might think. When asked the question whose interest board members should represent, most board members I interviewed answered “my member agency.” Some would suggest that they also had a regional 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

---

\* For background on the mission of MWD, see O’Connor (1998), pp. 29-31

reappointed to the MWD board. There was one set of notable exceptions to the member agency perspective – those elected to their member agency board and who then were appointed by their member agency to the MWD board. Those directors answered “the ratepayers – otherwise I won’t be reelected.”

While individual board members might represent their member agency’s interests, MWD through its voting system represents the interests of a majority, but not necessarily all, member agencies. Moreover, it is an unusual definition of majority. Because MWD uses a weighted voting system based on assessed valuation, the interests of the largest and wealthiest agencies carry greatest weight.\* Consequently, MWD can and does take positions contrary to those of some of its member agencies. As one board member complained, “small agencies are often ignored in terms of their operational needs and long-term reliability issues.”<sup>15</sup>

Moreover, not all those involved in Southern California water issues share the board’s dominant view that its focus ought to be the member agencies. Representatives of *sub-member agencies*, agencies that are members of MWD member agencies, assert that the board is not considering their interests. This could occur because their member agency was on the minority side of a vote, or because the submember agency took a minority position within its member agency. Private water companies, other non-MWD water agencies, and other governmental agencies similarly talk about how MWD’s decisions affect their water needs or policies. In addition, a number of community and advocacy groups and individuals maintain that MWD is often unresponsive to their issues as well.

Some board members concede that there is “the perception of arrogance in MWD by our ‘sub agencies.’”<sup>16</sup> A number of board members also acknowledge that the board has a “weak relationship with the 16 million we serve.”<sup>17</sup> As one board member commented, “MWD is organized to be accountable to member agencies. If MWD is to be accountable to actual users, major changes should be sought.”<sup>18</sup>

### ***Significance To The Proponents Of Change***

While the question of whose interests should MWD serve seems unimportant to MWD’s board, it is critically important to many that propose changing MWD’s governance. In the 1920s, the Legislature created MWD because the people, the citizens of Southern California wanted additional water.<sup>†</sup> Seventy years later, are the people at the tap still MWD’s focus? To many interested in changing MWD, the answer is no.

To some, an important requirement of government is that to both be and appear to be representative of the affected interest group. To them, identifying the affected group is

---

\* For a discussion of MWD’s weighted voting system, see O’Connor (1998), pp. 15-17

† Some will argue that the principal motives behind creating MWD were something else, such as developing additional electrical supplies, encouraging real estate development, etc. The historical record is not clear as to the credibility of such hypotheses. What is clear is that MWD was sold to the voters as the way to improve local water supplies.

necessary to ensure proper representation. If that group is not clearly represented on the governing body, the governing body is suspect.

The question of whose interests should MWD serve is important to others who ponder changing MWD as well. For example, many concerned with avoiding the turmoil of the past believe that if MWD truly represented the needs of *all* member agencies, it would have found ways to better deal with SDCWA's dry year water supply needs. Similarly, people who want to prepare MWD to better deal with future conflicts are interested because a change in MWD's focus could lead to a better match between MWD's services and local needs.

## THE QUESTION IN DETAIL

In the previous discussion, I broadly described the current debate. However, the question, "Whose Interests Should MWD Serve?" has a number of aspects. Let's quickly run through the full set of questions and potential answers.

### *Whose Interests Should MWD Serve?*

Keep in mind that while the answer to this question can be a specific group of persons, companies, or agencies, it need not be. For instance, it could be either an egalitarian mix or a hierarchical listing of different interest groups.\*

- *Member Agencies* – Currently, MWD principally serves its member agencies. Proponents of MWD maintaining the member agency perspective make the following points:
  - The effort to create MWD was by the original member agencies.
  - Member agencies are MWD's customers.
  - Member agencies made the investments in MWD to make it what it is today.
- *Wholesale Agencies In Service Area* – Another option is to focus on all wholesale agencies that buy water, either directly or indirectly, from MWD. One argument in favor of this is that wholesale agencies could be stuck between MWD policies and the needs of their retail customers.
- *All Retail* – As retail agencies are the next to the last user of water, strong arguments can be made for their being the focus of MWD.
  - Closest to the customer
  - Have to balance MWD supplies and costs with local supplies and costs
  - They are the ones who hear the complaints when something goes wrong with the supply or costs
  - Most attuned to the needs unique of their water users

---

\* For example, for over fifty years the Johnson & Johnson Company has had such a hierarchical list. Its *Credo* places customers first, employees second, communities third, and stockholders last. See Johnson & Johnson. "Our Credo". [http://www.jnj.com/who\\_is\\_jnj/cr\\_usa.html](http://www.jnj.com/who_is_jnj/cr_usa.html).

- *All Ratepayers* – Another potential focus is the end user of water. That is, the ultimate customer. After all, they are the ones paying the water rates and demanding water (in the economic sense). As noted in MWD’s 1993 *Strategic Plan*, “From the ratepayer’s viewpoint, both regional and local water resource projects and programs will be paid for from the same pocket.”<sup>19</sup>
- *Southern California General Population* – As more water becomes reused, it becomes more difficult to determine precisely who is the end user of a specific water molecule. In addition, ample and efficiently used water has numerous third party benefits to the region as a whole, beyond those of the end users. Both of these suggest a broad Southern California focus.
- *All of California’s General Population* – MWD acquires its water principally from the State Water Project and the Colorado River. Because of the statewide competing demands and uses of these two water sources, decisions made by the MWD board can affect the water resources of regions as far removed as Redding, San Diego, Oakland, and El Centro. As the State holds water in trust for all the citizens of California, and since MWD’s water resources decisions could affect most of the State’s population, it might make sense for MWD’s focus to be all of California’s citizens.
- *Others Governmental and Non-Governmental Organizations (NGOs) Affected By Water* – There are still others affected by MWD’s decisions. Such groups include:
  - Sewage treatment
  - Flood control districts
  - Watershed conservation groups
  - Environmental interests
  - General business

***Some or All of the Above?***

In meeting the needs of the targeted interest group, should MWD focus on meeting the needs of the *all* members, or a *majority*? And if it is a majority, should it be a simple or super majority?

***What Should Be the Timeframe of Reference?***

From the perspective of time, whose interests should MWD serve? Currently, it is not clear. Is it the taxpayers of days gone by, whose investments are still considered in establishing preferential rights of water? Is it the current set of property taxpayers, whose assessed value of property determines representation and voting strength on the board? Alternatively, is it the future water users, for whom MWD is actively working to shore up the value of its currently unexercised contractual rights to water?

**IMPLICATIONS FOR GOVERNANCE & STRUCTURE**

The answer to the question, “Whose interests should MWD serve?” has profound implications to MWD’s governance and how it does business. These include:

- *Representation On Board* – Who needs to be on the board and what should be their qualifications or other distinguishing characteristics? Presumably, representatives of those whose interests MWD is to serve would be prime candidates for membership on MWD’s board. If they are not clearly represented, then perhaps the board needs to change.
- *Scope and Mix of Services* – Does MWD simply provide water supply and delivery, is it a full-service water resources manager, or is it something in between? This depends in large part on the needs of those whose interests MWD is to serve.
- *Pricing Of Services* – Strictly commodity based pricing or all through the property tax? Single fixed rate for all customers or prices proportionate to cost? Depending on whose interest MWD is to serve, the answers might differ.
- *Place Within Water Policy Hierarchy* – Should MWD be the maker or leader of water policy or should it respond to policy made by others? The more broad the interest base, the easier it is to justify MWD taking a leadership role.

## **WHAT SHOULD BE MWD'S ROLE IN MEETING SOUTHERN CALIFORNIA'S WATER NEEDS?**

Once one has identified whose interests MWD should serve, the question is how should MWD meet their needs?<sup>20</sup> This is more than simply identifying MWD's scope and mix of services. It also includes determining:

- The principal function of MWD (simple supply & delivery to regional water manager);
- The type of water (imported, local surface, groundwater, etc.) with which MWD is concerned;
- Whether MWD has a monopoly in the services it provides; and
- MWD's placement in the hierarchy of water policy-makers.

### **CURRENT STATUS & CONFLICTS**

For most of MWD's history, its role was clear – it simply supplied, treated, and delivered imported water to its member agencies. This water came first from the Colorado River, and then later from the State Water Project. While MWD aggressively defended its rights to these water supplies, for the first 50 years of MWD's history, MWD was essentially a supply taker.

It was also during this period that MWD declared its monopoly on supplemental water. While the seeds of this position were sown in the 30s and 40s, the formal statement was the 1952 "Laguna Declaration." This declaration 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.\*

However, this all changed beginning with the failure of the Peripheral Canal in 1982.

To assure regional water reliability MWD, expanded into less traditional services. In 1982, MWD began providing incentive payments to help fund local water reclamation projects. Since in 1988, MWD has provided substantial incentive payment for conservation projects undertaken by member agencies. In 1991, MWD started encouraging local agencies to treat and make use of degraded groundwater resources by contributing up to \$250 per acre-foot each year of yield for recovered groundwater.

MWD also no longer relies solely upon SWP and Colorado River water. It has executed a water transfer with IID, a pilot program with Palo Verde for dry-year water supplies, and is looking for other opportunities for future water transfer and conjunctive use projects. In addition, MWD is building its own reservoir. It plans to store water during

---

\* For a history of MWD's mission, see O'Connor (1998), pp. 29-31

periods of plentiful supplies to be used later during periods of drought or emergency disruptions of SWP or Colorado River due to earthquake or other disasters.

MWD has expanded into other areas as well. For example, MWD's Business Development Office is an attempt to market some of MWD's areas of expertise as a way of generating additional revenue. Some of these areas include expertise in management of large water systems, a new method of desalinating seawater, and a method of detecting the *Cryptosporidium* parasite in treated or untreated water.

However, despite all these efforts, MWD was unable to meet the Laguna Declaration's commitment to meeting all demands for supplemental water during the last drought.

So, the question remains, what *should* MWD's proper role be? The range of opinions is vast.

As noted in the previous report, most of MWD's board members, MWD's senior staff, and other interested observers say MWD's mission is to "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." This view is consistent with the Laguna Declaration. Conversely, others *mean* MWD's charge is to "Be *a* supplemental water source for Southern California, *among others*." This is an important difference of opinion and the board seems to be split evenly. At the September 24, 1998 MWD board workshop, the consultants posed the question, "Is the Laguna Declaration still valid?" Comments posted by the directors during their main group input session ran about 50/50 in favor or opposed to the Laguna Declaration.

While many board members support activities like the local programs, the further away MWD gets from simple supply, delivery and treatment, the less broad the support. As one board member commented, "Met has no business being in the 'business development' business."<sup>21</sup> Some board members further suggest MWD has no business being involved in water conservation, wastewater reclamation, or water transfer projects either. Instead, they believe MWD's job is simply to deliver whatever SWP and Colorado River water is available to its member agencies.

On the other hand, MWD's 1995 Integrated Resources Plan Assembly argued, "Metropolitan is Southern California's lead agency in regional water management."<sup>22</sup> This suggests that MWD needs to maintain and possibly expand its current wide mix of services. For example, proponents of this view contend:

- MWD sponsored water conservation projects provide 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 water problems of the region.

Part of the concern about the breadth of MWD's services is because MWD provides them on an all or nothing basis. That is, member agencies cannot decide not to participate in some program or project. Instead, MWD spreads the costs of all of its programs across all member agencies – regardless of the benefit to any given member agency.

However, there is perhaps an even more fundamental question. Is MWD subservient to the member agencies, or are the member agencies subservient to MWD?

In describing the relationship of member agencies with each other, directors of MWD, staff, and others use a variety of terms, each with different implications. Some describe MWD as a confederacy of member agencies. This suggests agencies coming together for the joint exercise of some power. This also implies independence on the part of the members of the confederacy. Others describe MWD as a partnership, suggesting perhaps a greater level of interactions, though members of the partnership are not subordinate to MWD.

Yet, some imply that MWD is somehow superior to the member agencies. As one board member commented, “an effective regional agency requires members to accept a subordination of some of the parochial thinking.”<sup>23</sup>

### ***Significance To The Proponents Of Change***

The question of MWD's role in meeting Southern California's water needs is critical to those interested in changing MWD's governance. Most are pondering change in large part because of perceived problems with MWD's current role. For some, the problem is that MWD's role is either ambiguous, needs clarifying, or perhaps simply reaffirming. For others, MWD's role is clear, it's just wrong.

For those wanting to avoid repeating the problems of the past, the “The” vs. “A” supplemental supplier debate is key. Much of the MWD/SDCWA dispute revolved around whether MWD had a monopoly on supplying supplemental water. Many who wish to avoid future conflicts are interested in clarifying MWD's customers and services as well. The more clear the responsibilities and the more flexibility all parties have to meeting needs local water needs, the greater MWD's ability to avoid conflicts. Those interested in smaller, less costly government are especially interested in MWD's services and responsibilities. Proponents of this perspective see many opportunities to privatize or otherwise open the Southern California water market to competition, if only MWD's role was properly constrained.

### **THE QUESTION IN DETAIL**

Again, I have just touched on the broad policy issues regarding MWD's proper role in meeting Southern California's water needs. The detailed questions and potential answers follow.



### ***What Should Be MWD's Function?***

The question here is what is and how broad should MWD's job be. The answers range from simple supply and delivery to full service regional water manager.

- *Simple Supply & Delivery* – The original concept MWD was for it to be simply a supply and delivery agency. This might or might not include water treatment. Nothing in the historical record suggests that when the Colorado Aqueduct Association formed in 1924, that they intended MWD to do anything more than bring whatever Colorado River water they had rights to into Southern California. MWD today could simply deliver whatever State Water Project and Colorado River water is available through existing contracts and agreements.
- *Aggressive Supply & Delivery* – MWD could take an aggressive stance in a simple supply and delivery role, by actively searching for additional supplies outside of Southern California and through water transfers, deliver it to member agencies.
- *Regional Facilitator* – MWD could, besides providing supply and delivery services, also facilitate regional cooperation and mediate regional disputes. In addition, it might act as a broker for water transfers. It would do so, however, only when specifically asked.
- *Regional Planner* – MWD could be the regional water planner. In this role, besides supply and delivery services, MWD would coordinate the development of a regional water resources plan. However, MWD would not implement the plan, beyond its role as a supply and delivery agency.
- *Regional Manager* – As regional manager, MWD would provide a full range of services, from water supply and delivery, to funding conservation projects, reclamation projects, groundwater cleanup projects, and so on.

### ***What Types Of Water Should MWD Manage?***

This is another question where multiple selections are allowed.

- *Imported Water* – MWD was originally formed to import water into Southern California. This remains MWD's principal focus.
- *Local Groundwater* – While Some of Southern California's groundwater basins are under judicial control, many more are not. MWD is currently funding projects to clean polluted groundwater basins. The question is should MWD's management expand to all groundwater basins. This is especially important when considering that some of MWD's member agencies can meet most if not all of their local demand during drought by shifting to groundwater. If MWD managed southern California's groundwater basins, it could more effectively balance its resource water supply mix during droughts.
- *Reclaimed/Recycled Water* – MWD currently participates in water reclamation projects only as a financial partner. MWD could become a major developer and seller of reclaimed water.

- *Conserved Water* – Currently, MWD must rely on its member agencies to implement water conservation programs. MWD could seek authority to mandate compliance with water conservation program. Moreover, MWD might then gain “title” to any water conserved through a MWD funded program.
- *Desalination* – Desalination frequently is mentioned as a potential supply for Southern California. MWD has built desalination plants for treating brackish groundwater. MWD could expand the programs and, if cost effective, desalinate ocean water as well.

### ***Should MWD Be Sole Supplier Of Supplemental Water?***

This question is closely related to the previous one. Also, while the focus recently has been on supplies from outside MWD’s service area, this question also applies to local supplies within MWD’s service area.

- *Sources Within Service Area* – During the last drought, some member agencies considered selling some of their water to another member agency. However, MWD moved to prevent the transfer. The question is if a member agency, though its local resources, had surplus water during a drought period, does it have the right to sell that water to another member agency? Or, does MWD retain the sole right to provide supplemental water within its service area?
- *Sources Outside of Service Area* – Are member agencies free to acquire water from outside of the MWD service area? \* If not, what about member agencies that have out-of-basin water rights that predate the formation of MWD, such as the City of Los Angeles’ Owens Valley water rights? Should they be allowed to bring such water into their service area simply because they existed first? Or should MWD’s monopoly extend to *all* water brought into Southern California?

### ***What Is MWD’s Place in the Water Policy-Making Hierarchy?***

Should MWD be the chief water policy-making agency for Southern California? If so, MWD will by definition have broad powers. Or should MWD be a policy taker? If it should, to whom should it be subservient? Possible candidates include:

- *Member Agencies* – sometimes it is difficult to tell if the member agencies drive MWD policies or vice versa.
- *The California Legislature* – the Legislature created MWD through the Metropolitan Water District Act.<sup>24</sup>
- *The California Department Of Water Resources (DWR)* – DWR’s California Water Plan is supposed to be the master plan for developing the water resources of the state.<sup>25</sup>

---

\* At this point, I am only interested in the right to acquire the water. The price of wheeling water is a separate question.

- *Local Or Regional Governments* – land use decisions can greatly affect water resources needs and vice versa.
- *The General Population* – ultimately, all forms of government derive their power from the people.

### ***To Whom Should MWD Provide Services?***

The list of potential customers is similar to the list of interest groups MWD might serve. Again, the answer might include more than one group.

- *Member Agencies* – Current practice (sort of), MWD generally does not provide services to sub-members except with approval of its member agency.
- *Sub Agencies* – The principal distinction here is that MWD would provide services to sub-member agencies without seeking the approval of the corresponding member agency.
- *All Southern California Agencies* – MWD would provide services to any public Southern California water agency without regard to its status within MWD.
- *Private Agencies* – MWD would provide services to private water companies.
- *Other Local Governments And NGOs* – MWD would provide services to public agencies, such as park districts, as well as non-governmental organizations, such as watershed protection groups.

### ***Full Service vs Cafeteria***

The question is, must customers of MWD participate financially in all services. Or, can they select and pay for just those services that they want.

### ***Potential Services***

To varying extents, MWD is providing most of these services now. Again, MWD could provide some or all of these services.

- *Average Year Supply: SWP/CR* – MWD would provide water from the SWP and Colorado River during average and wet years.
- *Average Year Supply: Other Sources* – MWD would acquire water from other sources such as water transfers.
- *Dry Year Supply: SWP/CR* – MWD would draw down its reservoirs that store SWP and Colorado River water to provide water during periods of drought. This would include both releases from surface reservoirs and extractions of SWP/CR water from conjunctive use projects
- *Dry Year Supply: Other Sources* – MWD would provide dry year supplies from sources besides the SWP/CR. Such sources would include dry year transfers and extractions of non-SWP/CR water banked in conjunctive use basins.

- *Transportation* – MWD would transport water from its acquisition point to its delivery point.
- *Additional Supply And/Or Transportation Capacity In Anticipation Of Future Demands* – Built out areas might not be interested in expending additional funds for increasing capacity that they (built out areas) will not need.
- *Treatment: MWD Supplies* – MWD would treat the water it supplies to make it potable.
- *Treatment: Local Supplies* – MWD would treat local water agencies' supply to make it potable.
- *Water Conservation Cop* – While MWD has strongly encouraged its member agencies to promote water conservation, some member agencies have been more successful than others. MWD could have the power to establish and impose water conservation standards upon member agencies.
- *Transfers Broker* – MWD could be the point of contact for persons interested in transfers within MWD service area. MWD might have first right of refusal. If MWD did refuse, MWD could then offer the transfer to any of its member agencies, then submember agencies, then anyone.
- *Financial Partners In Local Programs* – MWD would grant funds for local programs that improve the local area's water reliability or quality. This would include local conservation programs, water recycling projects, and groundwater protection projects.
- *Recycling/Reclamation As Owner Operator* – MWD would become a regional reclaimed water wholesaler. MWD would build reclamation plants and sell reclaimed water through its member agencies.
- *Groundwater Cleanup: As Potential Claimant To Rights* – MWD would clean impaired groundwater basins and establish an appropriate right to the then usable groundwater.
- *Desalination – Developer And Marketer of Supplies OR of Technologies* – MWD would develop desalination technology. The purpose could be to either sell or license the technology or to develop and deliver new potable supplies.
- *Regional Water Resources Planning* – MWD would develop "The" water resources management plan for the entire South Coast Region. MWD's regional plan would be the official plan. Local agencies would be either required to develop conforming plans, or allowed to develop independent plans, which may or may not conform to MWD's plan.
- *R&D On New Technologies* – MWD would research and develop technical solutions to a variety of its water management challenges using MWD staff and facilities. This would be instead of contracting out for such technologies. Such research could include water treatment technologies, water management models and software, or groundwater monitoring technologies. In addition to using these technologies itself, MWD would then either sell or license these technologies, or release these technologies into the public domain.

- *Expertise/Consulting* – For a fee, MWD would, offer its expert staff as consultants to the local, state, national, or international water industry. Potentially, clients could be both public and private agencies.
- *Property Management* – MWD owns a lot of property. MWD could actively market access to these properties for a variety of uses. In addition, instead of simply selling any properties deemed “excess” to current and projected needs, MWD could develop the properties.
- *Advocacy* – MWD could be the official advocate for regional water issues. Such advocacy could include:
  - Lobbying
  - Education
  - Public outreach
  - Intergovernmental affairs
 Since MWD would be the official advocate for the region, MWD might be given the power to impose sanctions for any member agency that countered the official regional position.

## **IMPLICATIONS FOR GOVERNANCE & STRUCTURE**

The answer to the question, “What role should MWD play?” has significant ramifications for MWD. These include:

- *Representation On Board* – The broader MWD’s scope of authority, the more people will want to ensure they are represented. Moreover, the mix of services MWD provides might have implications for the necessary qualifications of board members.
- *Pricing Of Services* – Under Proposition 218, the price of services must reasonably reflect the costs of services. Otherwise, the fee may be a tax, subject to voter approval. The precise application of Proposition 218 to water services is at this point unclear.<sup>26</sup> However, if some services are provided for some areas, and not for others, it might be necessary to “unbundle” the pricing structure and more closely tie fees to services.

## **WHO IS BEST SUITED TO MAKE THESE POLICIES & HOW SHOULD THEY MAKE DECISIONS?**

The previous section dealt with defining MWD's job. Now I turn to the question of who is best suited to ensure MWD does its job properly.

### **CURRENT STATUS & CONFLICTS**

How does one know a good board from a bad board? In the corporate world, the key measure is the financial return to stockholders. However, other characteristics of a good corporate board include:

- Ability to make timely decisions,
- Ability to identify and consider alternative strategies,
- Ability to anticipate and avoid major problems, and
- Ability to adapt to changing circumstances.

In addition to those characteristics, public boards must meet other requirements as well. These include:

- Both be and appear to be representative of the interests of the affected interest groups,
- Have an open and inclusive decision making, and
- Be fair and ethical in their dealings with the public and each other.

So, how does MWD's current structure measure up? The answer depends greatly upon one's perspective.\*

The current system of governing MWD assumes a lot of things, including:

- MWD's purpose is to meet member agency needs.
- To best meet those needs, each member agency must appoint at least one board member.
- Member agencies with a greater financial stake in MWD need more representatives and more votes on the board.
- Assessed valuation is the best measure of the financial stake.
- A three-percent (soon to be five-percent) relative share is the appropriate threshold for additional board members.

A number of board members argue that this is how it should be. However, as noted in the section "Whose Interests Should MWD Serve," a number of others believe MWD's focus ought to be elsewhere, such as the person at the tap. This suggests the board should

---

\* For background on MWD's board of directors and their voting rules, see O'Connor (1998), pp. 15-18, 34-44

reflect a different perspective, which further suggests someone besides the member agencies should select the board. Two important first steps, then, are to identify what those perspectives should be and who instead should do the selecting.

Many of MWD's board members complain of problems with the current board structure. At the board's October 22, 1998 workshop, the consultants asked, "What are the significant liabilities of Metropolitan?" Over 40 percent of the board's responses were about problems with the board. These included comments such as:

- "Agency representation (voting) is no longer equitable"
- "Lack of central direction by the board"
- "Lack of interest in directors to do the homework necessary to make informed decisions"
- "Government by 'kitchen cabinet', excluding open board discussions"
- "Board unwilling to discuss the 'undiscussibles'"
- "Its lack of vision and resistance to change"<sup>27</sup>

These comments strongly suggest that the board does not have many of the characteristics of a good board.

Many people both inside and outside of MWD note that even if each member agency had only one director, MWD would still have a very large board. They point to research showing that reducing the size of corporate boards makes them more efficient.<sup>28</sup> Indeed, a recent survey of corporate CEOs showed over 60 percent felt the ideal board had 7 to 9 members.<sup>29</sup> This suggests that even if it is determined that MWD should have a member agency focus, a smaller board might be desirable.

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.

Generally, the populace elects governing boards of special districts. Nationally, the populace elects the governing boards of more than half of all special districts in the U.S.<sup>30</sup> Here in California, the governing boards of over 95 percent of water districts stand for election.

### ***Significance To The Proponents Of Change***

Changing MWD's governing board means changing MWD's form of governance. Consequently, for those preferring alternate forms of government, these questions get to the heart of their issue. The selection, number and qualifications of board members also has relevance to those wanting to avoid or resolve disputes. To the extent MWD's governing body reflects and is united behind a common purpose, disputes at least within

the board should be at a minimum. Unfortunately, these questions have little direct relevance to those wishing to avoid the turmoil of the past. Those problems stemmed largely from an ambiguous purpose and will be prevented more directly by resolving MWD's focus, role, and service mix.

## THE QUESTION IN DETAIL

Again, I have just touched on the broad policy issues regarding MWD's proper role in meeting Southern California's water needs. The detailed questions and potential answers follow.

### *Who Selects*

The answer to the question, "Whose interests MWD is to serve," in large part determines the person or persons that select the governing body. The interests of those selecting the governing body should reflect interests of the group(s) MWD is to serve. Selecting bodies and the interests they represent include the following:

- *Each Member Agency Appoints* – The MWD board would be composed of at least one director appointed by each member agency.
- *All Member Agencies Get A Say* – Representatives of all MWD member agencies would select the board of directors. This would be somewhat akin to stockholders electing members to their board. In this case, member agencies would act as the stockholders. Each member agency would have its own block of votes. Candidates to the board would be elected by a majority vote of the votes cast. Other options could be election by a plurality or by a super-majority.

The question of how many votes should each member agency cast is critical. If the analogy to stockholders holds, then some measure of "shareholder equity" would be appropriate. For example, one potential measure of shareholder equity could be the present value of total contributions to MWD's assets. Such assets might include not only investments in capital, but also the value of any water rights turned over to MWD as a condition of annexation.

- *Governor/Legislature Appointments* – The Governor and Legislature would appoint the members of the board. One option would be similar to that proposed by Assemblyman Bruce Thompson in AB 1919 for the Special Commission on Metropolitan Water District.<sup>31</sup> That bill called for a 15-member board, 13 members appointed by the Governor and one member each by the President Pro Tempore of the Senate and the Speaker of the Assembly. The Governor's appointees would represent specific interest groups, such as member cities, private water companies within member municipal water districts, etc.
- *General Populace* – The general populace would elect members to the board. Districts would be apportioned by population. Assuming a 7-member board, each director would represent about 2.3 million Southern Californians.



- *Director of DWR* – MWD would become a part of the Department of Water Resources, similar to the State Water Project. The Director of DWR, through his or her staff, would oversee operation of MWD.

### ***Conditions of Appointment***

After determining who selects, the conditions of appointment need to be defined. These conditions include determining the following:

- *Full/Part Time* – Would board members serve either full or part time?
- *Paid/Volunteer* – Would board members be salaried, paid a per diem and expenses, or volunteer their time?
- *Fixed Terms/At Pleasure* – Would board members serve either fixed terms or at the pleasure of the appointing body?

### ***Special Qualifications?***

Depending on the interests MWD is to serve, board members might have to meet specific requirements. These might include:

- *Professional Background* – Such requirements might be that a certain number of directors must have specific professional skills or background. For example, the board might have positions designated specifically for a civil engineer or a hydrologist.
- *Special Interest Group* – The board might be required to have a certain number of representatives of specific interest groups. Such groups might include:
  - Member agencies,
  - Submember agencies,
  - Private water companies,
  - Water replenishment districts,
  - The Southern California business community,
  - Environmental interest groups, or
  - The general populace.

### ***How Many?***

The number of representatives is also important. On the one hand, there needs to be sufficient members to ensure proper representation of the interests MWD is to serve. On the other hand, the more people on the board, the less likely it will make decisions efficiently.

- *More Than 27* – Assuming each member agency is allowed to appoint at least one member to the board, a key question is, “Should some member agencies have more than one director? And if so, why?” If the answer to the first part is “Yes”, then the answer to “why” would provide insight into how to determine the criteria for determining how many more per member agency. For example, assume the answer to “why” is that some member agencies rely more on MWD for water than other

member agencies, and therefore are more affected by MWD decisions than others. Then some measure of reliance would be the appropriate criterion.

- 27 – If the answer to the first part of the previous question is “No,” then the representative interests of all member agencies are equal (though there could still be weighted voting – see below).
- *Around 13* – This is a proxy for the number of specific targeted interest groups that might need to be represented on the board. The actual number of interests would determine the precise number.
- 7-9 – This is the ideal size of a corporate board, according to surveys of corporate CEOs.
- *One* – This is the benign dictator option. Most likely, this option would be selected only if MWD became a part of the DWR or was completely privatized.

### ***Voting Rules***

Weighted voting for board members is important only if representatives are not all created equal *and* it is important to capture the nuances of this inequality in the governance structure. 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.

### **IMPLICATIONS FOR GOVERNANCE & STRUCTURE**

The structure of MWD’s board should reflect the governance requirements of MWD. As such, the board does not have implications for governance and structure as much as it reflects MWD’s governance and structure. Still, the size and type of governing body does have some further implications.

- *Place Within Water Policy Hierarchy* – The two extremes would be:
  - If MWD was part of DWR, the MWD itself would not have any influence – any influence would derive from the Director of DWR.
  - If the MWD board was elected by the populace, each director would carry the political weight of potentially millions of people – the Chair of the Board might rival the director of DWR or any other water authority in California.

## ALTERNATE GOVERNANCE STRUCTURES

### INTRODUCTION

In the previous three sections, I posed a series of questions.

- Whose interests should MWD serve?
- What should be MWD's role in meeting Southern California's water needs?
- Who is best suited to make these policies and oversee the programs?

The answers to these questions describe what is and is not MWD's job, its ideal governance structure and its decision making process.

Many readers will have answered these questions for themselves as they read along. A number might be asking themselves at this point, "So, what would MWD look like in my ideal world?" To help answer that, I have developed six alternate governance structures based on my assessment of likely answers. The six alternate governance structures are:

- Finely Focused *Status quo*
- Supply & Delivery Joint Authority
- Corporate Model
- Representative Government
- State Board
- No MWD – DWR Operates

For each alternative, I first describe the essential characteristics of the structure. I then highlight key features of the alternative; such as how the board is selected, the types of services it would offer, etc. I conclude each section by assessing how well the alternative addresses the motives of those pondering changes to MWD's governance. In addition, I have included a checklist showing the answers to all the questions that led to each option.

Please note – I am recommending none of these alternatives. Instead, they are my attempt to describe what type of MWD would result from likely sets of answers. Also, I have provided only general descriptions of these alternatives. Additional details would need to be developed before pursuing any option. My purpose simply is to:

1. Illustrate how different perspectives on MWD's proper role can lead to different perspectives on the type of organization MWD should be.
2. Describe by example a framework whereby people can explore their own views of what sort of MWD makes the most sense based on their own assessment of whose interest MWD should serve, what is MWD's proper role, etc.

## FINELY FOCUSED STATUS QUO

Essentially, this model is the current MWD. I have suggested some changes to resolve some outstanding issues. However, MWD's mission remains to be to meet member agencies' needs both now and in the future, while recognizing the contributions made in the past.

MWD's role would continue to be the master planner of Southern California's water resources. MWD would develop the plan and the member agencies would implement it. MWD would continue to prohibit transfers among member agencies. However, there is a change regarding transfers from outside its service area. MWD would remain the sole contact point for anyone interested in transferring water into MWD's service area. However, MWD would no longer vigorously protect its monopoly right to supplying supplemental water to its member agencies. Instead, MWD would simply have a first right of refusal to any transfer. If MWD declines the transfer, MWD would offer the transfer to any of its member or submember agencies. The notion here is that while the characteristics of a proposed transfer might not fit with MWD's needs (because of cost, quantity, timing, etc.) it might fit well within a local agency's needs. By using MWD as the gatekeeper, it prevents potential marketers from playing one agency off another to get better terms and/or higher profits. Any transfer requiring MWD's facilities to transport the water would require a separate agreement with MWD. This suggests revisiting MWD's wheeling policy to ensure consistency.

<b>Finely Focused Status Quo</b>			
<b>Whose Interests Should MWD Serve?</b>	<b>What Is MWD's Role?</b>	<b>Customers of MWD</b>	<b>Who Is Best Suited Make &amp; Oversee Policy?</b>
Interest Groups <input checked="" type="checkbox"/> Member Agencies <input type="checkbox"/> All Wholesale <input type="checkbox"/> All Retail <input type="checkbox"/> All Ratepayers <input type="checkbox"/> So. Calif. Population <input type="checkbox"/> All Calif. Population <input type="checkbox"/> Other Gov. & NGOs	<b>Functions</b> <input type="checkbox"/> Simple Supply/Delivery <input type="checkbox"/> Bold Supply/Delivery <input type="checkbox"/> Regional Facilitator <input checked="" type="checkbox"/> Regional Planner <input type="checkbox"/> Regional Manager	<input checked="" type="checkbox"/> Member Agencies <input type="checkbox"/> Submember Agencies <input type="checkbox"/> Public Water Agencies <input type="checkbox"/> Private Water Co.s <input type="checkbox"/> Other Local Governments & NGOs	<b>Who Selects</b> <input checked="" type="checkbox"/> Each MA Appoints <input type="checkbox"/> Each MA Has Say <input type="checkbox"/> Governor and/or Legislature Appoints <input type="checkbox"/> General Population <input type="checkbox"/> Director of DWR
Some or All <input type="checkbox"/> All <input type="checkbox"/> Super Majority <input checked="" type="checkbox"/> Simple Majority	<b>Types of Water</b> <input checked="" type="checkbox"/> Imported <input type="checkbox"/> Local Groundwater <input type="checkbox"/> Local Surface <input type="checkbox"/> Reclaimed <input type="checkbox"/> Conserved Water <input checked="" type="checkbox"/> Desalinated Water	<b>Services</b> <input checked="" type="checkbox"/> Ave Yr Supply – SWP/CR <input checked="" type="checkbox"/> Ave Yr Supply – Other <input checked="" type="checkbox"/> Dry Yr Supply – SWP/CR <input checked="" type="checkbox"/> Dry Yr Supply – Other <input checked="" type="checkbox"/> Transport – MWD <input checked="" type="checkbox"/> Transportation – Wheeling <input checked="" type="checkbox"/> Future Capacity/ Supplies <input checked="" type="checkbox"/> Water Treatment – MWD <input type="checkbox"/> Water Treatment – Other <input type="checkbox"/> Water Conservation Cop	<b>Conditions of Appointment</b> <input type="checkbox"/> Full Time <input checked="" type="checkbox"/> Part Time <input type="checkbox"/> Salaried <input type="checkbox"/> Per Diem <input checked="" type="checkbox"/> Volunteer <input checked="" type="checkbox"/> Fixed Term <input checked="" type="checkbox"/> At Pleasure
Timeframe Reference <input checked="" type="checkbox"/> Prior Ratepayer <input checked="" type="checkbox"/> Current Ratepayers <input checked="" type="checkbox"/> Future Ratepayers	<b>Sole Supplier of Supplemental Water</b> <input checked="" type="checkbox"/> Local Sources <input checked="" type="checkbox"/> Imported Sources	<input type="checkbox"/> Water Conservation Cop <input type="checkbox"/> Transfers Broker <input checked="" type="checkbox"/> Financial Assistance <input type="checkbox"/> Reclaimed Water – Owner <input type="checkbox"/> GW Cleanup – Claimant <input checked="" type="checkbox"/> Desalination – Technology <input checked="" type="checkbox"/> Desalination – Supplies <input checked="" type="checkbox"/> Regional Water Planner <input checked="" type="checkbox"/> R&D – Water Treat Tech	<b>Special Qualifications</b> <input type="checkbox"/> Professional Background <input type="checkbox"/> Special Interest Group
<b>Key:</b> <input type="checkbox"/> Does not apply <input checked="" type="checkbox"/> Might or might not apply <input checked="" type="checkbox"/> Definitely Applies	<b>Place In Hierarchy</b> <input type="checkbox"/> Chief Policy-maker Or, Subservient To: <input checked="" type="checkbox"/> Member Agencies <input checked="" type="checkbox"/> Legislature <input type="checkbox"/> DWR <input type="checkbox"/> Local/Regional Govt.'s <input type="checkbox"/> General Population	<input type="checkbox"/> Water Treatment – Other <input type="checkbox"/> Water Conservation Cop <input type="checkbox"/> Transfers Broker <input checked="" type="checkbox"/> Financial Assistance <input type="checkbox"/> Reclaimed Water – Owner <input type="checkbox"/> GW Cleanup – Claimant <input checked="" type="checkbox"/> Desalination – Technology <input checked="" type="checkbox"/> Desalination – Supplies <input checked="" type="checkbox"/> Regional Water Planner <input checked="" type="checkbox"/> R&D – Water Treat Tech <input checked="" type="checkbox"/> Expert Consulting <input checked="" type="checkbox"/> Property Mgt. <input checked="" type="checkbox"/> Advocacy	<b>How Many?</b> <input checked="" type="checkbox"/> More Than 27 <input type="checkbox"/> 27 <input type="checkbox"/> ~13 <input type="checkbox"/> 7-9 <input type="checkbox"/> 1
	<b>Mix of Services</b> <input checked="" type="checkbox"/> All Services <input type="checkbox"/> Cafeteria		<b>Voting Rules</b> <input checked="" type="checkbox"/> Weighted Voting <input type="checkbox"/> One Person -- One Vote

MWD, while remaining the principal focus for Southern California water issues, would be subservient to the policies of a majority of its member agencies (through the MWD board) and the state legislature. This means that MWD would make policies, and member agencies would be free to take any actions not contrary to board policies.

MWD's customers would remain its member agencies and services would remain bundled – notwithstanding Proposition 218. MWD's current mix of services would also remain the same, with two possible exceptions. Dry years' supplies would be distributed based on the board's new drought policy. This assumes that upon adoption of the new policy the board would seek legislation to eliminate the preferential water rights. The other possible change affects wheeling. If, under a first right of refusal policy, the potential for an active transfers market developed, the board might revisit its water wheeling policies to facilitate such transfers.

Member agencies would continue to appoint their own board members. Each member agency would have at least one board member. The threshold for additional board members would be 5 percent of assessed value as established by SB 1885. Each member agency would be able to establish many of their own conditions of appointment, such as fixed term versus at pleasure appointments. Each member agency would also determine whether their appointees needed to possess any special characteristics. Finally, the board would continue to use a weighted voting system based on assessed value.

### ***Significance To The Proponents Of Change***

As might be expected, this structure does little to satisfy those interested in changing MWD. The suggested changes in transfers and drought water allocation policies would have lessened some of the problems in the past. However, until MWD eliminates preferential water rights and changes its wheeling policy to facilitate water transfers, these problems could reoccur.

Moreover, this structure does little to prepare MWD for future challenges. It does not move toward better matching individual member agency's needs to the services MWD provides. MWD will continue to take actions that disproportionately benefit some member agencies, yet are paid equally by all. In addition, the current structure will continue to have difficulties avoiding or resolving disputes. MWD does not have an effective dispute resolution process. That does not mean it could not develop one – it just means that its current approach does not seem to work all the time.

Finally, this structure does nothing for those that prefer alternate governance structures. On the other hand, some of those who prefer *status quo* – and there are many – may find even my simple suggested changes troubling as well. For them, MWD ought to be the sole supplier of all supplemental water to Southern California. From their perspective, if MWD did fail over the last 2-3 years, it was because MWD failed in its mission to provide sufficient water to meet all its member agencies needs. They believe that if you fix that problem, you have fixed most of MWD's problems.

## SUPPLY & DELIVERY JOINT AUTHORITY

This option significantly reduces the breadth of MWD actions. Instead of MWD acting as a regional water planning authority, it becomes a simple supply and delivery agency. Its focus would be delivering SWP and Colorado River water to its member agencies. The agency would deliver water from other sources only if *ALL* member agencies agreed.

MWD would become a joint powers authority – composed of each of its 27 member agencies. Through a series of interlocking contracts and/or memoranda of understanding, virtually all of MWD’s specific powers would be delineated. This would include:

- Rules for allocating water during both average drought years,
- Rate schedules for water supplies and water deliveries,
- Scope and limitations on authority to develop new supplies,
- Voting rules and rules for resolving disputes on the board, and
- Rules and rates for wheeling water.

These interlocking contracts are the source of both the strength and weakness of the joint authority. Its strength comes from the duties and responsibilities of each party being explicitly spelled out. In a well-designed joint authority, there are few areas of ambiguity. However, the fact that interlocking contracts define the relationships means that relatively simple changes in governance require amending 27 separate contracts. This can mean that one party can veto the wishes of all the others.

<b>Supply &amp; Delivery Joint Authority</b>			
<b>Whose Interests Should MWD Serve?</b>	<b>What Is MWD’s Role?</b>	<b>Customers of MWD</b>	<b>Who Is Best Suited Make &amp; Oversee Policy?</b>
Interest Groups <input checked="" type="checkbox"/> Member Agencies <input type="checkbox"/> All Wholesale <input type="checkbox"/> All Retail <input type="checkbox"/> All Ratepayers <input type="checkbox"/> So. Calif. Population <input type="checkbox"/> All Calif. Population <input type="checkbox"/> Other Gov. & NGOs	Functions <input type="checkbox"/> Simple Supply/Delivery <input checked="" type="checkbox"/> Bold Supply/Delivery <input type="checkbox"/> Regional Facilitator <input type="checkbox"/> Regional Planner <input type="checkbox"/> Regional Manager	<input checked="" type="checkbox"/> Member Agencies Submember Agencies <input type="checkbox"/> Public Water Agencies <input type="checkbox"/> Private Water Co.s <input type="checkbox"/> Other Local Governments & NGOs	Who Selects <input checked="" type="checkbox"/> Each MA Appoints <input type="checkbox"/> Each MA Has Say <input type="checkbox"/> Governor and/or Legislature Appoints <input type="checkbox"/> General Population <input type="checkbox"/> Director of DWR
Some or All <input checked="" type="checkbox"/> All <input type="checkbox"/> Super Majority <input type="checkbox"/> Simple Majority	Types of Water <input checked="" type="checkbox"/> Imported <input type="checkbox"/> Local Groundwater <input type="checkbox"/> Local Surface <input type="checkbox"/> Reclaimed <input type="checkbox"/> Conserved Water <input type="checkbox"/> Desalinated Water	Services <input checked="" type="checkbox"/> Ave Yr Supply – SWP/CR <input checked="" type="checkbox"/> Ave Yr Supply – Other <input checked="" type="checkbox"/> Dry Yr Supply – SWP/CR <input checked="" type="checkbox"/> Dry Yr Supply – Other <input checked="" type="checkbox"/> Transport – MWD <input checked="" type="checkbox"/> Transportation – Wheeling <input type="checkbox"/> Future Capacity/ Supplies <input checked="" type="checkbox"/> Water Treatment – MWD <input type="checkbox"/> Water Treatment – Other <input type="checkbox"/> Water Conservation Cop <input type="checkbox"/> Transfers Broker <input type="checkbox"/> Financial Assistance <input type="checkbox"/> Reclaimed Water – Owner <input type="checkbox"/> GW Cleanup – Claimant <input type="checkbox"/> Desalination – Technology <input type="checkbox"/> Desalination – Supplies <input type="checkbox"/> Regional Water Planner <input type="checkbox"/> R&D – Water Treat Tech <input type="checkbox"/> Expert Consulting <input type="checkbox"/> Property Mgt. <input type="checkbox"/> Advocacy	Conditions of Appointment <input type="checkbox"/> Full Time <input checked="" type="checkbox"/> Part Time <input type="checkbox"/> Salaried <input type="checkbox"/> Per Diem <input checked="" type="checkbox"/> Volunteer <input type="checkbox"/> Fixed Term <input type="checkbox"/> At Pleasure
Timeframe Reference <input type="checkbox"/> Prior Ratepayer <input checked="" type="checkbox"/> Current Ratepayers <input type="checkbox"/> Future Ratepayers	Sole Supplier of Supplemental Water <input type="checkbox"/> Local Sources <input type="checkbox"/> Imported Sources		Special Qualifications <input type="checkbox"/> Professional Background <input type="checkbox"/> Special Interest Group
<b>Key:</b> <input type="checkbox"/> Does not apply <input checked="" type="checkbox"/> Might or might not apply <input checked="" type="checkbox"/> Definitely Applies	Place In Hierarchy <input type="checkbox"/> Chief Policy-maker Or, Subservient To: <input checked="" type="checkbox"/> Member Agencies <input checked="" type="checkbox"/> Legislature <input type="checkbox"/> DWR <input checked="" type="checkbox"/> Local/Regional Govt.’s <input type="checkbox"/> General Population		How Many? <input type="checkbox"/> More Than 27 <input checked="" type="checkbox"/> 27 <input type="checkbox"/> ~13 <input type="checkbox"/> 7-9 <input type="checkbox"/> 1
	Mix of Services <input checked="" type="checkbox"/> All Services <input type="checkbox"/> Cafeteria		Voting Rules <input type="checkbox"/> Weighted Voting <input checked="" type="checkbox"/> One Person -- One Vote

The joint authority would no longer be the sole supplier of supplemental water in Southern California, either from sources within or outside of its service area. Indeed, it would be the local agency's responsibility to close any supply/demand gaps. This means that member agencies would be free to transfer water either into the region or within the region. In this diminished role, MWD would make few policies. However, it would still have clout as the largest SWP contractor.

The joint authority would provide water supply, water delivery, and possibly water treatment. Responsibility for the other activities that MWD currently performs would fall back upon the member agencies or possibly DWR, such as in the case of regional water planning.

The joint authority would have a 27-member board composed of the general managers of the member agencies. The board would meet periodically, but an executive director would make most of the day to day policy decisions (of which there would be few).

### ***Significance To The Proponents Of Change***

This model has features attractive to many interested in changing MWD. The joint authority would have clearly defined rules for allocating water during drought *AND* member agencies would be clearly responsible for closing any supply/demand gaps. In addition, the rules for wheeling would be set in the contracts. Because all parties would know precisely what was and was not allowed, most of the problems associated with the SDCWA/IID deal would be avoided.

This structure is appealing to some concerned about MWD's future challenges also. Because the joint authority would provide few services, there would be few services to unbundle. When negotiating the contracts, each agency would detail the services they need and determine how to pay for them. If an agency's needs changed, it could fill the need outside of the joint authority. Moreover, because the contracts describe each agency's rights and responsibilities, many conflicts due to different interpretations could be avoided.

Some of those who prefer alternate governance structures prefer joint authorities. The certainty that interlocking contracts can give is appealing to many. However, this particular structure is probably more appealing to those who prefer smaller and less costly government. Under the joint authority described here, MWD would no longer do many of its current activities. Moreover, this structure would be conducive to greater water marketing opportunities. This is because the joint authority would not hold a monopoly on providing supplemental water. Since member agencies would be responsible for closing any supply/demand gaps, one option for closing the gap would be water transfers.

## CORPORATE MODEL

Under this model, MWD is reorganized along business lines. The current member agencies would act as stockholders. Each agency would receive shares comparable to the net present value of their contributions to capital (equity). At the annual shareholders meeting, the agencies would vote their shares to elect directors to a 9-member board. No more than four MWD directors could be directors of member agencies, employees of MWD or member agencies, or otherwise associated with MWD or its member agencies. MWD would pay all MWD directors for the time they serve on the board.

The board would manage MWD as a corporation. Its mission would be something like, “To meet the needs of all of today’s ratepayers by anticipating the needs of tomorrow’s ratepayers. By doing so, MWD will also meet the needs of its member agencies.”

The board would make all major policy decisions. It could not prevent competition for any service it provides. All would be free to compete against MWD. Consequently, it would determine which services it would and would not provide based on MWD’s competitiveness. If MWD can provide the service cheaper than its competition, it will. If it cannot, it will not. To assess its competitiveness, MWD would develop a management plan that might or might not become the *de facto* regional water plan. Member agencies would be free to follow the plan or not. The board would also hire and fire the general manager and other senior staff.

Corporate Model			
Whose Interests Should MWD Serve?	What Is MWD’s Role?	Customers of MWD	Who Is Best Suited Make & Oversee Policy?
Interest Groups <input checked="" type="checkbox"/> Member Agencies <input type="checkbox"/> All Wholesale <input type="checkbox"/> All Retail <input checked="" type="checkbox"/> All Ratepayers <input type="checkbox"/> So. Calif. Population <input type="checkbox"/> All Calif. Population <input type="checkbox"/> Other Gov. & NGOs	Functions <input checked="" type="checkbox"/> Simple Supply/Delivery <input checked="" type="checkbox"/> Bold Supply/Delivery <input checked="" type="checkbox"/> Regional Facilitator <input checked="" type="checkbox"/> Regional Planner <input type="checkbox"/> Regional Manager	<input checked="" type="checkbox"/> Member Agencies <input checked="" type="checkbox"/> Submember Agencies <input checked="" type="checkbox"/> Public Water Agencies <input checked="" type="checkbox"/> Private Water Co.s <input checked="" type="checkbox"/> Other Local Governments & NGOs	Who Selects <input type="checkbox"/> Each MA Appoints <input checked="" type="checkbox"/> Each MA Has Say <input type="checkbox"/> Governor and/or Legislature Appoints <input type="checkbox"/> General Population <input type="checkbox"/> Director of DWR
Some or All <input type="checkbox"/> All <input type="checkbox"/> Super Majority <input checked="" type="checkbox"/> Simple Majority	Types of Water <input checked="" type="checkbox"/> Imported <input checked="" type="checkbox"/> Local Groundwater <input checked="" type="checkbox"/> Local Surface <input checked="" type="checkbox"/> Reclaimed <input checked="" type="checkbox"/> Conserved Water <input checked="" type="checkbox"/> Desalinated Water	Services <input checked="" type="checkbox"/> Ave Yr Supply – SWP/CR <input checked="" type="checkbox"/> Ave Yr Supply – Other <input checked="" type="checkbox"/> Dry Yr Supply – SWP/CR <input checked="" type="checkbox"/> Dry Yr Supply – Other <input checked="" type="checkbox"/> Transport – MWD <input checked="" type="checkbox"/> Transportation – Wheeling <input checked="" type="checkbox"/> Future Capacity/ Supplies <input checked="" type="checkbox"/> Water Treatment – MWD <input checked="" type="checkbox"/> Water Treatment – Other <input checked="" type="checkbox"/> Water Conservation Cop	Conditions of Appointment <input type="checkbox"/> Full Time <input checked="" type="checkbox"/> Part Time <input checked="" type="checkbox"/> Salaried <input type="checkbox"/> Per Diem <input type="checkbox"/> Volunteer <input checked="" type="checkbox"/> Fixed Term <input type="checkbox"/> At Pleasure
Timeframe Reference <input type="checkbox"/> Prior Ratepayer <input checked="" type="checkbox"/> Current Ratepayers <input checked="" type="checkbox"/> Future Ratepayers	Sole Supplier of Supplemental Water <input type="checkbox"/> Local Sources <input checked="" type="checkbox"/> Imported Sources	<input checked="" type="checkbox"/> Transfers Broker <input checked="" type="checkbox"/> Financial Assistance <input checked="" type="checkbox"/> Reclaimed Water – Owner <input checked="" type="checkbox"/> GW Cleanup – Claimant <input checked="" type="checkbox"/> Desalination – Technology <input checked="" type="checkbox"/> Desalination – Supplies <input checked="" type="checkbox"/> Regional Water Planner <input checked="" type="checkbox"/> R&D – Water Treat Tech	Special Qualifications <input checked="" type="checkbox"/> Professional Background <input checked="" type="checkbox"/> Special Interest Group
<b>Key:</b> <input type="checkbox"/> Does not apply <input checked="" type="checkbox"/> Might or might not apply <input checked="" type="checkbox"/> Definitely Applies	Place In Hierarchy <input type="checkbox"/> Chief Policy-maker Or, Subserving To: <input checked="" type="checkbox"/> Member Agencies <input checked="" type="checkbox"/> Legislature <input type="checkbox"/> DWR <input type="checkbox"/> Local/Regional Govt.’s <input checked="" type="checkbox"/> General Population	<input checked="" type="checkbox"/> Expert Consulting <input checked="" type="checkbox"/> Property Mgt. <input checked="" type="checkbox"/> Advocacy	How Many? <input type="checkbox"/> More Than 27 <input type="checkbox"/> 27 <input checked="" type="checkbox"/> ~13 <input type="checkbox"/> 7-9 <input type="checkbox"/> 1
	Mix of Services <input type="checkbox"/> All Services <input checked="" type="checkbox"/> Cafeteria		Voting Rules <input type="checkbox"/> Weighted Voting <input checked="" type="checkbox"/> One Person -- One Vote



It is difficult to predict precisely which services a corporate MWD might provide or to whom. It would likely offer its services cafeteria style and more closely tie the cost of providing services to the services provided. It would probably continue to provide water supply to the member agencies from the Colorado River and SWP. It might provide water from other sources to member agencies or possibly other water agencies. The board would probably consider expanding capacity to fast growing areas – though the new service areas would likely carry all the costs to expand. It quite possibly would move into the water wheeling business. The local programs might continue, though the board might impose strings such as claiming or otherwise controlling a portion of the newly developed water.

A corporate MWD might just as easily sell or lease some of its assets. For example, it might spin off the water quality laboratory. The board also might form a collaborative relation with a private company, for instance to develop desalination technologies. The board might consider contracting out some of its activities; for example, the asset management program.

### ***Significance To The Proponents Of Change***

While this structure is most appealing to some of those preferring alternate forms of governments, it also has some appealing aspects to others interested in change.

It is difficult to tell precisely how well this structure would have prevented the conflicts of the last few years. While a corporate MWD would be interested in transporting SDCWA-IID transfer water “if the price was right,” one could say the same for the current structure. The difference would be that a corporate MWD would have already unbundled its services. Therefore, it might have used a different cost accounting system to determine the break-even price for wheeling. It is impossible to know if this price would have been significantly different than that set under current MWD policies.

Still, it is possible that a corporate MWD would be desirable to those interested in meeting the challenges of the future. A corporate MWD, in its quest to meet the needs of all ratepayers, would likely tie the costs of providing a service closely to the price of the service. This way, if someone wanted MWD to provide an additional service, it would not affect the prices others pay for other services. This would also help MWD avoid conflicts. This is because a corporate MWD would have the flexibility to accommodate the different needs of different customers, so long as it was cost-effective. Still, conflicts could arise if someone wanted to force MWD to provide a service it chose not to provide.

A corporate MWD has great appeal for some of those who prefer alternate forms of government, especially those who prefer smaller and more streamlined governments. This structure incorporates virtually all the tools privatization advocates promote. It does fall short of simply selling MWD. This is because it is probably not feasible for a private MWD to remain a SWP contractor.<sup>32</sup> Still, for privatization advocates, it is probably the next best thing.

## REPRESENTATIVE GOVERNMENT

In this option, an elected board governs MWD. MWD's service area would be apportioned into seven districts based on population. The populace of each district would directly elect their representative to the MWD board. The board members would be salaried, work full time, and serve staggered four-year terms. Term limits are clearly an option. Under a representative MWD, member agencies would have no special status or rights. Instead, the board would be responsible only to the electorate.

The representative MWD would be regional water manager for Southern California. It would control MWD's imported supplies, would likely move heavily into water reclamation, and could conceivably seek control over the Southland's groundwater basins. It would be the sole supplier of supplemental water, both from imported and local sources. And given that each director would initially represent over 2 million people, the board would clearly be the chief water policy maker as well.

The populace, through the elections process, would largely determine the board's philosophy. Consequently, it is difficult to predict precisely which services a representative MWD might provide or to whom. For example, the board could adopt the philosophy of "one Southern California." In this case, the board would allocate water supplies during droughts using a "common pool" concept. This is where the board would conceptually commingle all available water into a common pool, and then redistribute the water to all on an equal basis. Similarly, the board could instead focus on reducing costs, ending cross-subsidies, and more closely tying the cost of providing services to the services provided.

<b>Representative Government</b>			
<b>Whose Interests Should MWD Serve?</b>	<b>What Is MWD's Role?</b>	<b>Customers of MWD</b>	<b>Who Is Best Suited Make &amp; Oversee Policy?</b>
Interest Groups <input type="checkbox"/> Member Agencies <input type="checkbox"/> All Wholesale <input type="checkbox"/> All Retail <input type="checkbox"/> All Ratepayers <input checked="" type="checkbox"/> So. Calif. Population <input type="checkbox"/> All Calif. Population <input type="checkbox"/> Other Gov. & NGOs	<b>Functions</b> <input type="checkbox"/> Simple Supply/Delivery <input type="checkbox"/> Bold Supply/Delivery <input type="checkbox"/> Regional Facilitator <input type="checkbox"/> Regional Planner <input checked="" type="checkbox"/> Regional Manager	<input checked="" type="checkbox"/> Member Agencies <input checked="" type="checkbox"/> Submember Agencies <input checked="" type="checkbox"/> Public Water Agencies <input checked="" type="checkbox"/> Private Water Co.s <input checked="" type="checkbox"/> Other Local Governments & NGOs	<b>Who Selects</b> <input type="checkbox"/> Each MA Appoints <input type="checkbox"/> Each MA Has Say <input type="checkbox"/> Governor and/or Legislature Appoints <input checked="" type="checkbox"/> General Population <input type="checkbox"/> Director of DWR
Some or All <input type="checkbox"/> All <input type="checkbox"/> Super Majority <input checked="" type="checkbox"/> Simple Majority	<b>Types of Water</b> <input checked="" type="checkbox"/> Imported <input checked="" type="checkbox"/> Local Groundwater <input checked="" type="checkbox"/> Local Surface <input checked="" type="checkbox"/> Reclaimed <input checked="" type="checkbox"/> Conserved Water <input checked="" type="checkbox"/> Desalinated Water	<b>Services</b> <input checked="" type="checkbox"/> Ave Yr Supply – SWP/CR <input checked="" type="checkbox"/> Ave Yr Supply – Other <input checked="" type="checkbox"/> Dry Yr Supply – SWP/CR <input checked="" type="checkbox"/> Dry Yr Supply – Other <input checked="" type="checkbox"/> Transport – MWD <input checked="" type="checkbox"/> Transportation – Wheeling <input checked="" type="checkbox"/> Future Capacity/ Supplies <input checked="" type="checkbox"/> Water Treatment – MWD <input checked="" type="checkbox"/> Water Treatment – Other <input checked="" type="checkbox"/> Water Conservation Cop	<b>Conditions of Appointment</b> <input checked="" type="checkbox"/> Full Time <input type="checkbox"/> Part Time <input checked="" type="checkbox"/> Salaried <input type="checkbox"/> Per Diem <input type="checkbox"/> Volunteer <input checked="" type="checkbox"/> Fixed Term <input type="checkbox"/> At Pleasure
Timeframe Reference <input type="checkbox"/> Prior Ratepayer <input checked="" type="checkbox"/> Current Ratepayers <input type="checkbox"/> Future Ratepayers	<b>Sole Supplier of Supplemental Water</b> <input checked="" type="checkbox"/> Local Sources <input checked="" type="checkbox"/> Imported Sources	<input checked="" type="checkbox"/> Water Conservation Cop <input checked="" type="checkbox"/> Transfers Broker <input checked="" type="checkbox"/> Financial Assistance <input checked="" type="checkbox"/> Reclaimed Water – Owner <input checked="" type="checkbox"/> GW Cleanup – Claimant <input checked="" type="checkbox"/> Desalination – Technology <input checked="" type="checkbox"/> Desalination – Supplies <input checked="" type="checkbox"/> Regional Water Planner <input checked="" type="checkbox"/> R&D – Water Treat Tech	<b>Special Qualifications</b> <input type="checkbox"/> Professional Background <input type="checkbox"/> Special Interest Group
<b>Key:</b> <input type="checkbox"/> Does not apply <input checked="" type="checkbox"/> Might or might not apply <input checked="" type="checkbox"/> Definitely Applies	<b>Place In Hierarchy</b> <input checked="" type="checkbox"/> Chief Policy-maker Or, Subservient To: <input type="checkbox"/> Member Agencies <input type="checkbox"/> Legislature <input type="checkbox"/> DWR <input type="checkbox"/> Local/Regional Govt.'s <input type="checkbox"/> General Population	<input checked="" type="checkbox"/> Expert Consulting <input checked="" type="checkbox"/> Property Mgt. <input checked="" type="checkbox"/> Advocacy	<b>How Many?</b> <input type="checkbox"/> More Than 27 <input type="checkbox"/> 27 <input type="checkbox"/> ~13 <input checked="" type="checkbox"/> 7-9 <input type="checkbox"/> 1
	<b>Mix of Services</b> <input checked="" type="checkbox"/> All Services <input checked="" type="checkbox"/> Cafeteria		<b>Voting Rules</b> <input type="checkbox"/> Weighted Voting <input checked="" type="checkbox"/> One Person -- One Vote

Nonetheless, a representative MWD would most likely continue to provide water supply to the member agencies from the Colorado River and SWP as well as from other sources. The board would probably expand capacity and supply water to fast growing areas. It is uncertain whether a representative MWD would facilitate water transfers and wheeling. The local programs would likely continue, and the board might decide to move heavily into water reclamation and water conservation itself. Indeed, the Legislature could give a representative MWD the power to establish and impose water conservation standards upon all Southern Californians.

### ***Significance To The Proponents Of Change***

Again, this structure is most appealing to some of those preferring alternate forms of governments. It might also have some appealing aspects to others interested in change.

For those interested in preventing a repeat of the past, the advantages of this option are uncertain. Clearly, to a representative MWD, the preferential rights concept would have little if any relevance. However, it is not clear precisely how a representative MWD would allocate water during droughts. Similarly, it is not clear whether or not a representative MWD would maintain a monopoly on supplemental water supplies. While it is hard to imagine the conflicts of the last few years being any more hostile, it is also difficult to assess how much better it would have been under a representative structure. For example, instead of SDCWA disagreeing with the City of Los Angeles under the current structure, the disagreement could be between the board members representing the San Diego region and the Downtown Los Angeles region.

The advantages are similarly uncertain for those wanting to prepare MWD for future challenges. Presumably, a representative MWD would be open to meeting local area needs. However, individual board members interested in protecting the interests of their district might oppose programs that benefit a limited region. Similarly, it is unclear how well prepared an elected board would be to meeting the challenges of the future. It might be great. Or, it might fail miserably. It depends largely upon who all are elected and why.

This structure has greatest appeal to those who want to democratize MWD. This option takes water policy out of the hands of the water establishment and places it into the hands of the general populace. Over 95 percent of all public water districts in California have elected boards. Consequently, this would make MWD's governance more consistent with the rest of California. Moreover, to the extent board members made unpopular decisions, the electorate could simply elect someone else. In theory at least, this means that the populace would have whatever type of MWD they want.

## STATE BOARD

The principal purpose of this option is to ensure all those affected by MWD policies and programs would have a voice on the board. Consequently, the MWD board would be composed of a specified mix of MWD member agencies, sub-member agencies, public and private retail water agencies, representatives from water using industries, NGOs, and the public. The Governor would appoint the members subject to Senate confirmation. Each board member would have one vote. The board members would work part time, be paid a per diem, and serve staggered four-year terms. Under a state board MWD, the concept of member agencies would no longer have any meaning. Instead, member agencies would simply be the wholesale customer of MWD.

The state board MWD would function as a regional water facilitator. Individual water agencies would have primary responsibility for meeting local water needs. MWD would assist by providing services on an as needed basis. It would continue to supply and transport water from the SWP, the Colorado River, and other sources. However, its main purpose would be to facilitate regional cooperation and mediate regional disputes. For example, it would likely develop a regional water resources plan through a consensus decision making process.\* Similarly, it could recommend non-binding solutions to regional conflicts between, for example, users of a non-regulated groundwater basin.

<b>State Board</b>			
<b>Whose Interests Should MWD Serve?</b>	<b>What Is MWD's Role?</b>	<b>Customers of MWD</b>	<b>Who Is Best Suited Make &amp; Oversee Policy?</b>
Interest Groups <input checked="" type="checkbox"/> Member Agencies <input checked="" type="checkbox"/> All Wholesale <input checked="" type="checkbox"/> All Retail <input checked="" type="checkbox"/> All Ratepayers <input checked="" type="checkbox"/> So. Calif. Population <input checked="" type="checkbox"/> All Calif. Population <input checked="" type="checkbox"/> Other Gov. & NGOs	<b>Functions</b> <input type="checkbox"/> Simple Supply/Delivery <input type="checkbox"/> Bold Supply/Delivery <input checked="" type="checkbox"/> Regional Facilitator <input type="checkbox"/> Regional Planner <input type="checkbox"/> Regional Manager	<input checked="" type="checkbox"/> Member Agencies <input checked="" type="checkbox"/> Submember Agencies <input checked="" type="checkbox"/> Public Water Agencies <input checked="" type="checkbox"/> Private Water Co.s <input checked="" type="checkbox"/> Other Local Governments & NGOs	<b>Who Selects</b> <input type="checkbox"/> Each MA Appoints <input type="checkbox"/> Each MA Has Say <input checked="" type="checkbox"/> Governor and/or Legislature Appoints <input type="checkbox"/> General Population <input type="checkbox"/> Director of DWR
Some or All <input type="checkbox"/> All <input checked="" type="checkbox"/> Super Majority <input checked="" type="checkbox"/> Simple Majority	<b>Types of Water</b> <input checked="" type="checkbox"/> Imported <input type="checkbox"/> Local Groundwater <input type="checkbox"/> Local Surface <input type="checkbox"/> Reclaimed <input type="checkbox"/> Conserved Water <input type="checkbox"/> Desalinated Water	<b>Services</b> <input checked="" type="checkbox"/> Ave Yr Supply – SWP/CR <input checked="" type="checkbox"/> Ave Yr Supply – Other <input checked="" type="checkbox"/> Dry Yr Supply – SWP/CR <input checked="" type="checkbox"/> Dry Yr Supply – Other <input checked="" type="checkbox"/> Transport – MWD <input checked="" type="checkbox"/> Transportation – Wheeling <input checked="" type="checkbox"/> Future Capacity/ Supplies <input checked="" type="checkbox"/> Water Treatment – MWD <input checked="" type="checkbox"/> Water Treatment – Other <input type="checkbox"/> Water Conservation Cop <input checked="" type="checkbox"/> Transfers Broker <input checked="" type="checkbox"/> Financial Assistance	<b>Conditions of Appointment</b> <input type="checkbox"/> Full Time <input checked="" type="checkbox"/> Part Time <input type="checkbox"/> Salaried <input checked="" type="checkbox"/> Per Diem <input type="checkbox"/> Volunteer <input checked="" type="checkbox"/> Fixed Term <input type="checkbox"/> At Pleasure
Timeframe Reference <input type="checkbox"/> Prior Ratepayer <input checked="" type="checkbox"/> Current Ratepayers <input checked="" type="checkbox"/> Future Ratepayers	<b>Sole Supplier of Supplemental Water</b> <input type="checkbox"/> Local Sources <input type="checkbox"/> Imported Sources	<input type="checkbox"/> Reclaimed Water – Owner <input type="checkbox"/> GW Cleanup – Claimant <input type="checkbox"/> Desalination – Technology <input type="checkbox"/> Desalination – Supplies <input checked="" type="checkbox"/> Regional Water Planner <input checked="" type="checkbox"/> R&D – Water Treat Tech <input checked="" type="checkbox"/> Expert Consulting <input checked="" type="checkbox"/> Property Mgt. <input checked="" type="checkbox"/> Advocacy	<b>Special Qualifications</b> <input checked="" type="checkbox"/> Professional Background <input checked="" type="checkbox"/> Special Interest Group
<b>Key:</b> <input type="checkbox"/> Does not apply <input checked="" type="checkbox"/> Might or might not apply <input checked="" type="checkbox"/> Definitely Applies	<b>Place In Hierarchy</b> <input type="checkbox"/> Chief Policy-maker Or, Subservient To: <input checked="" type="checkbox"/> Member Agencies <input checked="" type="checkbox"/> Legislature <input checked="" type="checkbox"/> DWR <input checked="" type="checkbox"/> Local/Regional Govt.'s <input checked="" type="checkbox"/> General Population		<b>How Many?</b> <input type="checkbox"/> More Than 27 <input type="checkbox"/> 27 <input checked="" type="checkbox"/> ~13 <input type="checkbox"/> 7-9 <input type="checkbox"/> 1
	<b>Mix of Services</b> <input type="checkbox"/> All Services <input checked="" type="checkbox"/> Cafeteria		<b>Voting Rules</b> <input type="checkbox"/> Weighted Voting <input checked="" type="checkbox"/> One Person -- One Vote

\* Probably similar to the process MWD used in developing its Integrated Resources Plan (IRP).

A state board MWD would provide its services cafeteria style to all water users. Most services would be on a fee for service basis. The member agencies would become mere wholesale customers of MWD. Conceivably, MWD could also provide water directly to state and federal agencies, such as Caltrans or the U.S. military bases. A state board MWD would likely wheel non-MWD supplies. In addition, it might act as a broker for water transfers, provide funds for local water programs, or conduct research and development studies for advanced water treatment technologies.

It is difficult to tell precisely where a state board MWD would fit in the water policy hierarchy. It would definitely be subservient to the Legislature. However, if it truly acted as a regional facilitator, it would probably be the equal of the other water policy makers.

### ***Significance To The Proponents Of Change***

This structure appeals to many of those pondering change. For those interested in preventing a repeat of the past, this option has certain attractive features. Preferential rights would have little if any relevance to a state board MWD. While it is not clear precisely how it would allocate water during droughts, some sort of “share the pain” approach seems most likely. However, the proposed state board MWD would not maintain a monopoly on supplemental water supplies.

The state board MWD is also attractive to those wanting to prepare MWD for future challenges. It provides cafeteria style services, so agencies would pay for only those services they receive. In its role as regional facilitator, one of its mandates would be to resolve local disputes. This suggests a state board MWD would have policies designed to:

1. Identify potential conflicts before they became problems, and
2. Resolve conflicts once they became problems.

This structure has greatest appeal to those who want to ensure that someone represents their perspective on the board. Each position of the board would be assigned to representatives of specific interest groups. Consequently, ensuring that all relevant interests are represented on the board will be the biggest challenge when designing the state board MWD.

**No MWD – DWR OPERATES**

This option eliminates MWD as an independent body and makes it an extension of the DWR. Each member agency would become a SWP contractor. This would require quantifying each member agency’s entitlements to SWP water. Similarly, DWR would likely develop SWP like contracts with each member agency to repay Colorado River Aqueduct costs. This too would require quantifying water entitlements. Most member agencies would have two contracts with DWR, one for SWP water and one for Colorado River water. Those member agencies that can only receive water from one or the other source because of physical constraints would have only one contract with DWR.

The Director of DWR would become the administrator of the former MWD. MWD would become a simple supply and delivery system. Consequently, the former member agencies would be responsible for meeting local water needs. In operating the two systems, the Director would attempt to balance the interests of all Californians with those of the MWD contractors, subject to specific contract requirements.\*

The former MWD’s clout in the water policy hierarchy would be greatly diminished. The former member agencies would have no more or less influence on state water policy than any other SWP contractor. However, the Director of DWR, having gained responsibility for the Colorado Aqueduct, would see his or her prestige rise.

<b>No MWD – DWR Operates</b>			
<b>Whose Interests Should MWD Serve?</b>	<b>What Is MWD’s Role?</b>	<b>Customers of MWD</b>	<b>Who Is Best Suited Make &amp; Oversee Policy?</b>
Interest Groups <input type="checkbox"/> Member Agencies <input type="checkbox"/> All Wholesale <input type="checkbox"/> All Retail <input type="checkbox"/> All Ratepayers <input type="checkbox"/> So. Calif. Population <input checked="" type="checkbox"/> All Calif. Population <input type="checkbox"/> Other Gov. & NGOs	<b>Functions</b> <input checked="" type="checkbox"/> Simple Supply/Delivery <input type="checkbox"/> Bold Supply/Delivery <input type="checkbox"/> Regional Facilitator <input type="checkbox"/> Regional Planner <input type="checkbox"/> Regional Manager	<input checked="" type="checkbox"/> Member Agencies <input type="checkbox"/> Submember Agencies <input type="checkbox"/> Public Water Agencies <input type="checkbox"/> Private Water Co.s <input type="checkbox"/> Other Local Governments & NGOs	<b>Who Selects</b> <input type="checkbox"/> Each MA Appoints <input type="checkbox"/> Each MA Has Say <input type="checkbox"/> Governor and/or Legislature Appoints <input type="checkbox"/> General Population <input checked="" type="checkbox"/> Director of DWR
Some or All <input type="checkbox"/> All <input type="checkbox"/> Super Majority <input type="checkbox"/> Simple Majority	<b>Types of Water</b> <input checked="" type="checkbox"/> Imported <input type="checkbox"/> Local Groundwater <input type="checkbox"/> Local Surface <input type="checkbox"/> Reclaimed <input type="checkbox"/> Conserved Water <input type="checkbox"/> Desalinated Water	<b>Services</b> <input checked="" type="checkbox"/> Ave Yr Supply – SWP/CR <input type="checkbox"/> Ave Yr Supply – Other <input checked="" type="checkbox"/> Dry Yr Supply – SWP/CR <input type="checkbox"/> Dry Yr Supply – Other <input checked="" type="checkbox"/> Transport – MWD <input checked="" type="checkbox"/> Transportation – Wheeling <input type="checkbox"/> Future Capacity/ Supplies <input checked="" type="checkbox"/> Water Treatment – MWD <input type="checkbox"/> Water Treatment – Other <input type="checkbox"/> Water Conservation Cop	<b>Conditions of Appointment</b> <input checked="" type="checkbox"/> Full Time <input type="checkbox"/> Part Time <input checked="" type="checkbox"/> Salaried <input type="checkbox"/> Per Diem <input type="checkbox"/> Volunteer <input type="checkbox"/> Fixed Term <input type="checkbox"/> At Pleasure
Timeframe Reference <input type="checkbox"/> Prior Ratepayer <input checked="" type="checkbox"/> Current Ratepayers <input type="checkbox"/> Future Ratepayers	<b>Sole Supplier of Supplemental Water</b> <input type="checkbox"/> Local Sources <input type="checkbox"/> Imported Sources	<input type="checkbox"/> Transfers Broker <input type="checkbox"/> Financial Assistance <input type="checkbox"/> Reclaimed Water – Owner <input type="checkbox"/> GW Cleanup – Claimant <input type="checkbox"/> Desalination – Technology <input type="checkbox"/> Desalination – Supplies <input type="checkbox"/> Regional Water Planner <input type="checkbox"/> R&D – Water Treat Tech <input type="checkbox"/> Expert Consulting <input type="checkbox"/> Property Mgt. <input type="checkbox"/> Advocacy	<b>Special Qualifications</b> <input type="checkbox"/> Professional Background <input type="checkbox"/> Special Interest Group
<b>Key:</b> <input type="checkbox"/> Does not apply <input checked="" type="checkbox"/> Might or might not apply <input checked="" type="checkbox"/> Definitely Applies	<b>Place In Hierarchy</b> <input type="checkbox"/> Chief Policy-maker Or, Subservient To: <input type="checkbox"/> Member Agencies <input checked="" type="checkbox"/> Legislature <input checked="" type="checkbox"/> DWR <input type="checkbox"/> Local/Regional Govt.’s <input type="checkbox"/> General Population		<b>How Many?</b> <input type="checkbox"/> More Than 27 <input type="checkbox"/> 27 <input type="checkbox"/> ~13 <input type="checkbox"/> 7-9 <input checked="" type="checkbox"/> 1
	<b>Mix of Services</b> <input checked="" type="checkbox"/> All Services <input type="checkbox"/> Cafeteria		<b>Voting Rules</b> <input type="checkbox"/> Weighted Voting <input type="checkbox"/> One Person -- One Vote

\* This is how the Director of DWR traditionally operates the SWP.

Each agency's contract with DWR would define:

- The agency's entitlement to water
- The costs allocated to the agency
- The method of allocating water during periods of shortage.

DWR would not provide any service to member agencies that are not specifically identified in the contracts. This likely limits DWR services to simple supply and delivery of whatever water is available from the SWP and Colorado River. It is not clear whether DWR would continue MWD's current water treatment services. However, DWR would likely provide wheeling services for both former member agencies and others. DWR might provide financial or consultative services to the former member agencies. However, this would be through one of DWR's other statewide programs.

### ***Significance To The Proponents Of Change***

For those interested in preventing a repeat of the past, this option has some attractive features. Specific delivery rules defined in the contracts would replace preferential rights. These rules would likely be to reduce each contractor's deliveries in proportion to their contract entitlements.\* Moreover, the former MWD would not maintain a monopoly on supplemental water supplies and it would have clear rules on wheeling water. Consequently, many if not all of the MWD-SDCWA conflicts would be avoided.

The no MWD option is perhaps less attractive to those wanting to prepare MWD for future challenges. The contracts between agencies and DWR would clearly limit services to the former member agencies. This would force the agencies to find alternative sources for many services they currently receive. On the other hand, this also means a former member agency would be free to not replace any services it felt it did not need. Dispute resolution, however, remains a problem. Currently, the Director of DWR has sole authority to interpret and implement the SWP contracts – the contractors' only mechanism to force DWR to change is via the courts.

As this option eliminates a level of government, it has greatest appeal to those who want to streamline government and reduce costs. DWR already has contracts with 29 SWP contractors. While there would be some initial cost to establish contracts with 27 new member agencies, beyond that there should be little additional overhead.† In addition, with the elimination of MWD, the former member agencies would have to assume additional responsibilities. This suggests there could be a number of opportunities for contracting out for services or otherwise privatizing services.

---

\* This is how SWP contracts operate.

† There is no reason to believe DWR's costs of running the MWD distribution system would be significantly more than MWD's costs.

## ENDNOTES

- <sup>1</sup> Ruben S. Ayala, Chairman, Conference Committee on SB 1885. Letter to Dean Miczynski, Director, California Research Bureau, California State Library. August 24, 1998.
- <sup>2</sup> Section 135 (The Metropolitan Water District Act is not codified)
- <sup>3</sup> O'Connor (1998), Table 10, p. 22.
- <sup>4</sup> O'Connor (1998), Table 11, p. 23.
- <sup>5</sup> Debra C. Man. Memo to Board of Directors. Board Letter 8-10, Attachment A, August 25, 1998
- <sup>6</sup> Metropolitan Water District Administrative Code §4202.
- <sup>7</sup> The Senate Select Committee on Southern California Water Districts' Expenditures & Governance attempted to document some of more egregious claims – at least from the Legislature's perspective. See Senate Select Committee on Southern California Water Districts' Expenditures & Governance, Senator Ruben S. Ayala, Chairman, "Report of Findings and Legal Analysis" [May 19, 1998].and "Supplement To Report of Findings and Legal Analysis" June 24, 1998.
- <sup>8</sup> Board members posted 21 comments critical of the current system – six comments were favorable. PricewaterhouseCoopers and Rand Corporation. *Metropolitan Water District Strategic Visioning Project: Summary of Comments and Discussion Notes from Board Workshop One.* 09/24/98, pp.28-31
- <sup>9</sup> PricewaterhouseCoopers and Rand Corporation. *Metropolitan Water District Strategic Visioning Project: Summary of Comments and Discussion Notes from Board Workshop Two.* 10/22/98, p. 9.
- <sup>10</sup> PricewaterhouseCoopers and Rand Corporation. 09/24/98, pp.28
- <sup>11</sup> William D. Eggers, *Rightsizing Government: Lessons from America's Public-Sector Innovations.* How To Guide #11, (Los Angeles: The Reason Foundation), January 1994. p. 2
- <sup>12</sup> William D. Eggers, *Privatization Opportunities for States.* Policy Study # 154, (Los Angeles: The Reason Foundation), January, 1993. p. 5
- <sup>13</sup> For a fairly complete list of options, see: William D. Eggers, ed. *Cutting Local Government Costs Through Competition and Privatization.* (Sacramento, CA: California Chamber of Commerce, California Taxpayers Association, Howard Jarvis Taxpayers Foundation, and the Reason Public Policy Institute). 1997.
- <sup>14</sup> The MWD board of directors has hired John Carver to help it refocus its internal governance. In their book *Reinventing Your Board*, John Carver and Miriam Mayhew Carver, refer to those whose interests a board serves as the *recipients* of the *results*. Recipients, results, and *costs* are the three essential components of what Carver refers to as *ends statements*. Carver, John and Miriam Mayhew Carver. *Reinventing Your Board: A Step-by-Step Guide to Implementing Policy Governance.* (San Francisco: Jossey-Bass Inc. 1997). Chapter 7.
- <sup>15</sup> PricewaterhouseCoopers and Rand Corporation. 09/24/98, p. 31.
- <sup>16</sup> PricewaterhouseCoopers and Rand Corporation. 10/22/98, p. 8.
- <sup>17</sup> PricewaterhouseCoopers and Rand Corporation. 10/22/98, p. 9.
- <sup>18</sup> PricewaterhouseCoopers and Rand Corporation. 10/22/98, p. 51.
- <sup>19</sup> Metropolitan Water District. *Strategic Plan.* Preliminary Plan. July 1, 1993. p. 8.
- <sup>20</sup> This is somewhat analogous to the Carvers' notion of "Level One Ends Statements." See Carver & Carver, *op. cit.*
- <sup>21</sup> PricewaterhouseCoopers and Rand Corporation. 09/24/98, p. 32.



- 
- <sup>22</sup> Metropolitan Water District of Southern California, Integrated Resources Plan Assembly, *Assembly Statement*, San Pedro, Calif.: MWD, March 29-31, 1995, p. 13.
- <sup>23</sup> PricewaterhouseCoopers and Rand Corporation. 10/22/98, p. 18.
- <sup>24</sup> Statutes of 1927, Chapter 429.
- <sup>25</sup> California Water Code, §10005
- <sup>26</sup> See Dean Misczynski. *Proposition 218 After Two Years*. CRB-98-016, (Sacramento: California Research Bureau). October 1998
- <sup>27</sup> PricewaterhouseCoopers and Rand Corporation. 10/22/98, pp. 7-13
- <sup>28</sup> See, for example, The Conference Board, *Corporate Boards and Corporate Governance*, Report Number 1036, 1993.
- <sup>29</sup> National Association of Corporate Directors. *1997 Corporate Governance Survey*. (Washington, DC: NACD), November 1997.
- <sup>30</sup> G. Ross Stephens and Nelson Wikstrom. "Trends in Special Districts." *State and Local Government Review*. Vol. 30, No. 2 (Spring 1998): 129-138
- <sup>31</sup> As amended 4/16/98
- <sup>32</sup> See Dennis O'Connor, *Financing the State Water Project*, (Sacramento: California Research Bureau, California State Library, June 1994)