

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

July 26, 1993

To: Board of Directors (Special Committee for Legislation--Action)
(Executive Committee--Action)

From: General Manager

Subject: Authority to Support Legislation Confirming the Department of
Water Resources' Exclusive Jurisdiction Over Dam and Reservoir
Safety

Report

Since the approval of the Domenigoni Valley Reservoir Project in October 1991, local and state officials have, in the ordinary course of business, planned for or been requested to approve the siting of various public facilities and buildings in areas which might be affected in the remote event of a dam failure. Extremely conservative design measures have been incorporated in the project to eliminate this type of occurrence as an issue. As a result, the potential for such a dam failure has been placed by experts conservatively at 1 in 100,000,000. Despite this fact, some officials have questioned whether the potential inundation resulting from such a failure should be taken into account in such site approvals.

The State Department of Education (DOE) has raised this matter with regard to the siting of public schools. Thus far, the DOE has taken the position that approval for a school site within the potential inundation zone of a proposed dam will only be given if appropriate mitigation measures are taken such as padding-up, providing other flood control measures, or relocating the facility. Such mitigation is not being required for sites within inundation zones of existing dams certified by the Department of Water Resources' Division of Safety of Dams, presumably because the law already provides that where the Department of Water Resources has approved and certified a dam or reservoir, it is conclusive as to all other state agencies as to the safety of the dam or reservoir (see Water Code section 6030).

There are many potential school sites in close proximity to the Domenigoni Valley Reservoir where such mitigation may not be feasible, or financially warranted. The DOE's position has already caused the commissioning by Metropolitan and several school districts in the area of extensive inundation studies to facilitate resolution of school siting issues. Discussions are now underway between the Temecula Unified School District, Menifee Union School District, Metropolitan staff, and the DOE to attempt to resolve school siting concerns.

The Menifee Union School District, faced with the loss of several potential school sites, has now offered to seek legislation which would confirm in the Department of Water Resources exclusive jurisdiction over the safety of dams and reservoirs. Essentially, the legislation would provide that no approval, permit, entitlement or land use decision of any state or local public agency regarding the placement and siting of any public facility, shall be denied based on the possibility of inundation in the event of damage or failure of a dam or reservoir if the Department of Water Resources confirms in writing that it has and will keep jurisdiction over the dam or reservoir. A copy of the legislation which will be proposed is attached as Exhibit A.

It is proposed that the District support such legislation and give aid to its sponsor as necessary so that state and local permitting agencies may continue to rely upon the Department of Water Resources' expertise regarding the safety of dams and reservoirs.

Board Committee Assignments

This matter is referred for action to:

The Special Committee on Legislation because it involves recommendations and proposals regarding state legislation which may effect the District in accordance with Administrative Code section 2571; and

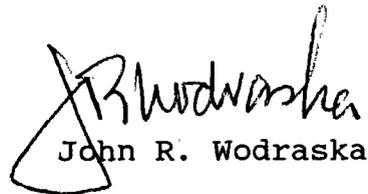
The Executive Committee because it involves legislation sponsored by or which may affect the District in accordance with Administrative Code section 2417.

July 26, 1993

Recommendation

SPECIAL COMMITTEE ON LEGISLATION AND EXECUTIVE COMMITTEES FOR ACTION.

It is recommended that the General Manager be authorized to support, and give aide to the sponsor of, legislation confirming that the Department of Water Resources has exclusive jurisdiction over dam and reservoir safety in accordance with the terms of this letter.


John R. Wodraska

LRB:bm
KARSCH/LRBMEM/MENIFEE

EXHIBIT A

The People of the State of California do enact as follows:

SECTION 1. Section 6358 is added to the Water Code to read as follows:

(a) Where a dam or reservoir as defined in Section 6002 or section 6004.5, respectively, of this Division for the purpose of storage of water is subject to regulation by the Department under this Division, no approval, permit, entitlement, or land use decision of any state or local public agency regarding the placement or site of any public buildings, including schools, and their use shall be denied based on the possibility of inundation in the event of dam breach or collapse if the Department confirms in writing that it has assumed and will continue to exercise regulation over that dam or reservoir.

(b) The Department shall respond in writing within 60 days after receipt of any request from any state or local public agency for confirmation that the Department has regulatory authority pursuant to this Division over a dam or reservoir.

SECTION 2.

This act is an Urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify the conditions under which approval of the siting of public buildings may be granted or denied, it is necessary that this Act take effect immediately.