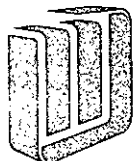


*B. E. Duff*  
Executive Secretary



**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

April 30, 1992

To: Board of Directors  
From: General Counsel  
Subject: Legal Department Report for April 1992

This report discusses significant matters with which the Legal Department was concerned during April 1992.

A. Proceedings in Which Metropolitan Is a Party

1. Azusa Landfill Litigation

On April 6, 1992, the Los Angeles Superior Court denied the City of Azusa's motion to intervene in the Azusa Landfill operator's suit (Browning Ferris Industries v. SWRCB) challenging the State Water Resources Control Board's rescission last year of the 1988 permit for expanding the Azusa Landfill. That suit is presently being held in abeyance while BFI's appeal, in earlier cases, filed by Metropolitan and others, continues to be considered. (Main San Gabriel Basin Watermaster et. al. v. SWRCB.) The court indicated that the city could reapply upon completion of that appeal. The Court of Appeal has advised that the record on appeal was filed on April 21, 1992, so that BFI's opening brief will be due May 21, 1992.

2. White v. Exxon (MWD) et al.; McClure v. Southwest Machine and Plastic Co. (MWD) et al.; Smissen v. Southwest Machine and Plastic Co. (MWD) et al.; and Gonzalez v. Southwest Machine and Plastic Co. (MWD) et al.

Litigation involving Metropolitan in these consolidated actions stemming from a 1988 explosion in an underground electrical vault in the City of Los Angeles is concluded. Voluntary dismissals were obtained from the plaintiffs in all of the above actions in which Metropolitan was named as a defendant. Cross-complaints, filed by various codefendants, were dismissed either voluntarily or pursuant to the court's order approving Metropolitan's good faith settlement motion.

### 3. San Francisco Bay/Delta Hearings

It is expected that the State Water Resources Control Board (SWRCB) will soon announce hearings to adopt "interim standards" for the Bay/Delta Estuary. Hearings likely will be held in June, with a decision by the end of the year. Staff, along with the State Water Contractors, has begun preparatory work in advance of the hearing to assemble our testimony, documentary evidence, proposed reasonable protective measures, and legal positions. It is our understanding that SWRCB intends to style the hearings as an "enforcement" proceeding, rather than a normal water rights permit revision proceeding under the appropriation statutes. By proceeding under a more general "enforcement" authority, SWRCB would have jurisdiction over all water users who impact the Bay/Delta, rather than just the Department of Water Resources (DWR) and the Bureau of Reclamation (Bureau). A major concern of ours in the hearings is to insure that the same public interest and relative benefit balancing standards that guide decisions under the appropriation statutes are applied to review of DWR and Bureau activities in this "enforcement" proceeding, and that CEQA is fully complied with, including the preparation of an environmental impact report.

#### B. Proceedings of Interest to Metropolitan

Nothing to report.

#### C. Other Matters

##### 1. Standby Charge

A member of the legal staff attended the five public hearings held in late March and early April, and has been working closely with the General Manager's department and the consultant in preparation for the proposed implementation of standby charge.

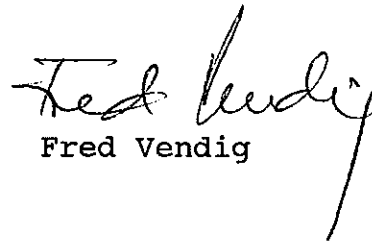
##### 2. WCT Building Lease

The agreement with Dinwiddie Construction Company terminated primarily because of its failure to procure financing for the construction of tenant improvements at the WCT Building. A notice of the building's foreclosure sale was issued for May 19, 1992. Staff understands that the owner, JCG Finance Company, Ltd. (USA), has retained a bankruptcy firm with the intent of filing a Chapter 11 proceeding. If JCG files bankruptcy, Metropolitan may be unable to exercise its option to lease 100,000 square feet of expansion space in the building. Meanwhile, members of the legal staff, special

counsel, the General Manager's staff, and Metropolitan's broker have commenced negotiations for alternative space.

3. Santa Rosa Springs/Reservoir Mitigation Property

A member of the staff continued to represent Metropolitan in hearing before the City of Murrietta City Council concerning approval of a developer's subdivision plan which would entail extension of an existing street through the 100-acre portion of Metropolitan's Santa Rosa Springs mitigation property. The city council adopted a city planning commission recommendation (favored by Metropolitan if the street must be extended) that the developer shall have obtained the right of way through the parcel prior to completion of grading of a certain number of lots for the project. This would be an incentive to the developer to resolve, in a manner satisfactory to Metropolitan and the other entities involved in the mitigation, the problem of loss of mitigation credits to Metropolitan from diminution of acreage resulting from the street extension.

  
Fred Vendig

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