



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

January 27, 1993

To: Board of Directors
From: Ad Hoc Committee on Water Standby Charge Exemption Appeals
Subject: Initial Recommendations of the Ad Hoc Committee on Water Standby Charge Exemption Appeals

Report

The Ad Hoc Committee on Water Standby Charge Exemption Appeals (Ad Hoc Committee) met on January 26, 1993. Presentations were made by two appellants: The Irvine Company, located in Orange County, and Mr. Richard Kelbaugh, a resident of Riverside County.

The Irvine Company has been granted exemptions for 11,172.11 acres of their lands under Category 2, lands permanently committed to open space as evidenced by irrevocable offers of dedication; and 5,970 acres of their lands under Category 3, lands the General Manager, in his discretion, finds do not now and cannot reasonably be expected to derive a benefit from the projects to which the proceeds of the water standby charge will be applied. Category 3 exemptions are subject to the condition that the property owner execute written agreements that provide for payment of the standby charges, plus a one-time 10 percent surcharge, and interest, if the Board later finds that the exempted lands have in fact benefitted from the District's water supply facilities. The agreements must contain a legal description of the lands, be properly executed by an authorized representative of the company and recorded with the county recorder.

The Irvine Company agreed to execute agreements as required under Category 3 but appealed to the Ad Hoc Committee to grant a variance on the requirement to record the agreements against all of the affected property parcels. They cited the excessive cost of obtaining legal descriptions of the exempted lands (several times the amount of the exemption) and the substantial administrative burden required to clear title of the non-exempt portions of several affected parcels if they are developed in the future. As an alternative, they offered to record an agreement against those parcels wholly contained within the exempted areas and to execute an additional contract with the District covering

the entire 5,970 acres. The latter contract would not be recorded but would provide for the District to collect charges, surcharges and interest should any of these lands be developed in the future. The Ad Hoc Committee voted to recommend that the Board grant the requested procedural variance, recognizing that similar variances may be appropriate for other landowners faced with like circumstances.

Mr. Richard Kelbaugh owns a 30-acre horse ranch near the City of Hemet in Riverside County. He does not receive water service from either Eastern Municipal Water District or Metropolitan. His original request for exemption was denied by the General Manager because his property is improved, uses water from a local source (his well) and could reasonably be expected to benefit from District facilities in the future. Mr. Kelbaugh argued that he was being charged for water he could not receive, and that the standby charge was inequitable and constituted a form of unfair taxation. The Ad Hoc Committee concurred with the General Manager's interpretation of the exemption criteria and voted to recommend denial of Mr. Kelbaugh's appeal.

The recommendations contained in this letter are exempt from the provisions of the California Environmental Quality Act because they can have no possible effect on the environment.

Recommendation

It is recommended that the Board of Directors:

1) Grant the request by The Irvine Company to receive a variance on the requirement to record agreements against certain of their lands exempted from the water standby charge under Category 3 of the Board's exemption criteria, as recommended by the Ad Hoc Committee on Water Standby Charge Exemption Appeals; and

2) Deny the appeal of Mr. Richard Kelbaugh for exemption of his property from the water standby charge, as recommended by the Ad Hoc Committee on Water Standby Charge Exemption Appeals.



Douglas W. Ferguson