

| <b>MARIN MUNICIPAL WATER DISTRICT MEASURE S</b>  |            |
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| <b>S</b> <b>MEASURE S:</b> Ordinance 418. Shall an ordinance be adopted requiring voter approval before the Marin Municipal Water District approves constructing, or financing the construction of, a desalination facility? | <b>YES</b> |
|  | <b>NO</b>  |

**MMWD’S GENERAL COUNSEL’S IMPARTIAL ANALYSIS OF MEASURE S**

If enacted by the voters, this measure would require voter approval before the Marin Municipal Water District (District) approves construction or the financing for construction of a desalination facility.

In 1989, the District Board adopted its Water Supply Master Plan which recommends continuing the District’s long-term commitment to water conservation, increasing the District’s water recycling activities, and developing supplemental potable water supplies to eliminate water supply deficiencies and diversify the District’s sources of supply. In February, 2009, the Board certified the Environmental Impact Report for the proposed desalination facility and directed staff to pursue several options to balance water demand and supply, including further investment in the District’s aggressive water conservation program, operational improvements to the reservoir system, an expansion of the District’s recycled water distribution system, and investigation into ways to improve the reliability of the District’s Russian River water supply. In August, 2009, the Board approved a 5 million gallon per day (MGD) desalination project (expandable to 15 MGD) and stated that there were several discretionary decisions that the Board had to make before approving contracts for the design and construction of a desalination facility. In April, 2010, the Board put the desalination project on hold, a status in which it remains today.

On June 18, 2010, the Marin County Registrar of Voters certified that an initiative had sufficient signatures to qualify for the November 2, 2010 ballot. That initiative was presented to the Board of Directors on July 7, 2010. At that time, the Board directed staff to report back on the initiative’s impact. After receiving an impact report from the District’s General Manager, the Board expressed concerns about the breadth of the initiative and decided to place its own measure, Ordinance 418, on the ballot.

This measure would only require voter approval before the District approves construction, or the financing for construction, of a desalination facility. If the measure passes, District actions that are necessary to undertake prior to the construction or financing for construction of desalination facility would not require voter approval.

The measure would apply retroactively to June 18, 2010. The measure, Ordinance 418, includes a “severability” clause; if portions of the measure are found invalid, the balance of the measure would remain in effect. The measure states Ordinance 419 – another measure addressing desalination – is a competing measure. Should this measure, Ordinance 418, receive a greater number of affirma-

tive votes than the competing measure, the provisions of this measure would prevail.

A “YES” vote approves the measure, subject to the conditions stated above.

A “NO” vote rejects the measure.

s/MARY R. CASEY

General Counsel, Marin Municipal Water District

**FULL TEXT OF MEASURE S  
MMWD Ordinance 418**

The people of the Marin Municipal Water District (MMWD) do ordain as follows:

**Section 1. Purpose**

This ordinance requires that MMWD may construct a desalination facility to produce potable (drinking) water only if the voters approve that decision.

**Section 2. Policy**

MMWD shall not approve construction, or financing for construction, of a desalination facility unless such construction is approved by a majority of the voters of MMWD voting in an election held within MMWD’s service area for that purpose.

**Section 3. Severability**

If any provision or provisions of this ordinance are found to be in conflict with California law or with the California Constitution, or with federal law, or with the United States Constitution, that provision shall be implemented to the maximum extent allowable by the limiting statute or constitutional provision. The people of MMWD hereby warrant and declare that they intended to vote for each and every provision of this measure independent of each other provision of this measure, and that any provision held invalid shall be severable from the remaining portions of this ordinance.

**Section 4. Competing Ballot Measure**

In the event that another measure (“competing measure”) appears on the same election ballot for MMWD and addresses a subject matter that overlaps with the subject matter of this measure, the measures shall be deemed to be in conflict. If this measure receives a greater number of affirmative votes than the competing measure, the provisions of this measure shall prevail in their entirety, and the competing measure shall be null and void. The “Initiative to Require Voter Approval Before the Marin Municipal Water District Authorizes, Expends or Appropriates Any Revenue, or Plans, Permits, Engineers or Constructs a Desalination Facility to Augment Water Supplies for District Customers” is a competing measure.

**Section 5. Retroactive Application**

In the event that this measure is adopted by voters, its provisions shall apply retroactively to June 18, 2010.

## ARGUMENT IN FAVOR OF MEASURE S

**Measure S** directs the Marin Municipal Water District to obtain a majority vote from its customers prior to construction of a desalination plant or prior to seeking financing for construction of a desalination plant.

**Measure S** does not forbid the water district from studying and evaluating the potential for a desalination plant as a possible future water supply option. It guarantees a public vote before a desalination plant could be built, while keeping our options open.

Future water planning is an important part of MMWD's responsibilities. Under Measure S, the district will be allowed to continue to investigate, plan and study all water supply options, including a desalination plant, along with conservation, recycling, and other water supply and demand techniques. Marin's water supply is always tenuous and unstable, and it varies from year to year. It would be bad public policy, and risky to our water security, to forever deprive the community of any single potentially viable future water supply by forbidding the district from even analyzing or investigating any promising water option.

Water districts around the Bay Area, throughout California, and around the world are recognizing technological advances made to the desalination process in recent years – and those advances will continue. Desalination should remain under consideration by MMWD because it has the potential to help stabilize our water supply, provide drought protection, and reduce pressure on streams and rivers that sustain fragile fish populations. It would be unwise for our community, at this point, to summarily deprive ourselves of the ability to analyze and evaluate this potentially valuable option. We must continue to study all viable water management strategies. To do anything less would not be responsible water planning.

We strongly urge your **SUPPORT** of **Measure S**.

s/JARED HUFFMAN

Member of the California State Assembly, 6th District

s/STEVE KINSEY

Second Vice President,

Marin County Board of Supervisors

LEAGUE OF WOMEN VOTERS OF  
MARIN COUNTY

s/Ann Batman, Vice President

MARIN CONSERVATION LEAGUE

s/Nona Dennis, President

MARIN MUNICIPAL WATER DISTRICT

s/David Behar, President

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE S

Measure S would give the Water Board a **blank check** to continue spending millions more on a costly **\$400 million desalination plant in San Rafael** to convert polluted San Francisco Bay water into our drinking water.

The Board has already spent \$4-5 million on their desalination plant. They are proposing to spend millions more on the permitting process, before they even begin the construction phase.

Measure S would allow the Board to spend these additional millions, then **after** spending these additional millions, hold a public vote on whether to finally construct the plant.

Measure T, the next measure on the ballot, signed by over 15,000 Marin citizens, would require a public vote on the plant **before** additional millions are spent on the plant. Measure T is common sense.

Do not be misled. Measures S and T are not about vague, future studies, but something specific:

**“On August 19, 2009, the District Board of Directors approved a desalination plant located at the Marin Rod & Gun Club pier in San Rafael. As approved, the plant's capacity will be five million gallons per day....The Board directed District staff to move forward with the permitting process for the desalination plant.”**

(MMWD Staff Report, July 26, 2010).

The MMWD desalination plant raises very serious health, environmental, global warming, and cost concerns. Millions have already been spent.

It is time for a public vote **before** millions more are sunk into the desalination plant.

**Vote NO on S.**

**Yes on T.**

s/LINDA PFEIFER

Vice-Mayor of Sausalito

s/PETER BARRY, M.D.

Former Mayor of Ross, Ross Councilmember

s/LARRY BRAGMAN

Vice-Mayor of Fairfax and former mayor

s/FORD GREENE

Vice-Mayor of San Anselmo Town Council

s/PAM HARTWELL-HERRERO

Fairfax Council Member

## ARGUMENT AGAINST MEASURE S

We urge you to **Vote NO on S**, and Yes on T.

Measure S gives the Water Board a BLANK CHECK to continue spending millions on a San Rafael desalination plant, before the public has a chance to vote on whether to pursue this plant.

The Water Board has already spent \$4-5 million on their desalination plant to convert San Francisco Bay water into our drinking water. The Water Board has proposed spending millions more on contractors, engineers and 11 different permits, before they even begin the construction phase. Measure S would allow them to spend these additional millions – before holding a public vote.

- o **Measure S is the “Vote After You Spend” measure.**
- o **Measure S is not fiscally responsible.**
- o **Measure S is a BLANK CHECK.**

The five incumbent Water Board members placed Measure S on the ballot, at the last minute, ahead of Measure T, the Citizens’ Measure. Measure S is the Water Board’s attempt to undermine the Citizen’s Measure that over 15,000 ratepayers signed and placed on the ballot.

Measure T, by contrast, requires the Board to hold a public vote on desalination before the Board spends millions more on this desalination plant.

- √ **Measure T is the “Vote Before You Spend” measure.**
- √ **Measure T is fiscally responsible.**
- √ **Measure T is the CITIZENS’ MEASURE.**

Measure T was placed on the ballot by you, the ratepayers. You wanted to vote on desalination before millions more are spent on it. Measure T gives you that vote.

The citizens of Marin should be given the right to vote before millions more are spent on a desalination plant that could damage the environment and dramatically increase our energy use.

- o **Vote NO on S**
- √ **Vote YES on T**

s/PAUL HAWKEN

Author, Environmentalist

s/CARLA CONDON

Mayor, Town of Corte Madera

s/MARY ANN MAGGOIRE

Former Mayor, Fairfax

s/ESSIE BLAU, R.N.

Former Director, Marin Healthcare District

s/SURFRIDER FOUNDATION, Marin Chapter

s/Loren Moore

## REBUTTAL TO ARGUMENT AGAINST MEASURE S

**Vote YES on Measure S. Vote NO on Measure T.**

**Measure S is the ONLY responsible water policy measure on this ballot.**

**Measure S guarantees a public vote before a desalination plant could be built or financed**, while keeping our water supply options open. Under Measure S, MMWD would be allowed to explore issues and plan for a variety of water supply options. Measure S ensures that the public will have the last word about whether or not to proceed with desalination, but allows MMWD to answer critical questions about whether this improving technology should be considered for Marin in the future. Marin needs this flexibility, because its water supply is always tenuous and unstable, and varies from year to year.

**The District has no plans to spend millions** of dollars on desalination, despite the claims of the opponents of Measure S. Last spring, MMWD ceased all spending on the desalination project because conservation and other factors had significantly reduced water demand.

**Measure S is NOT a blank check** – should conditions change and MMWD considers desalination again, **it guarantees voters the final say** before any desalination plant could be built.

**Measure S stops proponents of Measure T from putting a “straitjacket” on MMWD, as they’ve stated is their goal.** Future water planning is an important part of MMWD’s responsibilities. Water districts must have the basic ability to plan and consider all viable water management strategies. To do anything less would be irresponsible.

We strongly urge your **SUPPORT of Measure S.**

s/JARED HUFFMAN

Member of the California State Assembly, 6<sup>th</sup> District

s/STEVE KINSEY

Second Vice President, Marin County  
Board of Supervisors

LEAGUE OF WOMEN VOTERS OF  
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