



Preferential Rights

San
Diego
County
Water
Authority

FACT SHEET

The San Diego County Water Authority is a public agency serving the San Diego region as a wholesale supplier of water imported from the Colorado River and Northern California. The Water Authority works through its 23 member agencies to provide a safe, reliable water supply to nearly 3 million San Diego County residents.

On January 30, the San Diego County Water Authority filed a lawsuit in Superior Court to seek clarification regarding the amount of water it can legally depend upon from the Metropolitan Water District of Southern California. After more than 50 years of trying to resolve the issue of "preferential rights" internally at MWD, the Water Authority concluded legal clarification was necessary in order to plan responsibly to meet the needs of nearly 3 million San Diego County residents and to support a \$103 billion economy.

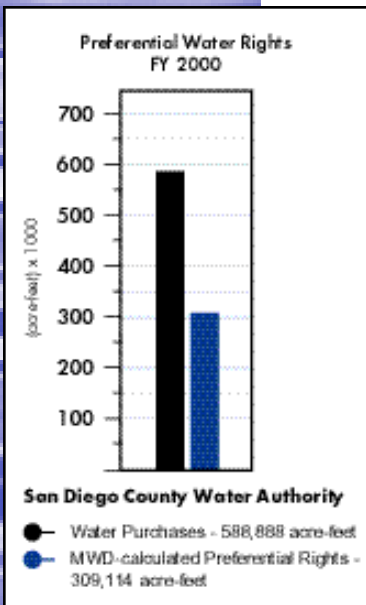
"Preferential rights" is an antiquated formula used by MWD to calculate the amount of water to which each member agency is legally entitled. Some member agencies believe they can "call" that water any time they choose, in times of shortage or otherwise.

In order to understand the Water Authority's difficult decision to pursue legal action, it is important to understand the history and evolution of preferential rights and how it has led to a gross imbalance between what MWD member agencies pay for water and how much water they can actually depend upon.

- Under preferential rights as MWD calculates them, almost half of the Water Authority's water supply is subject to claims by other MWD member agencies.
- A member agency's "preferential right" was intended to be based on its payments toward MWD's capital and operating costs. When MWD was established in 1926 and up to the early 1960s, the bulk of these costs were paid through member agencies' property taxes. More than 70 years later, however, the bulk of MWD's capital and operating costs are paid from revenues derived from water sales to member agencies. But, MWD has failed to

account for these payments in its calculation of member agencies' preferential rights.

- As calculated by MWD, the Water Authority has a preferential right to less than 15 percent of MWD's water, but has historically paid 22 percent of its capital and operating costs.
- Recognizing the flawed, unfair, and likely illegal nature of the current system, MWD's general manager recently proposed to declare a "permanent state of water emergency" in Southern California as a means to supercede individual member agencies' preferential rights. While the Water Authority appreciated MWD's recognition of the problem, it found the proposal unacceptable, with ramifications far beyond the San Diego County water community and its customers. The far-reaching nature of the proposal served to remind the Water Authority's member agencies of the political complexity of reaching a solution within the MWD structure.
- The Water Authority has an obligation to provide a safe, reliable water supply to its 23 member agencies and simply cannot plan responsibly when it cannot be certain that water it is paying for will be available to its member agencies.
- In an effort to be able to plan for the future, the Water Authority concluded it could no longer tolerate a system that requires it to be first in line to pay money and last in line to get water.
- Asking the court to clarify the law is the most legally sound route to resolve this important issue. If preferential rights are unenforceable as some believe, then judicial confirmation should be swift and easy.



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