

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

June 23, 1993

To: Board of Directors (Finance and Insurance Committee--Action)
(Water Problems Committee--Action)

From: General Manager

Subject: Deadline for Filing Request for Exemptions from Water Standby Charge

Report

On June 14, 1993, the Finance and Insurance Committee discussed staff's request for a blanket waiver of the filing deadline from standby charge exemptions and referred the matter back to staff for further consideration.

Resolution 8367, imposing water standby charges on real property within the District's service area for fiscal year 1992-93, and Resolution 8405, imposing water standby charges on such property for fiscal 1993-94, provide four categories of exemption from the charges. The third category, lands which 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, is the principal category of exemptions listed in pending applications.

A standby charge is a form of special assessment, not a tax. A special assessment is a charge imposed on particular real property for a public improvement that is of benefit to that property.

An assessment will be invalidated if there is no benefit to the land on which it is imposed. The exemption procedures were incorporated in the standby charge resolutions to provide a mechanism for owners of affected lands which do not derive a benefit from the projects to be funded with proceeds of the standby charge to be relieved from the burden of the charge.

Seventy-one requests for exemption from the 1992-93 water standby charge were received after the deadline for that year. To date, approximately 110 requests for exemption from the 1993-94 water standby charge have been received subsequent to the April 8, 1993 deadline.

Metropolitan established a deadline for filing of exemption requests in order to expedite administration of applications for exemption. However, staff believes that requirements established for our administrative convenience should not preclude exemptions based on lack of benefit in situations where the property owner can show reasonable cause for late filing of the application for exemption. The nature of this type of charge, founded on benefit to the property, requires that administrative requirements not unduly interfere in certain cases where the key issue of benefit is being validly disputed.

Examples which could constitute reasonable cause include failure to receive notice of the charge (substantiated by acceptable proof of the cause for nondelivery of the mailed notice), purchase of property after the deadline and other extraordinary circumstances. The key issue of whether the property derives benefit from the projects to be financed with proceeds of the water standby charge will be an overriding consideration.

Staff recommends that the current deadlines for filing of standby charge exemptions not be changed. Staff also requests, however, that the General Manager be granted the discretion to consider late applications on a case-by-case basis where reasonable cause for missing the filing deadline has been shown. Staff proposes that this authorization expire March 10, 1994, which is ninety days after the first installment of property taxes are due for the 1993-94 fiscal year.

Should the determination be made that reasonable cause exists for late filing of the exemption request, then it must still be determined that the reasons for exemption cited in the request are valid and the property owner would still be required to sign an agreement with Metropolitan exempting that property from the charge for the year claimed. Depending on the timing of signing the agreement, Metropolitan may be required to make retroactive adjustments for exempted property.

The General Manager's determinations, in conjunction with the appeal process on standby charge exemptions which is already in place, will be subject to appeal to the Ad Hoc Committee on Standby Charge Exemption Appeals and thereafter to your Board.

Board Committee Assignments

This letter is referred for action to:

The Finance and Insurance Committee because of its responsibility for the determination of revenues to be obtained through sales of water, water standby or availability of service charges and the levying of taxes, pursuant to Administrative Code Section 2441, subdivision (e); and

The Water Problems Committee because of its responsibility regarding water standby or availability of service charges within the District, pursuant to Administrative Code Section 2481, subdivision (f).

Recommendation

FINANCE AND INSURANCE AND WATER PROBLEMS COMMITTEES FOR ACTION.

That the Board grant the General Manager discretion to consider late applications on a case-by-case basis for reasonable cause shown, effective for applications filed through March 10, 1994.


for General Manager