

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

October 29, 1993

To: Board of Directors
From: General Counsel
Subject: Legal Department Report for October 1993

This report discusses significant matters with which the Legal Department was concerned during October 1993.

I. Litigation

A. Proceedings in Which Metropolitan Is a Party

1. SWRCB Hearings on Los Angeles Mono Basin Water Rights

Metropolitan filed a written opening statement with the State Water Resources Control Board on October 5 and appeared at the October 20 initiation of evidentiary hearings on reduction of Los Angeles' Mono Basin water rights licenses. Since most of the issues involve extensive Mono Basin natural resource matters, Metropolitan's witness, Dr. Timothy Quinn, is not expected to testify until November 17, at the earliest.

2. Eagle Mountain Hydroelectric Power Project (MRC v. FERC)

Metropolitan was notified on October 19 that the appeal of Federal Energy Regulatory Commission orders approving a permit for investigating construction of a large pumped storage hydroelectric generating project at Eagle Mountain in Riverside County has been assigned to the Court of Appeal's mediation program. Metropolitan has intervened in the appeal because the permit application sought use of Metropolitan's Colorado River supplies and Aqueduct.

The parties have agreed to seek deferral of the mediation process until next year in light of ongoing efforts by the two principal parties, Eagle Mountain Energy Company (EMEC), and Mine Reclamation Company (MRC) to settle a related suit by EMEC in the Riverside County Superior Court challenging the environmental impact report for MRC's competing solid waste disposal project.

3. Delmonico et al. v. City of Anaheim, MWD et al.

Metropolitan was served on October 14, 1993, with a complaint for damages seeking in excess of \$3 million by the owners and family of a single family residence located in the Anaheim Hills. The complaint seeks damages for inverse condemnation, negligence, nuisance, dangerous condition of property, and other torts on account of the Anaheim Hills slide during the heavy rains of winter 1993. It is asserted that Metropolitan's pipeline which underlies the area, the Santiago Lateral, leaked thereby contributing to the high groundwater table conditions in the area. The Delmonico's claim was one of approximately 250 claims denied in August 1993, as thorough inspections of the Santiago Lateral have disclosed no evidence of leakage. Plaintiffs' attorney advises that this matter was filed because of a deadline with regard to other defendant public entities, including the City of Anaheim and County of Orange, and Metropolitan's role in this and any future litigation is not yet determined with certainty. In the meantime, Metropolitan has an open extension of time in which to answer or otherwise respond to this complaint until that determination has been made.

B. Proceedings of Interest to Metropolitan

Ward Valley Radioactive Waste Disposal Project

The Fort Mojave Indian Tribe and the City of Needles filed actions against the California Department of Health Services (DHS) on October 15 and 18, 1993, respectively, in Los Angeles Superior Court, to invalidate DHS' mid-September approval of the proposed Ward Valley radioactive waste disposal facility. The cases assert that DHS violated California's Environmental Quality Act and Radiation Control Law and seek an injunction to prevent further development of the project until DHS complies with those statutes. Both cases refer to threats to the Colorado River and the related report of Metropolitan's consultant.

Since the project site is located on federal land, project implementation also requires sale of the land to DHS from the Secretary of the Interior (Secretary). The Secretary has advised the Governor that he requires additional state hearings to determine if there is important new information to assist him in determining whether the site is appropriate for that purpose and whether the transfer requires terms or conditions to insure proper land use and protection of the public interest. Those hearings are expected to be held late this year or early next year.

On October 21, Metropolitan submitted comments to the Bureau of Land Management on its supplemental environmental impact statement on the proposed sale of the land to DHS. Metropolitan's comments included transmittal of the July 30, 1993 draft report of its consultant listing eight issues regarding potential impacts on Colorado River and other water supply resources and recommending corrective actions. Metropolitan submitted that report to assist the Secretary in determining terms and conditions needed to insure proper use of the site and protection of the public interest.

II. Resource/Environmental Issues

1. Bay/Delta Standards

Legal staff continued to assist the General Manager's staff in developing appropriate strategies with regard to potential proposed EPA standards for the Bay/Delta. Staff has worked with attorneys representing the City of San Francisco and Santa Clara Valley Water District as well as Metropolitan's special counsel, Best, Best and Krieger.

2. State Water Project

Legal staff continued to assist the General Manager's staff in discussions involving concerns of agricultural contractors with regard to implementation of various aspects of Article 18 of the State Water Contract. Numerous meetings have been held with interested parties on the subject.

3. Water Transfers

Legal staff continued to provide support to the General Manager's staff in the negotiation and preparation of appropriate documentation regarding the transfer of water by Aries Dairy Farms to Metropolitan.

III. Other Matters

1. Financial Matters

A member of legal staff has been responding to various inquiries regarding requests for exemptions from the standby charge. Such inquiries have increased due to the mailing of the property tax bills.

A member of the legal staff has been providing legal advice with regard to various issues associated with the financial rate structure study.

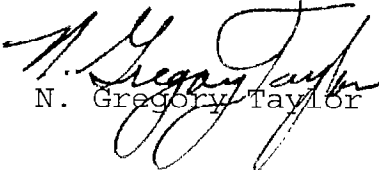
2. American Assembly Process

A member of the legal staff, in conjunction with a member agency manager, prepared the background paper for the American Assembly Process regarding the issue of governance. In addition, one member of the staff served as a facilitator and one as a recorder for the Assembly.

3. Continuing Legal Education

Two members of the staff were on the faculty of the California Legal Education Foundation's Water Law Conference held in San Diego. Topics addressed by the staff included issues associated with the Central Valley Improvement Act and current matters of interest on the Colorado River.

The General Counsel was a member of a panel at the California State Bar's Environmental Law Section discussing California water rights.


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