



MWDOC and OCWD Relations & OCWD's LAFCO Focused MSR Study

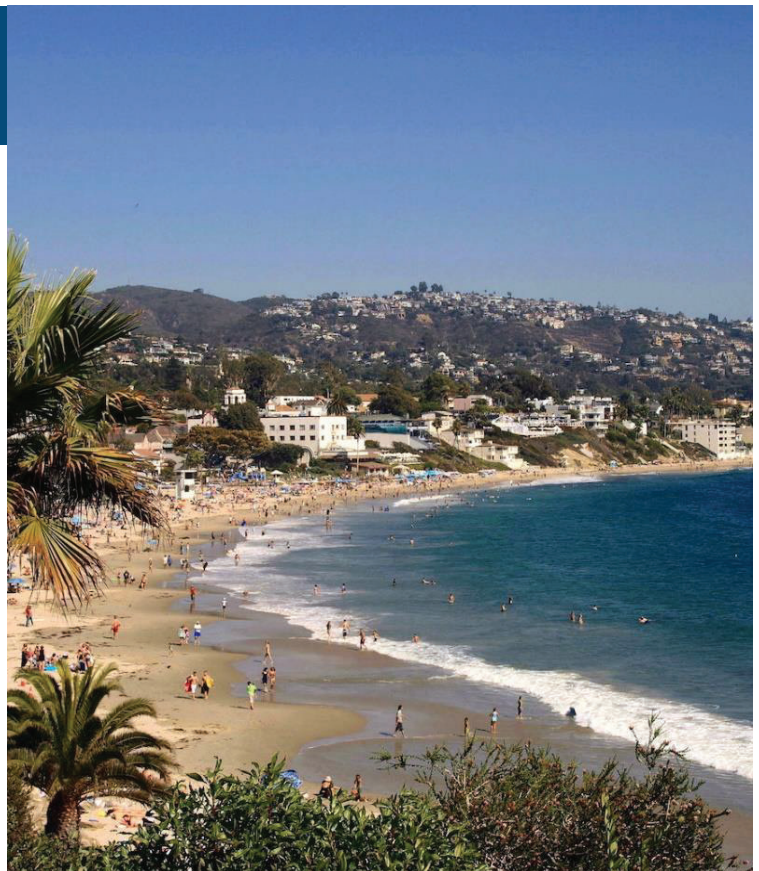
MWDOC Board Study Session

April 28, 2023

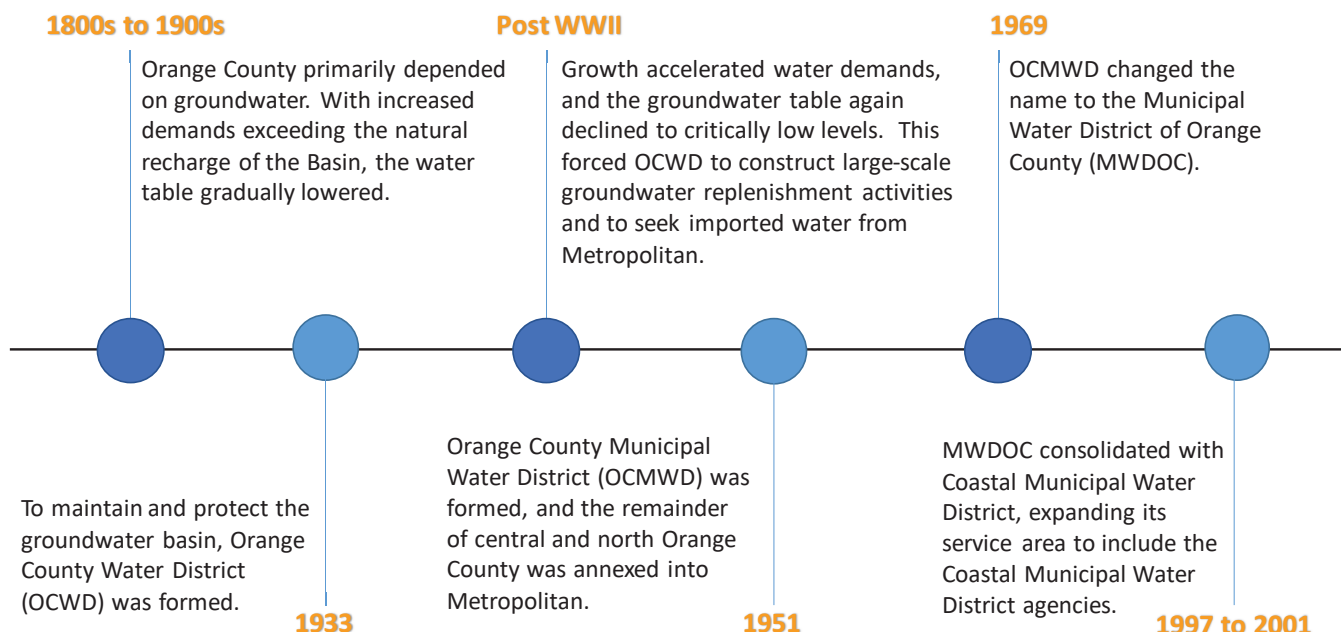


Agenda

- 01 Background & History
- 02 Working Relations between the Districts
- 03 2022 Grand Jury Report
- 04 Previous Reviews & Studies on Consolidation
- 05 Recent Activities
- 06 OCWD Request: LAFCO Focused MSR Study
- 07 Next Steps



History of MWDOC & OCWD



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MWDOC & OCWD Enabling Legislation

MWDOC and OCWD were each formed to provide two distinct and unique services for the County and its retail agencies.

Municipal Water District of Orange County



Created under the general Municipal Water District Act

MWDOC powers and purpose are more general in connection with securing and providing water

Service area is much larger than basin boundary and includes south OC

May sell water in its service area and sell surplus water outside its service area; No authority to regulate groundwater

Orange County Water District



Special Act Agency – created by the legislature to managed the OC Basin

Powers and purpose relate to groundwater management; No authority beyond its service area

Service area boundary is limited to the groundwater basin

Authority to regulate groundwater and storage of groundwater within the OCWD boundary

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Comparison of MWDOC & OCWD

Municipal Water District
of Orange County



Orange County
Water District



Formation	1951	1933
Purpose	Provide a reliable supply of imported water and representation to Metropolitan for the County	Ensure the health and management of the Orange County Groundwater Basin
Services	<ul style="list-style-type: none">• Conduct Regional Planning and Studies• Advocate for Member Agencies at Metropolitan• Management and Implementation of Demand Management Programs (LRP & WUE)• Administer Emergency Preparedness, Coordination, and Mutual Aid (WEROC)• Administer Countywide Shared Services• Facilitate Regional Education, Water Awareness, and Outreach Coordination• Administer Choice Program Services (School Programs, WUE, Leak Detection, Studies)• Member of Santiago Aqueduct Commission and South Orange County Watershed Management Area	<ul style="list-style-type: none">• Operate Seawater Barrier• Protect Santa Ana River Water Rights• Operate Prado Wetlands and Green Acres Project• Manage the Groundwater Basin• Operate the Forebay• Operate the Groundwater Replenishment System• Conduct Hydrogeology Studies and Plans• Operate the Water Quality Lab• Provide Basin-wide PFAS Treatment and Services• Member of the Santa Ana Watershed Project Authority



Working Relationship Between MWDOC & OCWD



History of Cooperation & Coordination

- 1951 – MWDOC's formation and annexation to Metropolitan included facilities (pipelines for groundwater replenishment & East OC Feeder #1) for OCWD at Metropolitan's cost.
- 1986 – MWDOC, OCWD, Coastal MWD, and Three OC Cities formed Water Advisory Committee of Orange County (WACO).
- 1983 – WEROC established; funded by MWDOC, OCWD, Three OC Cities, South OC Wastewater Authority, and OC Sanitation District.
- 1990s drought – need for WUE investments, MWDOC, OCWD, and OC Sanitation District helped fund toilet rebates.
- 1990s - Under Metropolitan's In-Lieu program, MWDOC and OCWD staff jointly developed operational plans for each participating groundwater producer to submit to Metropolitan.
- 1992 – MWDOC relocated to OCWD headquarters; Belief was that having both agencies on the same campus would improve the working relationship.
- 2003 – MWDOC and OCWD submitted a proposal to MET to create a Conjunctive Use Program (CUP).
 - OCWD would receive \$25 million to build groundwater wells to allow MET to store up 66,000 AF of water in the OC basin and extract during dry periods.

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History of Cooperation & Coordination (cont.)

- 2004 – MWDOC and OCWD submitted and received an LRP agreement from MET for the initial phase of OCWD's GWRS. OCWD received \$121/AF LRP incentive payment for up to 31,000 AF (Total of \$86 million).
- 2005 – As a result of a very wet year, MWDOC and OCWD participated in Metropolitan's Supplemental Storage Agreement to store surplus imported water in OC Basin at a reduced rate.
- 2008 – Developed South OC Emergency Service Program with MWDOC, OCWD, and IRWD to allow emergency deliveries to South OC water agencies.
- 2017 – MWDOC and OCWD signed a Cyclic Groundwater Agreement with Metropolitan to allow the pre-delivery of imported replenishment water during wet periods and be paid at later date.
- Ongoing – MWDOC and OCWD staff regularly share information, retail agencies demand projections, and imported replenishment needs.
- Ongoing – Several coordination meetings occur monthly between the two agencies, regarding issues such as: Metropolitan, Board, County, and the building.



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Issues of Disagreement & Differences

There have been disagreements over the years.




-  Differences in policy positions; how programs should be modified or implemented; the way studies and reports are conducted; and each agency's role.

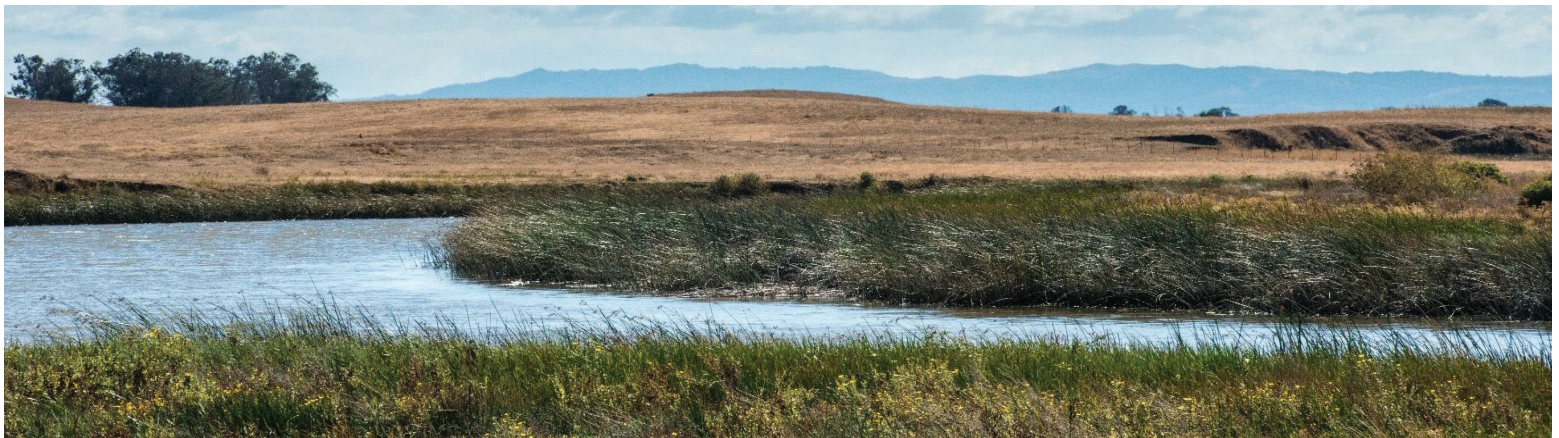
The result has created tension, erosion of trust, and friction between the two agencies.

-  It is natural for two entities with different missions and stakeholders to have differences of opinion on certain topics and issues. Similar frictions can be seen in other areas in Southern California.
-  Some have pointed out that it provides “checks and balances” for both agencies.

However, these disagreements and differences should not overshadow the fact that Orange County has been well served by both agencies.

The working relationship between the two agencies is viewed by many as a great model to replicate.

-  We have well-run organizational structures in many areas:
 -  Water management; WUE; recycling; GWRS; imported water delivery system; emergency response coordination; and public messaging.
-  Orange County has world class facilities and leadership that many admire.





2022 O.C. Grand Jury Report

Water in Orange County Needs “One Voice”

Grand Jury Key Findings & Recommendations

JUNE 2022 OC GRAND JURY REPORT – *WATER IN ORANGE COUNTY NEEDS “ONE VOICE”*

Report called for a “single” leadership structure

-  Through consolidation of existing dual entities (OCWD and MWDOC)
-  -or- Creation of a “new water authority” to “lead all aspects of Orange County wholesale water”








A single county wholesale water agency would increase the efficiency and effectiveness in delivering imported water and groundwater, major infrastructure investments, development of forward-thinking policies and practices, and opportunities at the local, State and Federal levels in legislation, policy making and receiving subsidies and grants

Report came out with six findings and two recommendations

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MWDOC Response to Grand Jury Report

MWDOC does not agree with the Grand Jury’s findings or recommendations

-  The report lacked in-depth analysis and provided no supportive evidence or facts to support the findings or recommendations.
-  The financial, institutional, and legal issues and challenges remain.
-  Both Agencies provide separate and unique services to the County.
 -  Imported water versus groundwater management require specialized knowledge and unique operational approaches that cannot be readily combined and streamlined
-  Multiple voices representing the distinct missions and areas of operation are more influential than a single voice for imported water and groundwater.
-  Nothing significant has changed since this was evaluated in the past.
-  There are more appropriate alternatives to explore to address the concerns and issues raised by OCWD.

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OC Agency Responses to Grand Jury Report

No.	Agency	NO	YES	Further Study Needed	Neutral	No Response
1	City of Anaheim			✓		
2	City of Brea	✓				
3	East Orange County WD			✓		
4	El Toro Water District	✓				
5	Golden State Water Company					✓
6	Irvine Ranch Water District	✓				
7	Mesa Water District		✓			
8	City of Santa Ana				✓	
9	Santa Margarita Water District			✓		
10	Serrano Water District			✓		
11	South Coast Water District	✓				
12	Trabuco Canyon Water District	✓				
13	Yorba Linda Water District			✓		
14	Emerald Bay Service District					✓
15	Laguna Beach County WD	✓				
16	Moulton Niguel Water District					✓
17	City of Fullerton	✓				
	Total	7	1	5	1	3

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Key Comments from OC Agency Responses

"The formation of a single wholesale water agency is neither needed nor warranted at this time, and that the associated financial, political, and institutional challenges alluded to in the Grand Jury Report would far outweigh any potential benefits to Orange County ratepayers."

Trabuco Canyon Water District

"Fullerton disagrees that having a single water authority would result in further opportunities at the local, state, and federal levels in legislation, policy making, and in receiving subsidies and grants."

"Fullerton disagrees that a singular agency would necessarily serve all of Orange County more beneficially than the current structure."

City of Fullerton

"In sum, the Orange County Grand Jury (OCGJ) fails to provide the compelling evidence to define the problem(s) that will be addressed by studying the formation of a single water authority over all wholesale water sources. Further, the report fails to describe all the options available to address the perceived problem(s) and fails to support why the recommendation is the best course of action."

Laguna Beach County Water District

"Any effort to consolidate Orange County's two water wholesalers into one entity should begin with a voluntary analysis conducted by MWDOC and OCWD. This analysis should include the participation of each agency's member retail water agencies and the Orange County Local Agency Formation Commission."

Mesa Water



Previous Reviews & Studies on Consolidation



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Previous Reports and Studies







- 💧 **The OC Grand Jury has reviewed OCWD and MWD OC operations in: 1982, 1994, 2013, and 2022.**
 - 💧 Grand Jury recommended a single wholesale agency for OC in 1982 and 2022.
 - 💧 Grand Jury determined OCWD and MWD OC operate better separately in 1994 and 2013.
- 💧 **In OCWD's 2006 MSR, it was determined that consolidation would not be feasible or recommended for the following reasons:**
 - 💧 Implementing it would take an act of legislation because it involves changing OCWD's principal act.
 - 💧 A merging of these two agencies would not necessarily achieve great efficiencies in overall management of water resources in Orange County.
 - 💧 Keeping these two agencies separate maintains an important "check and balance" system, preventing one agency from having control over water supply for the entire County.

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Previous Reports and Studies (cont.)

Boards discussed consolidation issues over several meetings in 2013

Key issues & challenges:





-  Cost of terminating MWDOC's CalPERS retirement benefit
-  Name of the new organization could not be agreed to
-  Concern that OCWD was taking over MWDOC
-  Concern of opening the Metropolitan Act
-  Unclear benefits for South Orange County agencies
-  Potential loss of Metropolitan seat (w/3 cities) and loss of representation for South County

Neither Board believed the benefits of consolidation outweighed the costs.


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Issues & Challenges of Consolidation



Governance issues

-  Three OC Cities appointed Directors (MET and OCWD)
-  Three potential Boards (OC Basin Board, OC-MET Board w/o three cities, full Board)
-  Number of Board members
-  South County Representation

Groundwater access to South Orange County

-  OCWD has clearly stated "groundwater can only be served to lands within the boundaries of OCWD."

Cost of terminating MWDOC CalPERS retirement benefit

-  As of June 2021, MWDOC's net cost to terminate the PERS retirement for both Classic and PEPRAs plans would cost from a low of \$18,285,046 to a high of \$26,614,584.
-  The termination costs must all be paid up-front.

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Recent Activities



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Recent Activities


Following the Grand Jury Report and MA Facilitated Discussions

-  President Yoo Schneider sent a letter on July 7, 2022
 -  Calling for both Boards to form Ad Hoc Committees to discuss the Grand Jury Report
 -  Identify ways to improve collaboration between the two agencies
-  As a result of the MWD OC MA Facilitated Discussion, we sought to encourage dialogue and identify ways to improve relations among our member agencies

Several meetings among the Ad Hoc Committees were held

-  A set of “Deal Points” developed for a potential agreement

OCWD held a Board Study Session on March 11

-  To bring their entire Board up to speed with the history, past issues, and recent activities between the agencies

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MWDOC & OCWD Ad Hoc Committee Meeting

Date	Key Items of Discussion
August 5	Reviewed several topics: Previous concept of formation of new Board; costs of terminating MWDOC CALPERS contract; three cities involvement in new agency; Metropolitan representation; 2013 legal and institutional issues raised; and option of seeking an alternative way to improve the working relationship between the two agencies.
September 23	Alternative option was discussed to improve the working relationship between the two agencies; under a concept of renewing the 1986 Resolution between the two agencies and establishment of a binding agreement was considered.
November 4	First set of Deal Points for an alternative agreement were discussed.
December 20	Continued Deal Points discussions and negotiations.
January 5	Continued Deal Points discussions with the need for the full MWDOC Board to consider and provide input in order to move forward; Board study session by OCWD; and consideration of a Joint Board meeting between OCWD and MWDOC.

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Proposed “Deal Points”

1. The OCWD and MWDOC Boards agree to work collaboratively so that OCWD can **nominate** ~~designate~~ a representative that will serve on the MWD Board. To accomplish this, they further agree that the OCWD Board shall nominate its designee, subject to the ratification by a simple majority of the MWDOC north county member agencies, as one of MWDOC’s appointed MWD directors. The recommended designee shall be appointed by the MWDOC Board in accordance ~~with the objective criteria contained~~ within Section 1500 of its Administrative Code. **Such an appointment shall not be unreasonably withheld.**

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Proposed “Deal Points” (cont.)

2. MWDOC and OCWD will jointly advocate for the organization of a Groundwater Committee at MWD.
3. MWDOC and OCWD staff will work together on the development of a new South County emergency water supply program.
4. When needed, MWDOC and OCWD staffs shall hold a “Common Joint Member Agency/Producers Meeting” to improve cross-communication among various staffs and agencies.
5. MWDOC and OCWD staff will commit to participate and provide all necessary information for regional studies and/or plans.
6. Neither OCWD nor MWDOC will pursue **or support** any consolidation efforts as long as the agreement is in place.

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Proposed “Deal Points” (cont.)

7. Upon mutual approval of the agreement, OCWD can nominate a Director to MWD with ratification within 60 days.
8. MWDOC will support OCWD’s potential efforts to seek state legislation allowing an OCWD Board member to sit on the MWD Board to avoid an incompatibility of office issue and will amend Section 1500 of its Administrative Code accordingly if OCWD is successful.
9. The term of the agreement shall be for 30 years.

OCWD Presented these additions at last two Ad Hoc Committee meetings

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OCWD Board Study Session

March 11, 2023

- 🔹 On March 11, OCWD held a Board Study Session on the Grand Jury Report and the benefits of consolidation.
- 🔹 Topics included:
 - 🔹 MWDOC and OCWD History and General information
 - 🔹 2022 Grand Jury Report findings and recommendations
 - 🔹 OCWD view of the benefits of consolidation
 - 🔹 OC LAFCO MSR Focused Study
 - 🔹 Schedule and Timeline; including Legislative changes to OCWD Act
 - 🔹 Discussion of Alternative Agreement Options (MWDOC-MET Director, 1986 Resolution, and Proposed Deal Points)
- 🔹 OCWD Board invited MWDOC to be a Co-Applicant and Co-Funder of the Focused MSR Study
- 🔹 Agreed to & supported a facilitated Joint Board Meeting between OCWD & MWDOC, which will be held on May 5

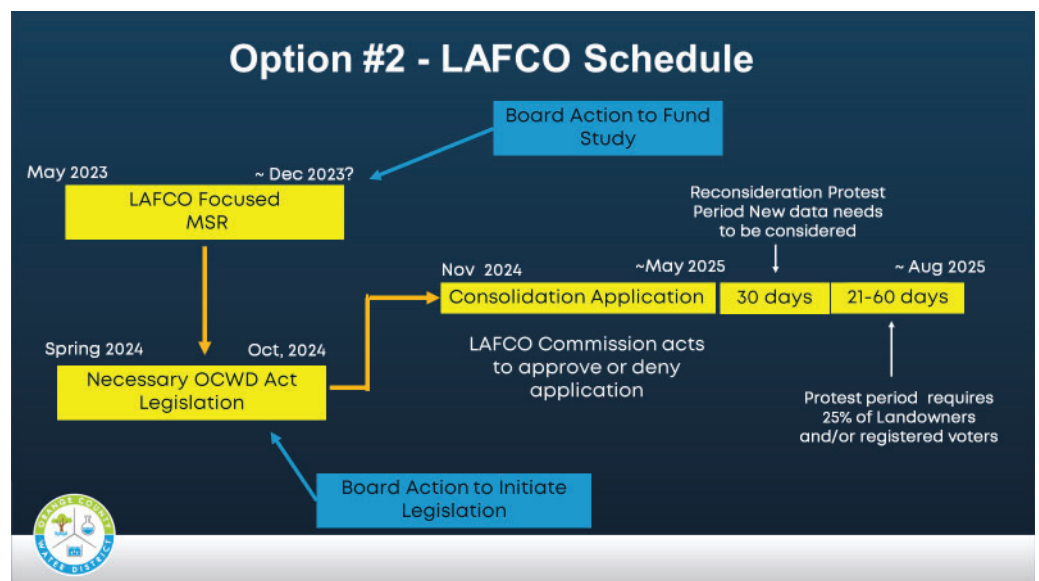
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OCWD's Proposed Timeline

From the OCWD Board Study Session
March 11, 2022



- 🔹 OCWD Staff presented a timeline regarding:
 - 🔹 LAFCO Focused Study
 - 🔹 Necessary legislation to change the OCWD Act
 - 🔹 Consolidation Application
 - 🔹 Possible Consolidation date



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OCWD Board Study Session

March 11, 2023

- 💧 **For a consolidation application to be considered by LAFCO, legislative action would be needed**
- 💧 **OCWD believes it is easier to modify their OCWD Act to allow the new consolidated agency to become a Metropolitan member agency**
 - 💡 OCWD is a “Special Agency” organized under a special act of the legislature and therefore would need to expand its service area, powers, and authority to purchase and sell imported water
- 💧 **Would consolidation require opening the Metropolitan Act?**
 - 💡 MWD OC believes it likely does
 - 💧 The Metropolitan Act defines a member agency (Section 5) as “any city, municipal water district, municipal utility district, public utility district, county water district, and county water authority”.
 - 💧 The Metropolitan Act does not include a “Special Act Agency.” Because OCWD is an agency formed by the State the Metropolitan Act would likely need to be changed to include OCWD.
 - 💡 OCWD believes it does not, and they believe only the OCWD Act would require modification

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**OCWD Request:
LAFCO Focused MSR Study**

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OCWD's Request for a Focused MSR Study on Consolidation



- 💧 **On Oct. 4, OCWD's GM requested OC LAFCO to conduct a Focused MSR Study on consolidating the two agencies**
 - 💧 OCWD made this request without notifying or seeking MWDOC concurrence of this application during the Ad Hoc Committee discussions.
 - 💧 MWDOC was not offered the opportunity to comment on the RFP, scope, or process.
- 💧 **Purpose: to provide a third-party review, based on the criticism that the Grand Jury report was not detailed enough**
- 💧 **After the feasibility study is submitted, a separate application of consolidation would need to be filed**



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Consultant Performing Study



- 💧 **LAFCO released the RFP on Jan. 9, 2023**
- 💧 **RFP asked to “prepare a fiscal feasibility analysis focused on the potential consolidation of OCWD and MWDOC as well as review and prepare an assessment of any required legislative changes involving governance structures for potential consolidation”**
- 💧 **One proposal was received – Albert A. Webb Associates**
 - 💧 Riverside County firm that provides civil engineering, planning, municipal finance, and environmental services to several agencies, including special districts, cities, counties, and regional agencies
- 💧 **LAFCO staff recommended Mr. John Schatz to review and prepare the assessment of required legislative changes related to consolidation (Governance Component)**
 - 💧 Former GM of Santa Margarita Water District
 - 💧 34 years of legal experience in the areas of surface and groundwater rights and water supplies
- 💧 **Total Cost of the study \$279,390 (Webb \$264,390 + Schatz \$15,000)**

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Consultant Scope of Service



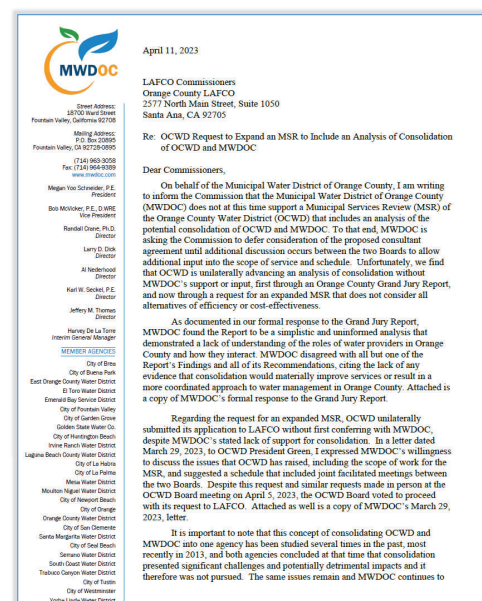
Under the Consultant's Scope of Service - Task 2.3 Consolidation Analysis (March 2024)

- 💧 **Assessment of both Agencies' operations, infrastructure, programs, contracts and agreements, retirement plans, and other obligations**
- 💧 **Potential opportunities to increase efficiency and effectiveness in the following areas**
 - 💧 Provision and management of wholesale imported water, groundwater, and recycled water services
 - 💧 Infrastructure investments
 - 💧 Legislative advocacy
 - 💧 Local, state, and federal funding, including subsidies and grants
- 💧 **Also analyze both Agencies'**
 - 💧 Revenue, Expenditures, audited financials, Rates, rate studies, fees, assessments, and potential impacts to each involving consolidation
 - 💧 Potential impacts to water supply reliability involving consolidation
 - 💧 Potential impacts to debt obligations involving consolidation
 - 💧 Current and projected staffing levels involving consolidation
 - 💧 Transition cost involving consolidation
- 💧 **Consultants will be seeking meetings with LAFCO staff, OCWD, and MWDOC**
 - 💧 Timing and scope of meetings are currently unknown and undefined

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MWDOC's Comments, Suggestions, and Concerns

- 💧 **MWDOC submitted a letter to the OC LAFCO Commission stating the following key points:**
 - 💧 MWDOC does not, at this time, support the MSR Study
 - 💧 Asked the Commission to defer action until both Boards meet on May 5 to provide additional input in the Scope of service
 - 💧 Noted this has been studied many times in the past and same issues remain
 - 💧 Regardless, MWDOC is committed to working with OCWD to improve our coordination, communication, and services
- 💧 **MWDOC asked that the consultant's scope of service include:**
 - 💧 Evaluation and consideration of different Alternatives
 - 💧 Evaluation of the potential impact to the 3 OC-MET Cities
 - 💧 Analysis on access to Groundwater Basin to South County agencies
 - 💧 Thorough review of all relevant Legislation and Water District Acts
 - 💧 Involvement of other 26 MWDOC Member agencies
 - 💧 Evaluation of specific community benefits or drawbacks
 - 💧 Review and input from Metropolitan's legal counsel



OC LAFCO Commission

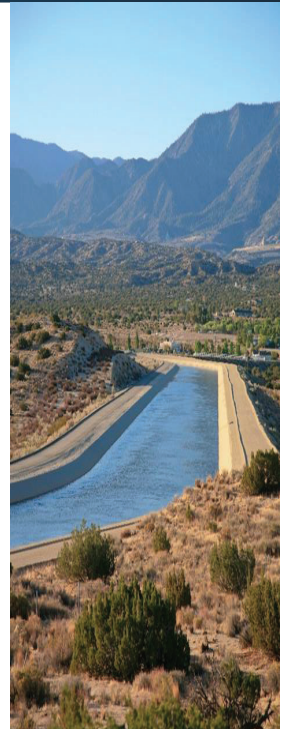
April 12, 2022

- 💧 **Number of speakers (MWDOC, Member Agencies, and OCWD)**
- 💧 **Comments by Supervisors/LAFCO Commissioner:**
 - 💧 Don Wagner criticized Grand Jury's studies, stating "they keep getting it wrong" and their studies lately have been "rife with errors and incorrect assessments".
 - 💧 Andrew Do added that the Grand Jury "goes into projects with a preconceived goal"
 - 💧 Chair Doug Davert stated that they are not being asked to make a value judgement. They have a completed application and are obligated to move forward with this feasibility study.
- 💧 **Thus, the OC LAFCO Commission adopted staff's recommendation to have the consultants proceed with the Focused MSR Study**
- 💧 **Scope shows this will be over a year long process**
 - 💧 August 2024 – Administrative Draft Report for MWDOC & OCWD Review
 - 💧 May 2024 – Public Review of the Draft Report & Presentation to LAFCO Commission
 - 💧 June/July 2024 – Final Report presented to the LAFCO Commission

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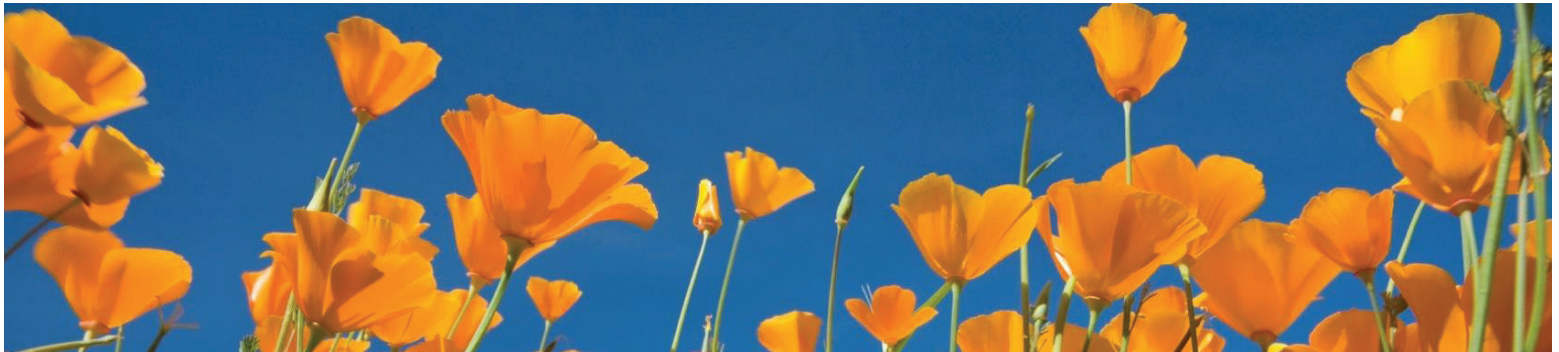
Next Steps

- 💧 **Take any feedback or direction from this Board Study Session**
- 💧 **May 5 - Facilitated Joint Board meeting with MWDOC & OCWD**
 - 💧 Paul Brown will facilitate the Board discussion
 - 💧 Discussion between staffs on the May 5 Joint Board meeting agenda, topics of discussions, and goals/objectives
 - 💧 Potential topics can include:
 - 💧 What are the issues/problems we are trying to solve?
 - 💧 How do we build trust and improve our relationship?
 - 💧 Are there any other alternatives, other than consolidation, that should be explored?
 - 💧 How should we include Member Agency input and feedback in this process?
- 💧 **At MWDOC's April 20 Managers meeting, the Member Agencies requested that MWDOC and OCWD staffs hold a managers meeting on the MSR Focused Study & Issues**
 - 💧 Staff is planning on setting this meeting at end of May or early June





Board Discussion



References

MWDOC MSR (Sept. 2020) – [MWDOC_Final-MSR-20-09.pdf \(oclafco.org\)](#)

OCWD MSR (Feb 2013) – [MSR.SOI_Report_020113.pdf \(oclafco.org\)](#)

OCWD MSR (Sept. 2006) – [Microsoft Word - OCWD MSR Report FINAL 9-26-06.doc \(oclafco.org\)](#)

2021-22 Grand Jury Report (June 2022) [2022-06-22 Water in Orange County Needs One Voice.pdf \(ocgrandjury.org\)](#)

2013-14 Grand Jury Report (June 2014) – [Water_Report.pdf \(ocgrandjury.org\)](#)