

## Challengers roiling water on new plan for rationing

**By Michael Gardner**  
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SACRAMENTO – A complex water-rationing plan for most of Southern California may be running into trouble, raising the specter of drastically deeper cuts than anticipated throughout the San Diego region during dry years.

Metropolitan Water District directors were expected to approve the revamped water-sharing policy today, but its future is less certain now that the agency's top lawyer has sparked some doubts.

Directors will likely push ahead over the objections of critics who argue that only the Legislature has the power to change the current formula embedded in an 80-year-old law that created Metropolitan. But the move could open the board to potential litigation.

Several lawmakers representing dissenting agencies, mostly centered in southern Los Angeles County and Long Beach, have intervened to petition Metropolitan for a delay of up to 60 days.

In letters to the board, legislators claim the new plan would disproportionately hurt lower-income ratepayers; reward regions that approve growth without having enough water; and provide farmers with subsidized supplies at the expense of urban needs.

The San Diego County Water Authority is a strong supporter of Metropolitan's new plan. The difference between the new rationing plan and the old one could mean the difference between just pinching San Diego-area users or imposing punishing cuts.

For example, under the new proposal, Metropolitan's deliveries to the county water authority would be reduced by about 65,000 acre-feet – enough for 130,000 average households a year – if drought forces Metropolitan to order an overall 10 percent cut. The San Diego authority's loss would be about three times as much if Metropolitan's current rationing policy remains unchanged.

Metropolitan has been wrestling since July with its emergency water-sharing plan premised on weather conditions, growth and need. The new proposal, endorsed unanimously by a Metropolitan board committee yesterday, would impose a flat-percentage, across-the-board cut depending on supplies. Current policy provides more water to some and less to others.

Metropolitan's directors still would have to vote in May to impose the cuts, which would go into effect in July. The actual amount would depend on the seriousness of shortages at the time. However, the board could choose not to ration if there are adequate supplies this spring.

“This is good for every agency,” said Dennis Cushman, the San Diego authority's assistant general manager. “It's a fair allocation plan.”

Not in the view of critics, such as Kevin Wattier, general manager of the Long Beach Water Department. Wattier and others challenging the new policy argue that Metropolitan's founding charter, established in a 1928 state law, clearly defines a system of “preferential rights” for dividing water.

That historic allocation formula has been based on how much money each agency has contributed to Metropolitan's operations over its history. Those agencies in the district from the beginning paid more so they are rewarded with rights to a larger share of the water. The San Diego County Water Authority joined in 1946, after about a dozen others had already staked a claim.

Only the Legislature can change that time-honored system, critics say.

Or the courts can, the San Diego water authority once argued. The authority had sued Metropolitan, hoping a judge would overturn the allocation formula based on land values. San Diego was rebuffed at the appellate court level, and in 2004 the state Supreme Court refused to hear its appeal.

However, any new legal action emerging from the board's pending plan would probably seek to affirm the existing allocation formula – which the courts have already done as part of the earlier San Diego case.

Stepping into the latest dispute, Metropolitan General Counsel Karen Tachiki agreed with dissenting agencies that the board does not have the unilateral authority to dismiss those original preferential rights.

However, in the same opinion distributed to Metropolitan's top management late Friday, she also advised that the new plan does not on its face “revoke or modify an agency's preferential rights.”

Long Beach's Wattier said Tachiki's opinion is more confusing than clarifying. He said it could be interpreted as giving agencies the authority to independently veto cuts larger than what could be imposed under the historic preferential-rights formula.

Jeffrey Kightlinger, Metropolitan's general manager, said there are still issues that need to be worked through but he believes the board will move forward with the new plan on solid legal footing.

He conceded that some agencies may balk, which could force someone to “go see what a judge thinks.”

Metropolitan, Kightlinger said, could counter by invoking the argument that the new policy is important to protect public health and safety. That's a key legal canon that allows agencies broad authority, he said.

Long Beach is one of those agencies that would fare better under the older formula. “Our preferential rights are not being honored,” Wattier said. “The law should be complied with.”

The San Diego water authority, which buys supplies from Metropolitan for delivery to smaller agencies in the region, would fare much better under the new plan, but it would be far from painless.

The San Diego region would absorb the largest curtailments under either the proposed or current rationing plan out of all 26 of Metropolitan's member agencies, Kightlinger said.

“They take the biggest cut,” he said.



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## Water Supply Allocation Plan Adopted by Metropolitan Board

### **Although Probably Not Needed in 2008, the Plan Would Allocate Available Supplies During Shortages**

LOS ANGELES--([BUSINESS WIRE](#))--A water supply allocation plan calling for the equitable distribution of Metropolitan Water District's imported deliveries throughout Southern California in response to more challenging supply conditions was adopted today by the agency's board of directors.

Although it is unlikely the plan would be implemented this year because of improved supply conditions, Metropolitan board Chairman Timothy F. Brick said it is prudent to have in place a region-wide, water-sharing plan in case it is necessary. If the region's supply situation worsens, Metropolitan would be better equipped to manage supply shortages through the allocation plan, he said.

"Making these tough decisions is the hardest thing we do as a water board," Brick said. "Because we work so hard to provide reliable supplies, to even consider the fact that we might not have adequate supplies is a very tough thing to contemplate. This, however, is the time to do it."

Metropolitan General Manager Jeff Kightlinger said the overall guiding principle of the tiered supply allocation plan is to alleviate disparate impacts at the retail level for its 26 member public agencies across Metropolitan's service area. The plan's formula includes mechanisms to balance many considerations and help ensure that no member agencies are disproportionately impacted, he said.

"This process was intended to be a prudent and responsible way to come up with a contingency plan should we face shortages in the future," Kightlinger said. "It's important to realize that this plan is being adopted, but not implemented. It ultimately will be a Metropolitan board decision as to whether we ever come back, declare a shortage and begin allocating supplies."

The plan incorporates considerations for impact on retail customers and the economy, changes and losses in local supplies, the investment in and development of local resources, and conservation achievements.

The Metropolitan board's adoption of the plan culminates more than seven months of discussion, collaboration and negotiation among Metropolitan, its member agencies and affected local agencies. The plan also serves as the final piece of Metropolitan's 1999 Water Surplus and Drought Management Plan, which originally did not include an allocation plan.

Under the plan, Metropolitan's member agencies and their retailers would be allocated supplies partly based on their dependency on MWD, while taking into account other local sources of supply.

The plan relies on pricing to encourage agencies to reach their targeted allocated supplies. These "penalty rates" are similar to drought pricing used in many cities during the 1987-92 drought, calling for agencies to pay up to four times Metropolitan's highest priced water, depending how far they exceed their allocation. Any funds collected through penalty rates will be applied toward investments in conservation and local resources development.

The Metropolitan Water District Act (Section 135) gives each member agency a "preferential right" to purchase a proportionate share of Metropolitan's available water supply. That right is determined by that member agency's financial contributions, other than water purchases, to Metropolitan over time.

"The plan doesn't eliminate preferential rights," Kightlinger said. "However, instead of implementing preferential rights, we believe the plan provides a more evenhanded manner to distribute water under today's circumstances."

***The Metropolitan Water District of Southern California is a cooperative of 26 cities and water agencies serving 18 million people in six counties. The district imports water from the Colorado River and Northern California to supplement local supplies, and helps its members to develop increased water conservation, recycling, storage and other resource-management programs.***

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# Riverside County

## Water agency adopts drought plan for Southern California

By **JENNIFER BOWLES**  
The Press-Enterprise

A new drought plan that spells out how a reduction in water supplies would be divvied up among many Southern California cities and agencies likely will not take effect this year, but some Inland agencies are shoring up contingency plans, just in case.

Board members of Metropolitan Water District, which serves 18 million Southern Californians, adopted the drought plan Tuesday in Los Angeles, saying they want to be prepared in case drought and legal restrictions on imported water supplies continue.

The plan takes into account areas that have had growth in the last few years, like those in western Riverside County, and those that have already imposed conservation measures.

"Overall, the whole concept was to share the pain ... to make sure no retail customer and no one agency is impacted significantly more than another," said John Rossi, general manager of Western Municipal Water District. The Riverside-based agency serves 650,000 people from Corona to Temecula.

Southern California's water supply from the Sacramento Delta was reduced earlier this year by about 30 percent to protect a threatened fish. Its other main imported supply, the Colorado River, is in the grips of an eight-year drought.

However, the water content in this year's snowpack that drains into the river is 128 percent of normal, said Roger Patterson, Metropolitan's assistant general manager.

"That's the best snowpack we've had at this time of year for 11 years, so that's encouraging," Patterson said.

If the drought plan goes into effect in the future, agencies would be penalized by up to four times Metropolitan's highest-priced water, about \$530 per acre foot, if they exceed their targets.

That concerned some board members representing smaller communities in southern Los Angeles County who said their customers wouldn't be able to shoulder such steep penalties, said Randy Record, a San Jacinto farmer who is a Metropolitan board member

representing Perris-based Eastern Municipal Water District. One acre foot equals 326,000 gallons, or enough water for one family for two years.

"I certainly sympathize with that," Record said. "But it's an attempt to have people live within the means of what's appropriate in Southern California."

Rossi said his agency is developing its own plan to determine how to allocate shortages, if need be, to its own member agencies, including Temecula-based Rancho California Water District and the Elsinore Valley Municipal Water District.

Rossi said even though his agency has some local groundwater to help offset possible shortages from Metropolitan's imported supplies, officials are looking at ways to use untreated groundwater to irrigate parks and crops so the better-quality treated water can be used for drinking purposes.

"We're looking at smart ways to use water differently, so even if the shortage happens, it wouldn't have as much of an effect on drinking supplies," he said.

Record said Eastern Municipal has a contingency plan for water shortages. Depending on the shortage severity, the plan that was updated last summer begins with voluntary measures, then goes to mandatory 10 percent reductions. A third stage would, among other things, limit the days when outdoor irrigation can take place and a fourth stage would ban new lawns.

Eastern Municipal recently postponed decisions to promise that it could serve water to nine large housing and warehouse developments in western Riverside County for the next 20 years. The agency's staff and board will discuss the issue at a public workshop at 3 p.m. today at its Perris headquarters, 2270 Trumble Road.

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# Los Angeles Times

## Water board approves drought plan

**Officials in southeastern L.A. County suggest that they might challenge the decision, saying it would penalize low-income residents.**

By Deborah Schoch

Los Angeles Times Staff Writer

February 13, 2008

The Metropolitan Water District board Tuesday approved a much-disputed drought plan despite protests from officials in some southeastern Los Angeles County cities who complained that low-income residents would be penalized with higher rates.

Using a weighted voting system that is keyed to property valuation and not population, the 37-member board voted 176,523 to 14,265 to support the plan.

The cities of Los Angeles and San Diego and the Municipal Water District of Orange County were among those voting for the plan after a brief discussion.

"No" votes were cast by Long Beach and the Commerce-based Central Basin Municipal Water District, which serves 2 million people in cities along the Long Beach and San Gabriel River freeway corridors. They suggested that they might challenge the vote in court.

The cities of Commerce, Huntington Park, Norwalk and South Gate and four state legislators had asked for a 60-day delay so that local officials could study the plan's effect more closely.

Southeastern Los Angeles County cities could be hit with \$37.2 million in penalties within a 12-month period, Assemblyman Hector de la Torre (D-South Gate) -- chairman of the Assembly Rules Committee-- wrote in a letter Friday to MWD board Chairman Timothy Brick.

"The plan, while intending to conserve water during shortages, ultimately provides those who can afford to pay the steep penalties with as much water as they want, and places severe financial hardship on ratepayers who cannot afford the high price of water," De la Torre wrote.

South Gate Mayor W.H. DeWitt and Signal Hill Councilman Larry Forester spoke to the board Monday in favor of a 60-day postponement.

Los Angeles and San Diego officials have strongly backed the plan, and Los Angeles Mayor Antonio Villaraigosa described it Monday as "the most fair and equitable option I have seen for dealing with a possible water shortage." Orange County officials supported it after requesting a softening of the penalty rate structure.

MWD General Manager Jeff Kightlinger defended the decision not to delay the vote.

"We've sat and worked with folks for eight months," he said. "The plan does not treat anyone disproportionately. . . . It's time to move on and address the more important issues."

If current water shortages worsen, the plan would determine the amount of imported water that the MWD would deliver to its 26 member cities and districts serving 18 million people in six counties.

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February 13, 2008

## Southern California roundup for Feb. 13

*City News Service*

### **Met Water District OKs drought contingencies**

LOS ANGELES - A plan detailing how water will be allocated in the event of a drought was adopted Tuesday by the Metropolitan Water District's Board of Directors.

The impact on retail customers and the economy, changes in local supplies, the investment in - and development of - local resources, and conservation achievements were considered in developing the plan, MWD officials said.



## **Metropolitan approves emergency drought plan**

*By: North County Times -*

A plan that could divvy up Southern California's water supplies in emergency shortages was overwhelmingly approved Tuesday by Metropolitan Water District board members, even though some Los Angeles communities said it would be unfair to the poor.

Metropolitan officials said that 23 of the 26 cities and agencies that buy the giant water wholesaler's water -- including the San Diego County Water Authority -- voted for the plan.

The city of Long Beach and the Central Basin Municipal Water District voted against the plan. The city of Fullerton abstained.

San Diego County Water Authority officials like the new plan, which uses a complicated formula to determine how much water each of Metropolitan's member agencies would get if water cuts were necessary. Water Authority and Metropolitan officials say the plan is designed to be fairer to the 18 million residents in six Southern California counties than the across-the-board percentage cuts that were implemented during the state's last big drought in 1991.

## Leaders criticize water plan

**LOCAL: Officials in L.B., nearby cities say MWD allocation plan costs are unfair.**

By Paul Eakins, Staff Writer

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**LONG BEACH** - A water allocation plan approved this week by the Metropolitan Water District of Southern California shortchanges Long Beach and some neighboring communities, city leaders say.

If implemented, the allocation plan, which is the first of its kind designed by the MWD in case of drought, could cost Long Beach \$10 million to \$15 million in penalties, driving up local water rates by 22 percent, according to Mayor Bob Foster.

Long Beach Water Department officials said they might sue the MWD, and Foster said he couldn't rule out legal action.

The mayor said the plan doesn't allocate water using preferential rights, which is based on cities' past contributions other than water purchases to the MWD, as set forth by state legislation.

"This is not about supply," Foster said. "Every member of the Met's going to get the water they need. It's about money. It's an attempt to change a historic formula that's been embedded a long time."

Jeff Kightlinger, general manager of the MWD, said "preferential rights" have never been used and that the allocation plan spreads the water cuts "as evenly as possible" among all the member agencies.

"Long Beach would not be shouldering more of a burden than other cities under this plan," Kightlinger said.

The MWD is made up of 26 cities and water districts that provide water to nearly 18 million people in parts of Los Angeles, San Diego, San Bernardino, Orange, Ventura and Riverside counties.

The water district's 37-member board of directors voted overwhelmingly Tuesday to pass the allocation plan, with 25 in favor.

Only the board member from Long Beach and the two members from the Central Basin Municipal Water District, which serves more than 30 communities between Long Beach and Los Angeles, including Lakewood, Compton, Downey and Paramount, voted against the plan. One member abstained, and the others were absent.

Even if more communities had opposed the plan, it might not have mattered.

The votes are weighted based on property valuation, which gives larger entities more say. Of the 192,196 total votes allocated to the 37 board members, 176,523 were "yes" votes and more than 100,000 of those were made by the board members representing Los Angeles, San Diego and Orange County.

Under the plan, MWD's member agencies and their retailers would be allocated supplies partly based on their dependency on the district, while taking into account other local sources of supply.

Cities or water districts that go over their allotted water use would be penalized and could be forced to pay several times the normal water rate. Long Beach officials say that cost would get passed on to residents and business owners.

While the preferential rights system won't be used, it hasn't ever been used before anyway when dealing with drought, Kightlinger said.

The MWD has utilized water rationing twice, in 1977 and 1991, and made across-the-board cuts in water supplies without using preferential rights, he said.

Ryan Alsop, spokesman for the Long Beach Water Department, said the city's past investments in the MWD's infrastructure should give it priority.

"This water shortage allocation plan ignores those preferential rights that were granted to our city, as it does several other cities in our area," Alsop said. "We are financially penalized unnecessarily, in our opinion."

Signal Hill City Manager Ken Farfsing said Thursday the MWD hasn't made it clear how much the allocation would impact his city.

"I'd like to know that my rates aren't going to end up subsidizing the city of Los Angeles or other outlying areas," Farfsing said.

Several cities, including Downey and Lakewood, sent letters opposing the plan to the MWD board before its vote Tuesday.

However, Kightlinger said the allocation plan is fair and that his hope is not to implement it at all. He said it is unlikely to be used this year unless the region should face a severe water shortage.