

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

April 27, 1993

To: Board of Directors (Water Problems Committee--Information)  
(Executive Committee--Information)

From: General Manager

Subject: Status Report on Implementation of the Central Valley Project  
Improvement Act (Title XXXIV of Public Law 102-575)

**Report**

Passage of the Central Valley Project (CVP) Improvement Act (Act) represents a significant opportunity for Metropolitan to increase the reliability of its water supplies. The Act's water transfer provisions allow Metropolitan, for the first time, to negotiate transfers with CVP water users whose supplies total about seven million acre-feet per year. In addition, the Act contains provisions that require: fish and wildlife improvements, including water for the environment; water management reforms, including water metering and changes in water pricing; and other provisions which are consistent with Metropolitan's objectives to increase the quantity, quality, and reliability of Metropolitan's water resources in an environmentally sound manner.

The Secretary of the Interior (Secretary) is responsible for implementing the Act, including preparation of a Programmatic Environmental Impact Statement (PEIS). The PEIS will be the central document used for developing many of the new policies required for implementation of the Act. The Secretary has delegated the responsibility for preparation of the PEIS equally to the U. S. Bureau of Reclamation (Reclamation) and the U. S. Fish and Wildlife Service (Service). A summary of the activities being undertaken by Reclamation and the Service is described in the attached Status Report. Staff is closely monitoring these activities to protect the gains achieved in the legislation. A description of recent staff activities regarding implementation of the Act is also included in the attached Status Report.

**Board Committee Assignments**

This letter is referred for information to:

The Executive Committee because of its authority to study, advise, and make recommendations with regard to legislation that affects Metropolitan pursuant to Administrative Code Section 2417(a); and

The Water Problems Committee because of its authority to study, advise, and make recommendations with regard to policies, sources and means of importing water required by Metropolitan pursuant to Administrative Code Section 2481(a).

**Recommendation**

For information only.

  
General Manager

BEW:kmk

Attachment

s:\mm\board\evpact.bew

**Status Report on  
Implementation of the Central Valley Project  
Improvement Act  
(Title XXXIV of Public Law 102-575)**

**Importance of the Central Valley Project Improvement Act**

Passage of the Central Valley Project (CVP) Improvement Act (Act) represents a significant opportunity for Metropolitan to increase the reliability of its water supplies. The Act's water transfer provisions allow Metropolitan, for the first time, to negotiate transfers with CVP water users whose supplies total about seven million acre-feet per year. In addition, the Act contains provisions that require: fish and wildlife improvements, including water for the environment; water management reforms, including water metering and changes in water pricing; and other provisions which are consistent with Metropolitan's objectives to increase the quantity, quality, and reliability of Metropolitan's water resources in an environmentally sound manner.

**Implementation of the Central Valley Project Improvement Act**

The Secretary of the Interior (Secretary) is responsible for implementing the Act. The Act requires the Secretary to implement the water transfer, water banking, contract renewal and restoration fund provisions of the Act immediately. Implementation of these provisions will be accomplished under interim guidelines until such time as final rules and regulations (FRRs) or environmental documentation are completed. Other provisions of the Act including mandatory metering of water use and various fishery mitigation measures will be implemented only after National Environmental Policy Act documentation, in the form of a Programmatic Environmental Impact Statement (PEIS), has been completed. A variety of new federal policies that could affect Metropolitan, including exchanges and transfers and environmental activities impacting the State Water Project, will be developed as part of the PEIS. The Secretary is implementing the Act through three processes:

- First, the U. S. Bureau of Reclamation (Reclamation) is developing interim guidelines for implementing the water transfer, contract renewal, water banking and restoration fund provisions of the Act. These Guidelines will direct Reclamation's implementation of the Act until FRRs and the PEIS are adopted.
- Second, Reclamation is developing Water Conservation Criteria to implement the water conservation provisions of the Act. It is anticipated that these criteria will be included in the PEIS.

- Third, the Department of Interior, through Reclamation and the U. S. Fish and Wildlife Service (Service) is preparing the PEIS which will analyze the direct and indirect impacts and benefits of implementing the Act. The PEIS will be a Department of Interior document with Reclamation and the Service being "equal partners" in its preparation. In addition to Reclamation and the Service, a number of "cooperating agencies" will assist in substantial research and data collection. These agencies include: the Hoopa Valley Indian Tribe; the National Marine Fisheries Service; the Western Area Power Administration; the U. S. Environmental Protection Agency; the California Department of Fish and Game; the California Department of Water Resources; and the State Water Resources Control Board. The Act provides for the PEIS to be completed by October 30, 1995.

#### **Reclamation and Service Activities to Date**

To date, Reclamation has prepared interim guidelines for the water transfer and contract renewal provisions of the Act and the draft Water Conservation Criteria. Reclamation is in the process of developing interim guidelines for the water banking and restoration fund provisions of the Act. These later documents are expected to be issued in early May and mid-June, respectively.

In addition, Reclamation, in cooperation with the Service, has prepared a scoping report and draft Plan of Action (POA) for the PEIS. The latter document discusses proposed methodologies and issues to be utilized and addressed in the PEIS. Reclamation and the Service held eight scoping meetings for the PEIS in March and early April.

#### **Staff Activities to Date**

Staff has been closely monitoring implementation of the Act and has attended several meetings and provided comment on all draft interim guidelines and conservation criteria issued by Reclamation. In late March and early April staff attended Reclamation sponsored meetings on the scope of the PEIS and the draft Water Conservation Criteria.

Staff provided written and oral comments on the scope of the PEIS at a public meeting held in Burbank and on the draft Water Conservation Criteria at the public meeting held in Ventura. Additionally, staff met with Reclamation to discuss Metropolitan's concerns regarding the Interim Guidelines for Water Transfers and the draft Water Conservation Criteria. Written comments outlining Metropolitan's concerns regarding the

interim guidelines for water transfers and contract renewals and draft Water Conservation Criteria were submitted to Reclamation.

### Preliminary Issues of Concern

Staff's review of the Interim Guidelines for Water Transfers and the draft POA for the PEIS has identified the following preliminary issues of concern to Metropolitan.

#### Interim Guidelines for Water Transfers

- Metropolitan recommended key revisions to the draft Interim Guidelines for Water Transfers which were largely ignored by Reclamation. Absent these revisions, the Interim Guidelines for Water Transfers remain clearly inconsistent with congressional intent to facilitate transfers between willing sellers and buyers. For example:

The Act provides that individual water users can enter into water transfer agreements without requiring the approval of the transferor district, so long as cumulative transfers do not exceed "20 percent of the CVP water subject to long-term contract within any contracting district." District approval is required only when the cumulative amount of water subject to transfer within a district exceeds the 20 percent threshold. The Interim Guidelines, in effect, provide veto power to the contracting district over all transfers, even those within the 20 percent threshold, because transferors are required to document district approval before Reclamation even considers the transfer proposal.

The Act requires that review and approval of transfers by the Secretary and, when appropriate, by the contracting district be completed within 90 days. If no action is taken in this time period, the transfer is deemed approved. However, the Interim Guidelines require that the transferor and transferee undertake numerous, time-consuming activities before a transfer proposal can be submitted to Reclamation. These preliminary requirements include: documentation of district approval; extensive notification pursuant to right-of-first-refusal provisions; completion of state and federal environmental documentation; completion of public participation processes; completion of wheeling arrangements; and acquisition of power resources, if required, to pump the transfer water.

As stated in the Act, "all individuals or districts who receive CVP water under water service or repayment contracts, water rights settlement contracts or exchange contracts entered into prior to or after the date of enactment of this title are authorized to transfer all or a portion of the water subject to such contract..." However, the Interim Guidelines state explicitly that "These Interim Guidelines will not apply to transfers of base supply as defined in and recognized under the Sacramento River water rights settlement contracts. Transfers of base supply under those contracts will be accomplished pursuant to the water transfer provisions of California State law."

#### Draft Plan of Action

- The draft POA, inappropriately, identifies a need to prepare supply and demand studies of transferee service area to determine each potential transferee's need for transfer water. Such studies are readily available for potential transferee and therefore should not be duplicated.
- The draft POA, inappropriately, identifies a need to analyze growth-inducing impacts, and resulting impacts to endangered species in the transferee's service area. Such impacts are more appropriately addressed in transfer specific environmental documentation which will be required for individual transfers as they are proposed.

Staff is preparing a letter to Reclamation outlining the above concerns regarding Reclamation's Interim Guidelines for Water Transfers. Further, a meeting has been scheduled with Reclamation to discuss the changes Metropolitan deems necessary prior to adoption of FRRs for water transfers. Revisions to the interim guidelines and the FRRs may be made should Reclamation be made aware that the interim guidelines or the FRRs are not in compliance with the Act.