



**AGENDA
SPECIAL JOINT WORKSHOP OF THE
INLAND EMPIRE UTILITIES AGENCY*
BOARD OF DIRECTORS AND THE
REGIONAL SEWERAGE PROGRAM POLICY COMMITTEE**

**WEDNESDAY, NOVEMBER 16, 2022
12:00 P.M.**

(Immediately following the IEUA Board Meeting, but not before 12:00 P.M.)

**INLAND EMPIRE UTILITIES AGENCY
AGENCY HEADQUARTERS
KOOPMAN CONFERENCE ROOM
6075 KIMBALL AVENUE, BUILDING B
CHINO, CALIFORNIA 91708**

TELEPHONE ACCESS: (415) 856-9169 / Conf Code: 770 862 10#

PURSUANT TO AB361 AND RESOLUTION NO. 2022-10-1, ADOPTED BY THE IEUA BOARD OF DIRECTORS ON OCTOBER 19, 2022, IEUA BOARD AND COMMITTEE MEETINGS WILL CONTINUE TO BE CONDUCTED THROUGH TELECONFERENCE IN AN EFFORT TO PROTECT PUBLIC HEALTH AND PREVENT THE SPREAD OF COVID-19.

The public may participate and provide public comment during the meeting in person or by calling into the number provided above. Comments may also be submitted by email to the Board Secretary/Office Manager Denise Garzaro at dgarzaro@ieua.org prior to the completion of the Public Comment section of the meeting.

CALL TO ORDER OF THE SPECIAL JOINT WORKSHOP OF THE INLAND EMPIRE UTILITIES AGENCY BOARD OF DIRECTORS AND REGIONAL SEWERAGE PROGRAM POLICY COMMITTEE

ROLL CALL

FLAG SALUTE

PUBLIC COMMENT

At a Special Board meeting, members of the public may address the Board on any item listed on the agenda. Comments will be limited to three minutes per speaker.

*A Municipal Water District

1. **WORKSHOP ITEM**

A. REGIONAL SEWERAGE CONTRACT NEGOTIATIONS UPDATE

ADJOURN

Declaration of Posting

I, Denise Garzaro, CMC, Board Secretary/Office Manager of the Inland Empire Utilities Agency*, a Municipal Water District, hereby certify that, per Government Code Section 54954.2, a copy of this agenda has been posted at the Agency's main office, 6075 Kimball Avenue, Building A, Chino, CA and on the Agency's website at www.ieua.org at least twenty-four (24) hours prior to the meeting date and time above.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Board Secretary at (909) 993-1736 or dgarzaro@ieua.org, 48 hours prior to the scheduled meeting so that IEUA can make reasonable arrangements to ensure accessibility.

**WORKSHOP
ITEM**

1A

Regional Sewerage Contract Negotiations Process to Date

Joint Board / Policy Committee Workshop

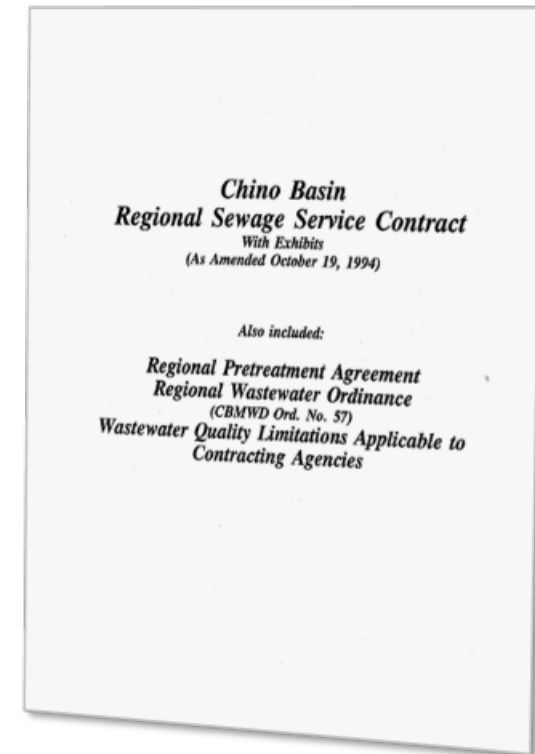
November 16, 2022

Agenda

- 1) What is the Chino Basin Regional Sewage Service Contract?
- 2) Key Topics of Negotiation
- 3) Overview of the Contract Negotiations
- 4) RCA Negotiation Proposals and IEUA Positions
- 5) Status of Recycled Water and the Santa Ana River Obligation Negotiations
- 6) Challenges and Accomplishments
- 7) Continuation of Service and Remaining Process
- 8) Discussion Forum

What is the Chino Basin Regional Sewage Service Contract (Regional Contract)?

- Sewage service agreement between IEUA and Seven Regional Contracting Agencies (RCAs)
 - Unconventional wastewater service management approach
- What are the primary purposes for the contract?
 - Forecasting, planning, and funding for regional sewage system
 - Pretreatment and treatment facility / water quality protection
 - Governance structure (Advisory Regional Committees)
- 50-year contract signed in 1973 and expires January 2, 2023
 - Require negotiations begin at least two years before expiration
 - RCAs must request continuation of service at least 1 year before expiration
- Other issues were referenced but not addressed in detail
 - (e.g., Purchase/Availability/Disposal of Treated Effluent)



Key Topics of Negotiation

Main Topic	Sub-topics
Governance/ Financial Authority	<ul style="list-style-type: none"> • IEUA Board • Role of Regional Technical/Policy Committees • Hearing Process • Property tax allocation
	<ul style="list-style-type: none"> • Rate studies • Connection Fee collection
Planning & Forecasting	<ul style="list-style-type: none"> • Ten-Year Forecast • Construction/Design contract approvals • Acquisition of facilities
Recycled Water	<ul style="list-style-type: none"> • Contractual right of first purchase
	<ul style="list-style-type: none"> • Santa Ana River (SAR) Obligation / Supply Type

How the Regional Contract Negotiations Began and Moved to a Facilitated Process

- 2014 - 2017
 - IEUA internal audit related to sewer connection fees initiate contract negotiation discussions in 2014
 - Discussions continue through 2016 with focus on recycled water (RW)
 - Group decided to contract facilitation firm
 - Kearns & West (K&W) awarded contract in Sep 2017
- 2018 - 2019
 - K&W focuses group on topics prioritization in early 2018
 - Facilitated negotiations begin with RW and the Santa Ana River (SAR) obligation as the first major topic
 - K&W begins preparing draft Term Sheets as initial pieces of the draft contract
 - Cities of Chino and Ontario begin drafting a RW/SAR proposal in mid-2018 and shares proposal with IEUA/other RCAs in late-2018
 - No agreement reached on RW/SAR; Major topics including forecasting, fees, property taxes, and governance Term Sheets drafted throughout 2019

Group Works Towards Meeting Deadlines While Protecting Agencies' Interests

- 2020
 - Feb: GM meeting forum established to focus on RW, SAR, and Governance
 - Nov: Policy Committee requests negotiations be completed by June 2021
- 2021
 - Jan: K&W organizes schedule to meet June 2021 deadline
 - May – Sep: RCAs step away from plenary sessions & begin crafting RCA draft contract
 - RCAs share milestone schedule with Policy proposing final contract review by Feb 2022
 - Oct: RCAs' "Draft No. 7" sent to IEUA (incomplete RW sections)
 - Dec: RCAs request Section 29 option for continued service
- 2022
 - Jan: Plenary Group meetings with IEUA resume
 - Mar – Jun: IEUA release redline responses to RCAs' "Draft No. 7"
 - Jun/Jul: IEUA holds 1-on-1 meetings with RCAs, release draft RW language
 - Aug/Sep: RW discussions continue with longer in-person sessions
 - Oct/Nov: Work through each section of the draft preparing for legal review

RCA Proposal – IEUA Position (Governance & Financial Authority Topics)

Topic	RCA Proposal	IEUA Position
IEUA Board	<ul style="list-style-type: none"> Yield certain governance & fiduciary authority to Regional Committees 	<ul style="list-style-type: none"> Maintain governance & fiduciary authority
Regional Committees	<ul style="list-style-type: none"> Increase authority beyond advisory capacity 	<ul style="list-style-type: none"> Maintain advisory role of Regional Committees
Hearing Process	<ul style="list-style-type: none"> Establish alternate committee to provide additional review on items 	<ul style="list-style-type: none"> Maintain current hearing process Enhance public notification process
Property Tax	<ul style="list-style-type: none"> Regional Committees develop allocations 	<ul style="list-style-type: none"> Maintain full authority of allocation Maintain current feedback process
Rate Studies	<ul style="list-style-type: none"> Regional Committees may perform alternate rate studies 	<ul style="list-style-type: none"> Maintain authority to levee rates Incorporate stakeholder input
Connection Fee Collection	<ul style="list-style-type: none"> RCAs may elect IEUA to collect fees Establish BAR Subcommittee Audits are not punitive 	<ul style="list-style-type: none"> Maintain current process Establish BAR Subcommittee Audits allow for fees to be collected from customers that owe

RCA Proposal – IEUA Position (Planning & Forecasting Topics)

Topic	RCA Proposal	IEUA Position
Ten-Year Forecast	<ul style="list-style-type: none"> Regional Committees prioritize wastewater capital projects Prioritization binding 	<ul style="list-style-type: none"> Maintain current collaborative process Regional Committees provide recommendations
Construction/Design Contract Approvals	<ul style="list-style-type: none"> Regional Committees review proposals Design contracts over \$200,000 require approval Change orders over 10% reported 	<ul style="list-style-type: none"> Maintain current terms Limit approvals to major construction contract awards (\$5M+)
Acquisition of Facilities	<ul style="list-style-type: none"> Acquisition/ construction of treatment plants determined by Regional Committees Removal of flows is not detrimental to system 	<ul style="list-style-type: none"> Maintain current terms Proof of flow removal and detriment to system is required

Existing Regional Contract Treated Effluent Sections Limited to Contractual Right of Purchase

Definitions

- Regional Sewerage System does not include reclamation facilities operated to meet obligations under the 1969 Judgment or for RCAs exercising right of first purchase

Section 15 – Control and Disposition of Sewage: Contracting Agencies Right of Purchase of Treated or Reclaimed Effluent

- IEUA has total ownership and control of sewage delivered into the Regional Sewerage System to transmit, treat, and dispose
- Subject to Contracting Agencies' right of first purchase, IEUA has sole discretion to use treated effluent

Section 16 – Sale, Beneficial Use, or Disposal of Treated Effluent

- Contracting Agencies may purchase treated effluent up to a quantity not exceeding their base entitlement
- Regional Contract and any service charges referenced within shall not apply to treated effluent delivery facilities

Exhibit G – Agreement for Reclamation of Treated Effluent

- Optional agreement with IEUA for the purchase of treated effluent

RCA / IEUA Proposals on Recycled Water

➤ RCAs' proposals on Recycled Water (not uniform requests):

- IEUA controls the RW while ownership shifts to RCAs
- “Recycled water” should be defined to include future forms of treated water
- Regional Sewerage System expanded to include the Recycled Water System
- Maintain existing definition terms surrounding rights
- RW purchase rights should be based on a monthly allocation as opposed to annual

➤ IEUA proposal on Recycled Water:

- Add language stating intent to maximize local beneficial use
- Update with clarifying terms while maintaining the same overall intent/definitions
 - Further describe “right of first purchase” as a contractual right giving RCAs an option to purchase recycled water at their discretion
 - Rename “Base Entitlement” as “Base Purchase Allocation”
- Move any purchase/sale content to a separate Recycled Water Purchase Agreement
 - Allow for greater flexibility in the face of rapidly changing water regulations

Current Status of RW and SAR Negotiations

- Status of RW Negotiations

- Agreement to reaffirm contractual “right of first purchase” in contract
- Conceptual agreement to clarify language where appropriate
- Agreement to move recycled water purchase/sale terms to a revised Exhibit G (keeping in contract but maintaining flexibility to revise)
- Disagreement in use of definition terms, to rely on legal interpretation/review
- Group to consider appropriateness of setting a monthly purchase right

- Status of SAR Language Negotiations

- Agreement that IEUA not limited to using recycled water for meeting obligation
- IEUA: ‘69 Judgment is priority but committed to maximizing local beneficial use
 - Will not reduce available purchasable RW supply when SAR obligation is met
- Chino and Ontario: Responsibility of SAR obligation is on water retailers
 - Chino/Ontario began working on a proposal in late Sep, intended to be more agreeable to group

Negotiation Group Faced Many Challenges During the Process Yet Managed Accomplishments

Challenges of the negotiation process

- 7 years of negotiations with changes in staff/leadership among 8 agencies
 - RCAs negotiating with IEUA, but amongst each other as well
- 4 years and 70 facilitated negotiation sessions with RCA representatives
 - Not all RCAs have been able to have decision-makers attend the negotiations
- Unsuccessful attempts to renegotiate the contract began 20 years ago

Accomplishments not to be undervalued

- Majority of RCAs agree that times have changed and IEUA Board needs to maintain ultimate authority to make decisions in the best interest of the region
- Concerns from all agencies thoroughly explored, compromises made where possible
 - Added language throughout contract to memorialize processes favorable to RCA

Policy Committee & IEUA Board Request Firm Completion Deadline / Next Steps

- Dec 2021 – RCAs submitted joint service extension request to IEUA
- Jan 2022 – IEUA confirms receipt and commitment to finishing negotiations
- Oct 2022 – IEUA & RCAs discuss extension and setting deadline (April 2023)
- Nov 4, 2022 – Extension letter sent to RCAs
 - City of Upland signed on Nov 7

Next Steps

- Dec 2022 – IEUA Board Action to extend sewage and RW services (Section 29)
- Dec 2022 – Complete negotiation of topics
 - Three remaining extended in-person plenary group sessions
- Jan 2, 2023 – Existing contract expires; Section 29 provides continued service option
- Jan to Feb 2023 – GM Meetings, Final Agencies/Legal Counsel review
- Mar to Apr 2023 – Tech, Policy, IEUA Board Approval
- May 2023 – RCA Council or Board Approval

Discussion