

MWD RATE CASE LITIGATION

The cornerstone of San Diego County's water supply diversification strategy is a set of agreements signed in 2003 to secure independent water supplies from the Colorado River. Today, half of the San Diego region's water comes from this source. The Water Authority pays the Metropolitan Water District of Southern California to transport these supplies to San Diego County because MWD currently owns the only large-scale conveyance facilities in Southern California for transporting Colorado River water.

However, there has long been disagreement about how much MWD can legally charge to move that water.

The Water Authority filed suit in 2010 challenging MWD's rates for this transportation service, and filed additional lawsuits in 2012, 2014, 2016 and 2018 because MWD continued using the same flawed methodology and cost allocations.

In early 2020, following actions by MWD in its recognition of some of the Appellate Court decisions, the Water Authority's Board of Directors voted to dismiss

certain legal claims against MWD – a major step toward resolving the litigation while protecting the interests of San Diego County ratepayers.

The Water Authority remains committed to working with MWD on important issues, including updates to MWD's long-range water resource and financing plans, as well as advancing other policies and programs to promote long-term water supply reliability and fiscal sustainability for San Diego County and the rest of Southern California.

LEGAL VICTORIES PROVIDE MAJOR REGIONAL BENEFITS

The litigation enforced cost-of-service principles for all MWD water ratepayers and produced significant benefits for water ratepayers across the San Diego region.

In January 2021, the San Francisco Superior Court ruled that the Water Authority is the prevailing party in the agency's first two rate-case lawsuits covering 2011-2014.



~ \$500 MILLION
FUNDING AGREEMENTS
SECURED BY WATER
AUTHORITY FOR MEMBER
AGENCY PROJECTS IN
SAN DIEGO COUNTY

100,000 ACRE-FEET
COURT-ORDERED INCREASE
IN WATER AUTHORITY'S
RIGHT TO MWD WATER

\$44.4 MILLION
IN MWD OVERCHARGES REFUNDED TO WATER AUTHORITY
MEMBER AGENCIES AS A RESULT OF COURT VICTORIES

MWD then repaid the Water Authority \$44.4 million in damages and interest for those years, and the Water Authority returned that money to its 24 member agencies across San Diego County. In her Jan. 13 order, Superior Court Judge Anne-Christine Massullo stated, “San Diego prevailed, and the judgment not only benefits its own ratepayers but all of the nearly 19 million people in Metropolitan’s service area because enforcing cost-of-service principles serves the interests of all ratepayers”. As the prevailing party, the Water Authority is also owed legal fees, though MWD is appealing.

As a result of the legal challenges, San Diego ratepayers also avoided paying more than \$80 million from 2018-2022 because MWD did not collect the illegal charges during those years. That brings the total recovery on this issue to more than \$125 million that directly benefits water ratepayers in San Diego County. Had the improper charges continued, they would have cost local residents more than \$500 million over the life of the Water Authority’s water delivery contract.

But that was not the only important victory for the Water Authority. The court also ordered MWD to increase the Water Authority’s right to MWD water by approximately 100,000 acre-feet a year, equivalent to about twice the annual production of the \$1 billion Carlsbad Desalination Project. MWD has complied with this ruling and adjusted its records.

And, the court ruled that MWD had illegally barred the Water Authority from receiving money from MWD’s local water supply incentive program, even though the Water Authority was forced to pay for the program. MWD lifted the ban in response to the court’s order, and in late 2019 and early 2020 approved funding for five water supply projects in San Diego County:

- \$23.6 million for the Fallbrook Groundwater Desalter Project
- \$42.7 million for the City of Oceanside Pure Water & Recycled Water Expansion Phase I
- \$285.6 million for the City of San Diego’s Pure Water Project
- \$91.8 million for the East County Advanced Water Purification Project
- \$23.4 million for the Escondido Membrane Filtration Reverse Osmosis Facility Project

WHAT’S HAPPENING NOW?

As the lawsuits wind down, the Water Authority is working collaboratively with MWD and its other 25 member agencies to update MWD’s long-term water resource and financial plans. MWD’s Integrated Water Resources Plan, known as the IRP, serves as MWD’s long-term planning document to guide its resource investment decisions. The Water Authority is hopeful that through the 2020 IRP update, coupled with MWD adopting a long-range financing plan and completing a rate view, the long-term rate issues at MWD will be in a better position to be resolved.

The Water Authority also is exploring other options for the cost-effective, long-term conveyance of the San Diego region’s independent Colorado River water supplies.

MORE INFO

www.sdcwa.org/mwdrate-challenge



Colorado River Aqueduct