



PADRE DAM

AGENDA

**Board of Directors Special Board Meeting
Tuesday, October 10, 2017 - 9:30 AM
9300 Fanita Parkway, Santee, CA 92071**

- **CALL TO ORDER**
- **PLEDGE OF ALLEGIANCE**
- **OPPORTUNITY FOR PUBLIC COMMENT**
Opportunity for members of the public to address the Board (Gov. Code 54954.3)
- **ACTION AGENDA**
Items on the Action Agenda call for discussion and action by the Board. All items are placed on the Agenda so that the Board may discuss and take action on the item if the Board is so inclined.
- 1. **CONSIDERATION OF RESPONSE TO THE SEPTEMBER 29, 2017 LETTER FROM MUNICIPAL WATER DISTRICT OF ORANGE COUNTY AND RESOLUTION SUPPORTING COLLABORATION RATHER THAN LITIGATION**
Recommendation:
 1. Approve and sign the response letter to the Municipal Water District of Orange County.
 2. Adopt Resolution supporting collaboration rather than litigation between the San Diego County Water Authority and the Metropolitan Water District of Southern California and prospectively superseding Resolution 2017-08.
- **ADJOURNMENT**

NOTICE TO THE PUBLIC

This agenda was posted at least 24 hours before the meeting in a location freely accessible to the public. No action may be taken on any item not appearing on the posted agenda, except as provided by Gov. Code Section 54954.2. The complete agenda package is available for public review on the District's website, www.PadreDam.org. Any written materials provided to a majority of the Board of Directors within 72 hours prior to the meeting regarding any item on this agenda will be made available for public inspection at the District's Customer Service Center located at 9300 Fanita Parkway. For questions or request for information related to this agenda contact Amy Pederson, Board Secretary, at 619.258.4614 or apederson@padre.org.

Upon request, this agenda will be made available in appropriate alternative formats to persons with

disabilities, as required by Section 202 of the American with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should contact our ADA Coordinator: Larry Costello at 619.258.4678 or lcostello@padre.org

PUBLIC COMMENT PROCEDURES

Members of the public may address the Board regarding items not appearing on the posted agenda, which are within the subject matter jurisdiction of the Board. Speakers are requested to state name, address and topic, and observe a time limit of 3 minutes each. Public comment on a single topic is limited to a total of 15 minutes. Anyone desiring to address the Board regarding an item listed on the agenda should fill out a “request to speak” form and provide it to the Board Secretary. These forms are available in the Board Room on the counter near the entrance doors.

NEXT RESOLUTION NO. 2017-35

NEXT ORDINANCE NO. 2017-06

CERTIFICATION OF POSTING

I certify that on October 6, 2017, I posted a copy of the foregoing agenda near the regular meeting place of the Board of Directors of Padre Dam Municipal Water District, said time being at least 24 hours prior to the meeting, in accordance with Gov. Code Section 54956 (a).

Amy Pederson, Board Secretary



BOARD AGENDA REPORT

Meeting Date: 10/10/2017
 Submitted by: Allen Carlisle
 Department: Administration
 Approved by: Allen Carlisle, GM

SUBJECT: CONSIDERATION OF RESPONSE TO THE SEPTEMBER 29, 2017 LETTER FROM MUNICIPAL WATER DISTRICT OF ORANGE COUNTY AND RESOLUTION SUPPORTING COLLABORATION RATHER THAN LITIGATION

RECOMMENDATION(S):

1. Approve and sign the response letter to the Municipal Water District of Orange County.
2. Adopt Resolution supporting collaboration rather than litigation between the San Diego County Water Authority and the Metropolitan Water District of Southern California and prospectively superseding Resolution 2017-08.

ALTERNATIVE(S):

1. Modify the draft letter and resolution.
2. Do not approve the response letter to MWDOC.
3. Do not adopt the resolution supporting collaboration rather than litigation.

ATTACHMENT(S):

1. Draft response letter to MWDOC
2. Draft Resolution in Support of Collaboration
3. September 29, 2017 letter from MWDOC

FUNDING:

Requested amount: N/A
 Budgeted amount: N/A
 Are funds available? Yes No
 Project cost to date: N/A

PRIOR BOARD/COMMITTEE CONSIDERATION:

None

STRATEGIC PLAN IMPLEMENTATION:

This agenda item is consistent with the District’s Strategic Plan & meets one or more of the following Strategic Goals: Provide safe, reliable water, recycled water and sewer services; Ensure fiscal health and competitively sustainable rates; Enhance customer communications and education; Increase water, wastewater and energy independence; Maintain workforce excellence; Expand park and recreation opportunities.

Reviewed by:	Action Required:	Policy Updates:	Action Taken:
Dept Head <input checked="" type="checkbox"/>	Motion <input type="checkbox"/>	Rules & Regulations <input type="checkbox"/>	As Recommended _____
Finance <input type="checkbox"/>	Resolution <input checked="" type="checkbox"/>	Standard Practices & Policies <input type="checkbox"/>	Reso/Ord. No. _____
Legal <input checked="" type="checkbox"/>	Ordinance <input type="checkbox"/>		Other _____
Standard Form <input type="checkbox"/>	None <input type="checkbox"/>		

DESCRIPTION:

In light of the September 27, 2017 California Supreme Court denial of the San Diego County Water Authority's (Authority) Petition for Review, confirming the Court of Appeals ruling, staff would like the Board to adopt a resolution supporting collaboration between the Authority and Metropolitan Water District of Southern California (MWD) rather than litigation as a path forward to accomplishing our region's policy goals. The Court of Appeal decision has settled the law concerning the most important, long standing and substantive financial disputes between the Authority and MWD, with the Authority prevailing in an overwhelming majority of its claims against MWD. Tens of millions of ratepayer dollars have been spent on the lawsuits and the region has lost years of collaboration between the Authority and MWD. It is time to question if continued litigation is the best way forward.

In addition to the resolution, staff is asking the Board to consider a response to the Municipal Water District of Orange County letter dated September 27, 2017 which is addressed to Director Wilson. In their letter they described the decision by the California State Supreme Court not to review the San Diego County Water Authority's Petition for Review as an "opportunity for the Authority and all of the Member Agencies of the Metropolitan Water District of Southern California to turn away from expensive and wasteful litigation and to move towards effective cooperation." Their desire and offer to explore better and more productive avenues to address differences is appreciated by Padre Dam MWD. They point out that the "litigation between Southern California water agencies does not result in net gains, only net losses for our customers." In the letter they invite San Diego to join them in partnership that pools talent as we face the challenges ahead. Staff believes acknowledging and supporting this approach is appropriate.

The Board will be given the opportunity to talk through both the resolution and the letter and consider action at their discretion.

RECOMMENDATION(S):

1. Approve and sign the response letter to the Municipal Water District of Orange County.
2. Adopt Resolution supporting collaboration rather than litigation between the San Diego County Water Authority and the Metropolitan Water District of Southern California and prospectively superseding Resolution 2017-08.



October 10, 2017

Board of Directors
Municipal Water District of Orange County
18700 Ward Street
Fountain Valley, CA 92708

Dear President Osborne and Board Members,

The Padre Dam Municipal Water District Board of Directors (Padre Dam) wishes to thank you for your letter of September 29, 2017 to our San Diego County Water Authority (SDCWA) representative Doug Wilson. We appreciate the sentiment expressed in your letter that it is now time to move on from what has, for too long, been a contentious and adversarial relationship. The Padre Dam Board fully supported the legal arguments of SDCWA in its litigation against the Metropolitan Water District (MWD) and believes that in the best interests of San Diego County ratepayers it was necessary to seek redress in the courts on these very important financial issues. With the California Supreme Court's denial of SDCWA's petition for review, the decision of the Court of Appeal is final and the issues decided therein are settled law. Although not entirely the outcome we had hoped for, the courts have spoken, we accept that, and in Padre Dam's view, it is now time to, as you note in your letter, "take a new direction." In fact, we look forward to it.

Padre Dam serves over 100,000 residents and commercial businesses in eastern San Diego County and has been an active leader in water recycling since the 1960's. Working together with Orange County water agencies to advance our mutual goal of expanding water recycling in California has been a proud part of our history. We also believe that we have much in common with our fellow southern California water agencies and that cooperation and collaboration between us has always proven to better advance the goals of good water resources management and water policy for the benefit of all our customers.

Padre Dam is just one-member agency of SDCWA and in no way, intends to speak for the SDCWA Board itself, its MWD Delegates or any of its other 23-member agencies. We only speak for the Board of Directors of Padre Dam Municipal Water District. Considering that fact, as a SDCWA member agency we believe it is important to provide Padre Dam's perspective that we must find an alternative path forward in our relationship with MWD—a path that does not lead to additional years of litigation and damaging public relations campaigns that distract from the focus on the major water supply reliability challenges confronting us all.

BOARD OF DIRECTORS
Douglas S. Wilson
Augie Scalzitti
Bill Pommering
August A. Caires
James Peasley

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Finally, we believe now is the time to explore more productive directions to address the differences and work together to further our mutual goals. The need for decision makers to engage in open, honest policy discussions in a transparent and public manner- without the cloud of continued litigation- is vitally important at both MWD and at SDCWA. The interests of our ratepayers can be protected through the honest and open debate of these policy issues that will lead to good decision making. We owe it to the public we serve and the Board of Directors of the Padre Dam Municipal Water District stands ready to support that.

Sincerely,

August A. Caires
President

Bill Pommering
Vice President

Douglas S. Wilson
Director

James Peasley
Director

Augie Scalzitti
Director

Allen Carlisle
CEO/General Manager

RESOLUTION 2017-___

**RESOLUTION OF THE BOARD OF DIRECTORS OF
PADRE DAM MUNICIPAL WATER DISTRICT SUPPORTING
COLLABORATION RATHER THAN LITIGATION BETWEEN THE SAN
DIEGO COUNTY WATER AUTHORITY AND METROPOLITAN WATER
DISTRICT OF SOUTHERN CALIFORNIA AND PROSPECTIVELY
SUPERCEDING RESOLUTION 2017-08**

WHEREAS, the San Diego County Water Authority ("Water Authority") has been in litigation with the Metropolitan Water District of Southern California ("MWD"), since 2010 filing four separate lawsuits, challenging rates and charges; and

WHEREAS, two of the cases have been heard in Superior Court, Appellate Court and the California Supreme Court denied the Water Authority's Petition for Review; and

WHEREAS, the Appellate Court has remanded certain aspects of the case to the Superior Court and final dispensation is pending; and

WHEREAS, the Water Authority has two additional lawsuits pending against MWD; and

WHEREAS, Padre Dam Municipal Water District has supported determining the legality of MWD water rates through litigation by the Water Authority against MWD; and

WHEREAS, the Court of Appeal decision has settled the law concerning the most important, long standing and substantive financial disputes between the Water Authority and MWD, with the Water Authority prevailing in an overwhelming majority of its claims against MWD; and

WHEREAS, the California State Supreme Court denial of the Water Authority's Petition for Review is an opportunity for the Water Authority and MWD to turn away from expensive litigation and towards cooperation; and

WHEREAS, our Southern California region and the state as a whole continue to face some of the most serious water challenges in modern history; and

WHEREAS, the time has now come for the Board of Directors of the Water Authority to reevaluate the means with which it seeks to accomplish its policy goals as a member agency of MWD and how it conducts its relations with MWD; and

WHEREAS, the time has now come for the Board of Directors of MWD to reevaluate how it conducts its relations with the Water Authority; and

WHEREAS, the public is best served when public agencies engage in collaboration and not conflict, and openly and transparently deliberate public policy issues and seek common ground without the cloud of ongoing litigation; and

WHEREAS, the Water Authority and MWD have an opportunity to move forward in partnership on addressing the most important water supply issues facing all of Southern California and seek solutions that are in the best interest of the ratepayers and reflect sound public policy.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Padre Dam Municipal Water District as follows:

1. While Padre Dam Municipal Water District fully supported the Water Authority's litigation against MWD and believed that it was in the best interest of San Diego County ratepayers to address the very important financial issues raised in those lawsuits, now that the overwhelming majority of the issues are resolved since the Court of Appeal decision is final, the Padre Dam Municipal Water District hereby supports and urges a cessation of a litigation only strategy on the part of the Water Authority in how it seeks to achieve its policy goals at MWD and urges the Water Authority and MWD to seek collaboration in resolving disputes, not litigation between the Water Authority and MWD; and
2. The Padre Dam Municipal Water District supports fully the strategy of the Water Authority and its member agencies, on behalf of San Diego County, to continue to diversify San Diego County's water supply, by pursuing both Water Authority projects and by pursuing projects initiated at the discretion of the governing bodies of Water Authority member agencies.
3. With the denial by the California Supreme Court of the Water Authority's Petition for Review, the Padre Dam Municipal Water District hereby resolves that Resolution 2017-08 adopted on April 5, 2017 is prospectively superseded by adoption of this Resolution.

PASSED AND ADOPTED at a special meeting of the Board of Directors of the Padre Dam Municipal Water District held on October 10, 2017, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Board President

ATTEST:

Board Secretary



RECEIVED

OCT 2 2017

PADRE DAM MWD
ADMINISTRATION

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Brett R. Barbre
Vice President

Larry D. Dick
Director

Joan C. Finnegan
Director

Megan Yoo Schneider
Director

Sal Tamaribuchi
Director

Jeffery M. Thomas
Director

Robert J. Hunter
General Manager

MEMBER AGENCIES

- City of Brae
- City of Buena Park
- East Orange County Water District
- El Toro Water District
- Emerald Bay Service District
- City of Fountain Valley
- City of Garden Grove
- Golden State Water Co.
- City of Huntington Beach
- Irvine Ranch Water District
- Laguna Beach County Water District
- City of La Habra
- City of La Palma
- Mesa Water District
- Moulton Niguel Water District
- City of Newport Beach
- City of Orange
- Orange County Water District
- City of San Clemente
- City of San Juan Capistrano
- Santa Margarita Water District
- City of Seal Beach
- Serrano Water District
- South Coast Water District
- Trabuco Canyon Water District
- City of Tustin
- City of Westminster
- Yorba Linda Water District

September 29, 2017

Dear Director Doug Wilson

Wednesday's decision by the California State Supreme Court not to review the San Diego County Water Authority lawsuit is an opportunity. It is an opportunity for the Authority and all the other Member Agencies of the Metropolitan Water District of Southern California to turn away from expensive and wasteful litigation and to move towards effective cooperation. As a water community, we have lost years of collaboration as we face increasing challenges in supply and reliability. Let's take a new direction.

Historically, Orange and San Diego Counties have worked together at Metropolitan. While the San Diego is the second largest delegation at Metropolitan, the recent years of lawsuits have undermined San Diego County's influence and input there. The Water Authority has become insular and isolated in perception and practice. However, we do not need to continue the status quo.

The Municipal Water District of Orange County is willing to work with San Diego to repurpose the talent and resources that all parties have been dissipating on this exercise in legal futility towards cooperative work for reliable, cost-effective and equitable water supply solutions. Let us opt for tangible benefits to our ratepayers rather than lawyers and public relations consultants.

It is time we recognize that litigation between Southern California water agencies does not result in net gains, only net losses for our customers. The Supreme Court action presents an opportunity to put those losses behind us. Orange County invites San Diego to move forward with a partnership that amplifies the talents of our respective agencies to ensure we find equitable solutions to the complex issues associated with delivering quality water in the most cost-effective manner.

The time is now: decisions loom on the California WaterFix, the Regional Recycled Water Advanced Purification Center and other efforts to ensure long-term water reliability for Metropolitan's 23 million customers. San Diego County Water Authority should be, and can be, an important voice in those discussions with a new spirit of cooperation.

We stand ready to work with our neighbors in San Diego County for better outcomes. We invite you to consider reestablishing our once productive joint meetings of the Municipal Water District of Orange County and San Diego County Water Authority Boards and our respective Metropolitan Delegations. Let's take a new direction.

Sincerely,



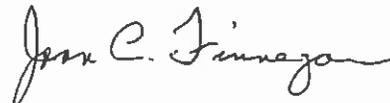
Wayne S. Osborne
MWDOC President
Division 3



Brett R. Barbre
MWDOC Vice President
Division 1
Metropolitan Water District
of Southern California, Director



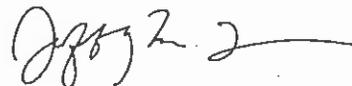
Larry D. Dick
MWDOC Director
Division 2
Metropolitan Water District
of Southern California, Director



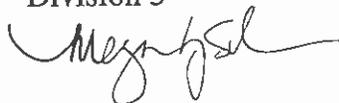
Joan C. Finnegan
MWDOC Director
Division 4



Sat Tamaribuchi
MWDOC Director
Division 5



Jeffery M. Thomas
MWDOC Director
Division 6



Megan Yoo Schneider
MWDOC Director
Division 7