

March 22, 2023

United Water Conservation District  
Report to Brian H. Zahn | Chief Financial Officer  
Memo on UWCD Proposed Rate Structure

**Executive Summary:**

Water Resources Economics (WRE) has reviewed United Water Conservation District’s (UWCD or the District) rate structure based on the WY 2023/2024 proposed budget and its WY 2022/2023 Adopted Budget Book to ensure they meet industry norms and comply with applicable standards, including Proposition 26. Based on our review, WRE believes that UWCD’s rate-setting methodology and structure, as described herein, generally conform to defensible rate-making standards and commonly accepted industry practices.

We also believe that UWCD’s WY 2023-2024 proposed budget and associated groundwater extraction charges comply with Proposition 26 as non-tax charges in that “the amount [charged by UWCD] is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity.” Cal. Const. Art. XIII-C § 1. In particular, we believe UWCD’s allocation of costs and the proposed 1.12:1 ratio for groundwater extraction charges as between M&I and Ag bears a fair and reasonable relationship to the payors’ respective and relative burdens on, or benefits received from, the District’s governmental activities for the benefit of the groundwater basins within its jurisdictional boundaries, including based on the Superior Court’s ruling and endorsement of an adjusted consumptive use basis for determining the appropriate ratio for groundwater extraction charges for M&I and Ag groundwater users.

WRE also believes that UWCD’s specific use of zones, including its Zone A and Zone B charges, conforms to rate-making standards and complies with legal requirements. In addition to maintaining the current rates for Zone A and Zone B groundwater users (with the modified 1.12:1 ratio), we propose an additional rate and zone, titled *Zone S – State Water Fund*, which applies a relatively nominal surcharge to those M&I and Ag groundwater users that do not currently pay the property tax special assessment. This special assessment, collected by the County of Ventura to fund UWCD’s State Water purchases, benefits all groundwater users within the District’s jurisdictional boundaries.

**Current Rate Structure: Proposed Changes to M&I : Ag Ratio**

Multiple aspects of the District’s rates were challenged in court in *City of San Buenaventura v. United Water Conservation District, et al.* Among multiple findings, the Court broadly found that District’s adherence to Water Code section 75594 and its application of a 3:1 ratio between M&I and Ag rates – as

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mandated by section 75594 – failed to comply with Proposition 26, ruling section 75594 was facially unconstitutional.

The Court found that “charges based upon the allocation of all costs in proportion to the adjusted consumptive use between Ag and M&I (as generally calculated in [the District’s consultants’ Cost of Service Analysis]) would be supported by the persuasive evidence in the record. The City of San Buenaventura (Ventura or the City) provided an outside expert report from Hopkins Groundwater Consultants which agreed with UWCD’s consultants’ consideration of an adjusted consumptive use basis, but determined a more appropriate ratio for groundwater extraction charges between M&I and Ag to be 1.12:1, based on its revised calculation of *Adjusted Consumptive Use*. The Hopkins Report methodology is summarized below in the Court’s ruling:

Neither of City’s experts challenge the underlying principle that the ratemaking methodology should consider water usage by class net of recharge, i.e. adjusted consumptive use. Hopkins argues from the HF&H data, however, that the allocation of costs overall should reflect the relative recharge burdens caused by groundwater production for Ag and M&I, respectively. For this analysis, Hopkins starts with the calculations for adjusted consumptive use from the COSA and divides this amount by the average groundwater production. This results in a ratio of average consumptive use/ groundwater production of 0.453 for Ag and of 0.508 for M&I. These ratios, according to Hopkins, reflect the contribution to the water budget deficit per AF of groundwater pumped by each category of water use. Because the fundamental obligation of the District is to replenish groundwater into the basins, the District’s costs for its services should be allocated to Ag and to M&I in proportion to their relative contribution to the need to replenish groundwater (*citations omitted*). (City of San Buenaventura v. UWCD, p 36).

WRE agrees with the application of *Adjusted Consumptive Use* and believes the calculation as detailed in the Hopkins Report is a reasonable calculation of the adjusted consumptive use factor. WRE also found that the *Adjusted Consumptive Use* is supported by the District’s Staff Technical Memorandum and that the 1.12:1 ratio calculation for *Adjusted Consumptive Use* was also generally supported by the City’s additional rate consultants at Raftelis Financial Consultants, who arrived at a similar ratio for M&I to Ag using an alternate methodology. Other aspects of UWCD’s rate design, which the Court largely upheld as compliant with Proposition 26 and the reasonableness standard, are discussed briefly below.

Broadly speaking, UWCD collects revenue primarily through groundwater extraction and pipeline charges along with some additional charges and sources of revenue such as property taxes. In its ruling, the Court found “that the District has met its burden to show that aggregate revenues from the charges do not exceed the aggregate costs for the District’s services for which the charges apply.” The District has historically adopted rates in two zones, Zone A and Zone B, which each have their own groundwater extraction charges. Zone A charges are assessed district-wide while Zone B charges are geographically restricted to those areas that benefit from the Vern Freeman Diversion. The Court concluded that the District’s use of the zones and its allocation of charges between the two zones complied with Proposition 26:

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[The] District has two groundwater zones, Zone A and Zone B. “Zone A” consists of the entire district. “Zone B” consists of a smaller portion of the district. Zone B is the area designated as particularly benefitted by the operation of the Freeman Diversion. District has levied groundwater charges as to both Zone A and Zone B. . . .

The District persuasively argues that the Freeman Diversion has a specific purpose relating to recharge in the Oxnard Forebay and Oxnard Plain basins. The immediate benefits of the activities related to the Freeman Diversion are to those basins, even though there are less immediate benefits from these activities district-wide. Under these circumstances, it is reasonable within the meaning of Proposition 26 to allocate the costs of these activities to wells in the immediately affected areas, namely, Zone B... **The Court is persuaded from the evidence in the record and the arguments of the parties that the more specific allocation to Zone B is constitutionally reasonable and that District has met its constitutional burden in that regard.** (City of San Buenaventura v. UWCD, pp 13, 45 [emphasis added]).

The Court also found that with respect to the District-wide Zone A charges, “allocation across the District is reasonable within the meaning of Proposition 26 and the District meets its burden on that point. (Id. at pp. 28-29 [“This conclusion is referred to herein as the ‘interconnectivity determination.’”]).

Here, based on our review of UWCD’s proposed budget and charges, we agree with the Court’s findings that UWCD’s use of Zone A and Zone B charges, and the geographic allocation of rates across Zone B, complies with industry norms and legal requirements, and that the aggregate revenues from the charges do not exceed the aggregate costs for the District’s services for which the charges apply.

**Water Conservation Fund (Zone A)** is a district-wide fund representing “revenues and expenditures directly related to the District’s statutory responsibilities and authorities, including those activities/mandates required to perform its water conservation efforts” (FY2022-23 UWCD Adopted Budget Book, p 20).

**Freeman Diversion Fund (Zone B)** is an enterprise fund used by the District to account for the costs related to the operation and maintenance of the Vern Freeman Diversion facilities. “The Freeman Diversion Dam is used to divert and efficiently manage run-off water from the Santa Clara River. The diversion of river (surface) water increases water availability that directly enhances the District’s ability to recharge groundwater and reduce seawater intrusion in groundwater aquifers.” (FY2022-23 UWCD Adopted Budget Book, p 39).

**Water Purchase Fund** was created in FY2019-20 to finance supplemental water purchases used to recharge the District’s aquifers. “The fund has no operating expenses other than the purchase of water. Revenues for the fund will come from a surcharge levied on each acre-foot of water pumped from the aquifers.” (FY2022-23 UWCD Adopted Budget Book, p viii).

### **Proposed New Zone and Rate: Zone S – State Water Fund**

UWCD utilizes a special revenue fund, the **State Water Import Fund**, “to account for the financial resources and expenditures that are necessary to pay for the District’s annual water allocation from the

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State Water Project. The primary resource for this fund is a voter approved property tax assessment that is determined annually, based on the amount of State Water the District intends to purchase, and the estimated associated fixed/variable costs. These costs are determined each year for the District's share of the County's contractual agreement with the State's Department of Water Resources." (FY2022-23 UWCD Adopted Budget Book, p 34). The sole purpose of this purchased State Water is to recharge the groundwater basins within the District's jurisdictional boundaries, benefitting all groundwater users district-wide. Since groundwater users in certain cities where the special property tax assessment is not assessed nonetheless receive the benefits of the District's recharge activities with State Water purchased through the State Water Purchase Fund (and have been for years) while also contributing to the burden on the District through groundwater extraction necessitating beneficial recharge with State Water, this proposed Zone S charge seeks to address this equity concern and more appropriately allocate costs associated with the State Water Fund.

To develop the Zone S charge, we must first identify the groundwater users to be included in Zone S; that is, pumpers within UWCD boundaries that do not pay the State Water Fund property tax assessment. We then compare the volume of groundwater extracted by Zone S pumpers during the five-year consumption period to the total District-wide pumping during the same five-year period to determine the percentage of total District-wide pumping attributable to Zone S pumpers. We then apply this factor to the total cost budget amount for the State Water Fund to allocate on an adjusted consumptive use basis the total revenue requirement from Zone S through this surcharge. This new zone and rate, with proper documentation and detailed calculations, likewise meets all legal requirements. WRE believes the new Zone S rate and charge complies with Proposition 26, in that "the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity."

Water Resources Economics believes that United Water Conservation District's proposed FY 2023-24 Rate Structure, as detailed and amended above, follows industry best practices and applicable legal requirements. The addition of a Zone S charge will strengthen the nexus between rates and costs.

Sincerely,



Sanjay Gaur  
Principal Consultant  
Water Resources Economics