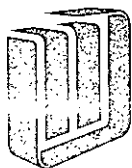


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MAR 10 1992

Daren E. Wolf
EXECUTIVE SECRETARY

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

February 12, 1992

(Executive Committee--Action)
Board of Directors (Special Committee on Legislation--Action)

General Manager

Support of Legislation Permitting Advance Compliance With
Endangered Species Act Requirements

Report

The Endangered Species Act requires a permit to be obtained from the United States Fish and Wildlife Service (USFWS) before endangered species can be adversely impacted as a result of activities. The permit can only be obtained as to species which have already been listed as endangered and then only after public comment has been received on a conservation plan and various findings including one to the effect that adverse impacts upon the species have been minimized and mitigated to the maximum extent practicable.

Many activities have the potential to adversely impact sensitive species which in all probability will subsequently become listed. In the case of multi-year construction projects, such as Domenigoni Reservoir, it is possible that a species will become listed as endangered during the course of construction and, on a worst case basis, construction activities will have to cease, or be restricted, until a permit can be obtained. It is in the best interests of the species to initially prepare, and commit to, a multi-species conservation plan providing for suitable mitigation. Such plans, especially if they ensure protection of a species in a significant portion of its habitat, could eliminate the need for listing of such species to occur. However, the Endangered Species Act currently provides a disincentive to such plans since no assurances can be provided that the agreed-to mitigation will be considered sufficient if listing of a covered species subsequently follows. To remove this disincentive, and to ensure that appropriate activities can move forward, it would be highly desirable to amend the Endangered Species Act to provide the USFWS the flexibility to approve conservation plans for species in advance of listing and to commit to issue a permit upon any subsequent listing.

February 12, 1992

Congressman Studds has introduced H.R. 4045 which would reauthorize appropriations for the Endangered Species Act and include provision of assistance in the development of plans to conserve species which are considered candidates for listing. H.R. 4045, or a similar bill expected to be introduced in the Senate, would appear to be a suitable vehicle for accomplishment of this objective.

Board Committee Assignments

This letter is referred for action to:

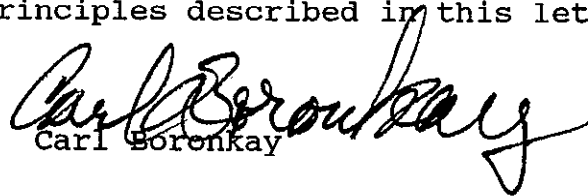
The Executive Committee because of its jurisdiction over legislation sponsored by the District or in any way affecting the District, pursuant to Administrative Code Section 2417, subdivision (a);

The Special Committee on Legislation because of its jurisdiction to review and make recommendations based upon presentations of the General Manager regarding proposals for Federal legislation and amendments thereto, pursuant to Administrative Code Section 2581, subdivision (a).

Recommendation

**EXECUTIVE COMMITTEE AND SPECIAL COMMITTEE ON
LEGISLATION FOR ACTION**

It is recommended that the General Manager be authorized to seek legislation to amend the Endangered Species Act in accordance with the principles described in this letter.


Carl Borenkay

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