



April 19, 2021

Mr. Mike Markus, P.E.
General Manager
Orange County Water District
18700 Ward Street
Fountain Valley, CA 92708

Subject: OCWD's Proposed 2021-22 Assessments and Surcharges

Mike:

The Irvine Ranch Water District (IRWD) submits this letter to object to certain aspects of the proposed Orange County Water District (OCWD) replenishment assessment (RA), basin equity assessment (BEA) and production limitation and surcharge (PL/S). In particular, IRWD renews its objections to OCWD's refusal to treat IRWD's recycled water as a Supplemental Source of water within the meaning of Section 31.5 of the OCWD Act. IRWD also objects to any calculation of a PL/S that is calculated based on groundwater used within the district, rather than groundwater produced, as specified by the OCWD Act. In support of its objections, IRWD relies on (and incorporates herein by this reference) the evidence and legal briefs submitted in the ongoing litigation entitled *Irvine Ranch Water District v. Orange County Water District* (L.A.S.C. Case No. BS 168278).

In addition, IRWD objects to OCWD's recent reports (e.g., Agenda Item Submittal from Mike Markus to OCWD Board of Directors meeting on April 21, 2021, at page 12 of 583, https://www.ocwd.com/media/9683/bod_20210421.pdf; and Agenda Item Submittal from Mike Markus to OCWD Board of Directors meeting on April 15, 2020, at page 13 of 246, https://www.ocwd.com/media/8711/bod_20200415.pdf) in which OCWD attempts to justify its PL/S on the basis of these two rationales— (1) OCWD only has “limited facilities capable of replenishing and conserving water for the benefit of users within the District. They are sized to serve the total water demand of persons within the District”; and (2) the demand for OCWD groundwater by persons outside of the District is “essentially limitless” and “unlimited pumping” would make it “virtually impossible” to manage the Basin.

Unlimited Pumping is Not Feasible:

The facts belie these assertions made in the recent OCWD reports. For example, in fiscal year (FY) 2020-21, the total water supply needs of IRWD (the primary groundwater producer with

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customer demands outside of OCWD's political boundaries¹) as described in IRWD's FY 2020-21 Operating Budget (see IRWD Operating Budget FY 2019-20 and 2020-21, page 29 of 164, https://www.irwd.com/images/pdf/about-us/Finance/adopted_operating_budget_04222019.pdf) are expected to be about 92,000 acre feet per year (AF) of which about 49,000 AF will be met with groundwater, 28,000 AF from recycled and other non-potable water, 1,000 AF from local surface water (specifically, Lake Irvine) and 14,000 AF from imported potable water. Given these demands and water sources, IRWD's demand for groundwater is not "limitless" for multiple reasons. First, pumping groundwater beyond the demands of its customers would be a violation of the California Constitution and its requirement that all water be put to beneficial use. Second, IRWD would not pump more groundwater in lieu of recycled water because the wastewater that IRWD uses to produce its recycled water is continually generated and would be wasted if IRWD does not convert it to recycled water using its existing recycled water facilities. Therefore, the maximum amount of additional groundwater that IRWD would produce is directly tied to the amount of imported water it plans to purchase, which is currently 14,000 AF and not unlimited. The argument that the PL/S is justified based on unlimited IRWD demands is untenable.

PL/S is not needed for Basin Management:

If IRWD were to produce an additional 14,000 AF of groundwater, then total groundwater production from the Basin would not worsen the overdraft condition in the Basin. OCWD's FY 2020-21 budget document (see OCWD Final Draft Budget Report FY 2020-21, at page 10 of 219, <https://www.ocwd.com/media/8705/18afinal-draft-budget-fy-2020-21.pdf>) states that groundwater production from the Basin for the year would be 246,800 AF, which is substantially below previous year averages of over 300,000 AF. In the OCWD's water budget presented to the Water Issues Committee on March 11, 2020 (see Agenda, Water Issues Committee Meeting with Board of Directors (March 11, 2020), at page 120 of 135, https://www.ocwd.com/media/8597/wic_20200311.pdf), OCWD staff indicated that at the end of FY-2020-21 that they expect overdraft conditions to *improve* (increase water supplies) by 16,000 AF. Thus, even if IRWD increased its groundwater production by 14,000 AF, the overdraft condition would still be expected to improve by 2,000 AF, thus demonstrating that it is possible to manage the Basin without the PL/S.

Sufficient Recharge Capabilities Exist:

Further, IRWD would pay the applicable RA and BEA on the additional production of 14,000 AF of groundwater. Those assessments fully fund OCWD's purchase of replenishment water. Moreover, OCWD has capacity in its replenishment facilities to accommodate that additional amount of replenishment water. In OCWD's, Basin 8-1 Alternative Plan (see Basin 8-1

¹ By agreement with OCWD and pursuant to a court judgment entered in 1933, Laguna Beach County Water District is entitled to pump up to 2,025 AFY and transport that water outside of OCWD's boundaries, and do so free of OCWD's PL/S.

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Alternative (January 2, 2017), Table 4-1, page 156 of 424, <https://www.ocwd.com/media/4918/basin-8-1-alternative-final-report-1.pdf>), OCWD states that in an average year, it recharges 65,000 AF of imported water purchased from Metropolitan Water District of Southern California (MWD) into the Basin. OCWD's recharge facilities can accommodate the recharge of that imported water as well as up to 104,000 AF of Santa Ana River water and 73,000 AF water from the OCWD Groundwater Replenishment System (GWRS).

Indeed, in most years OCWD budgets for purchases of imported water for recharge. However, in FY 2020-21, OCWD (see OCWD Final Draft Budget Report FY 2020-21, page 8 of 219) did not budget to buy any water from MWD for recharge into Basin. Thus, OCWD has more than sufficient capacity to recharge the additional groundwater production even if IRWD pumps 14,000 AF more groundwater.

Increased Basin Pumping is Expected:

In future years when demands on the Basin increase and the GWRS Final Expansion Project is online starting in March 2023 (see Agenda, Regular Meeting of GWRS Steering Committee (April 12, 2021), at page 30 of 38, https://www.ocwd.com/media/9664/gwrs_20210412.pdf) OCWD will be expected to increase the BPP to 85 percent. This expansion project will allow OCWD to recharge another 30,000 AF of water into the Basin, which will augment the ability to increase Basin pumping.

In conclusion, OCWD can effectively manage the Basin without the PL/S. Increased groundwater pumping by IRWD will not impair OCWD's ability to replenish and conserve water and will not result in unlimited demands for water. Therefore, the proposed PL/S is not justified.

Sincerely,



Paul A. Cook, P.E.
General Manager

cc: OCWD Board of Directors