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METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

8-3

November 23, 1993

To: (Engineering and Operations Committee-Action)
Board of Directors (Water Problems Committee-Action)

From: General Manager

Subject: Revisions to the Administrative Code Regarding the Local Projects Program

Report

At its February 1993 meeting, the Board voted to support Senate Bill 7 (SB 7), introduced by Senator David Kelley of Riverside, which proposed to amend the Water Code to authorize water suppliers to acquire, store, provide, sell and deliver reclaimed water for all beneficial uses. SB 7 has been chaptered into law and its provisions will be effective beginning January 1, 1994. A copy of legislative counsel's digest for SB 7 is included as Attachment A.

In light of the new authority granted by the new Water Code provision, it is recommended that, effective January 1, 1994, Administrative Code Sections 4115 and 4516 be amended to expand Metropolitan's Local Projects Program (LPP) to include projects producing water for any beneficial use. Under the Metropolitan Water District Act, the LPP is currently limited to projects producing reclaimed water principally for municipal and domestic purposes. The proposed revisions would enable Metropolitan to expand this valuable program to include projects which will produce reclaimed water for all beneficial uses, including agricultural use, within Metropolitan's service area.

It is also recommended that a new Section 4117 be added to the Administrative Code to define the meaning of Metropolitan's Local Projects Program Contribution as Metropolitan's per acre-foot financial contribution to qualified projects. Additional proposed revisions to Administrative Code Sections 4116 and 4516 would streamline and clarify the LPP guidelines and qualifying criteria currently in use. Section 4516(c)(1) also would be amended to correctly state that the District will purchase the LPP water at a price equal to the LPP Contribution plus the District's rate for reclaimed water. That section now erroneously provides that the District's treated non-interruptible water rate is used for the District's purchase of this water.

Board of Directors

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Attachment B sets forth the new provisions as they will appear in the Administrative Code and Attachment C shows the changes to be made by strike-out and underlining.

These actions are exempt from the provisions of the California Environmental Quality Act in that there is no possibility that they may have a significant effect on the environment.

Board Committee Assignments

This letter is referred for action to:

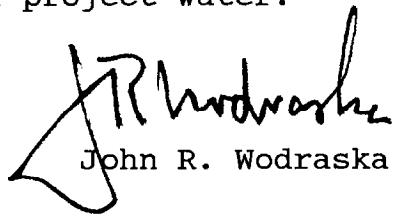
The Engineering and Operations Committee because of its authority over the production, exchange, sale, storage, and treatment of water, pursuant to Administrative Code Section 2431(c); and

The Water Problems Committee because of its jurisdiction and responsibility to study, advise, and make recommendations regarding policies dealing with the sale and delivery of water for various use, and water reclamation and reuse, pursuant to Administrative Code Section 2481(d)(i).

Recommendation

ENGINEERING AND OPERATIONS COMMITTEE AND WATER PROBLEMS COMMITTEE FOR ACTION.

It is recommended that the Board amend the Administrative Code to read as set forth in Attachment B to expand the Local Projects Program to include projects producing reclaimed water for all beneficial uses, to streamline and clarify the existing Local Projects Program guidelines and criteria, and to correctly state the water rate used by Metropolitan in its purchase of project water.



John R. Wodraska

RM:bvf

Attachments

ATTACHMENT A

Senate Bill No. 7

CHAPTER 53

An act to add Section 13556 to the Water Code, relating to water.

[Approved by Governor June 29, 1993. Filed with
Secretary of State June 30, 1993.]

LEGISLATIVE COUNSEL'S DIGEST

SB 7, Kelley. Reclaimed water.

Existing law regulates the use of reclaimed water.

This bill would provide that described water suppliers may acquire, store, provide, sell, and deliver reclaimed water for any beneficial use, including, but not limited to, municipal, industrial, domestic, and irrigation uses, if the water use is in accordance with specified statewide reclamation criteria and regulations.

The people of the State of California do enact as follows:

SECTION 1. Section 13556 is added to the Water Code, to read:
13556. In addition to any other authority provided in law, any water supplier described in subdivision (b) of Section 1745 may acquire, store, provide, sell, and deliver reclaimed water for any beneficial use, including, but not limited to, municipal, industrial, domestic, and irrigation uses, if the water use is in accordance with statewide reclamation criteria and regulations established pursuant to this chapter.

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ATTACHMENT B

PROPOSED REVISIONS TO THE MWD ADMINISTRATIVE CODE

1. Amend Section 4115 of the Administrative Code to state:

§ 4115. Local Projects Program Yield.

"Local Projects Program Yield" shall mean reclaimed water developed by a project in the District's Local Projects Program which is available for purchase by the District, and which can be resold by the District to meet a demand on the District for all beneficial uses.

2. Amend Section 4116 of the Administrative Code to state:

§ 4116. Project Sponsor.

"Project Sponsor" shall mean a public agency that owns and operates, or proposes to own and operate, a project that will produce a Local Projects Program Yield.

3. Add Section 4117 to the Administrative Code to provide:

§ 4117. Local Projects Program Contribution.

"Local Projects Program Contribution" means the financial contribution, on a per acre-foot basis, provided by the District to projects in the Local Projects Program. Currently, the Local Projects Program Contribution is \$154 per acre-foot.

4. Amend Section 4516 of the Administrative Code to state:

§ 4516. Local Projects Program.

(a) To financially assist local agencies in the development of Local Projects Program Yield, there shall be a Local Projects Program. A member public agency may submit an application to the General Manager for a project proposed for inclusion in the Local Projects Program. The application shall be in the form designated by the General Manager. To qualify for the Local Projects Program Contribution, the Project Sponsor shall demonstrate and certify in the application to the General Manager's satisfaction that the following criteria will be met:

- (1) The project will produce Local Projects Program Yield which will replace a demand on the District for any beneficial use;
- (2) The project will deliver at least 100 acre-feet per year of Local Project Program Yield;
- (3) The cost of the water to be produced by the project will exceed the cost of purchasing water from the District;
- (4) The project must be capable of being implemented in compliance with the Metropolitan Water District Act and any other applicable laws;
- (5) The Project Sponsor will obtain public health and regulatory permits required by the project;
- (6) The obligations of the lead agency under the California Environmental Quality Act will be complied with by an agency other than the District;
- (7) The project is not existing or under construction when the application is submitted to the General Manager; and

(8) The project must be supported by a member public agency.

(b) The General Manager may reject any application for any reason.

(c) The General Manager is authorized to execute an agreement, subject to approval as to its legality by the General Counsel, with an agency that complies with the above criteria. Such agreement, at a minimum shall provide:

(1) That the District will purchase the Local Projects Program Yield from a project at a rate per acre-foot equal to the Local Projects Program Contribution plus the District's rate for reclaimed water. The Local Projects Program Contribution is currently \$154 per acre-foot, but may be increased in the future by action of the Board for then-existing as well as future agreements. The increase shall apply to an existing agreement if the contracting Project Sponsor demonstrates to the satisfaction of the General Manager a need for the increase based on changes in costs of project operation and guarantees production and reuse of a certain annual amount of reclaimed water.

- (2) That water purchased from a project may be sold by the District to any member public agency including the member agency within whose territory the project is located at the District's rate for reclaimed water.
- (3) For a term not exceeding 25 years from the date when the project first produces Local Project Program Yield. The term of the agreement will be for as long as the estimated cost of reclaimed water to be produced by the project exceeds District's projected rates for non-interruptible treated water.
- (4) That the Project Sponsor will pay and be responsible for design, construction, operation, maintenance, and management of the project.
- (5) The Project Sponsor agrees at its sole cost and expense to defend and hold District and its member agency harmless from any claim and all liability which may arise from construction and operation of the project.

(6) District shall have no ownership right, title, security interest or other interest in any project facilities, nor any rights, duties or responsibilities for operation and maintenance thereof.

ATTACHMENT C

PROPOSED REVISIONS TO THE MWD ADMINISTRATIVE CODE

1. Amend Section 4115 of the Administrative Code to state:

§ 4115. Local Projects Program Yield.

"Local Projects Program Yield" shall mean reclaimed water developed by a project in the District's Local Projects Program which is available for purchase by the District, and which can be resold by the District to meet a demand on the District for ~~non-interruptible-service-for municipal-and-domestic~~ all beneficial uses.

2. Amend Section 4116 of the Administrative Code to state:

§ 4116. Project Sponsor.

"Project Sponsor" shall mean a public agency that owns and operates, or proposes to own and operate, a project that will produce a Local Projects Program Yield.

3. Add Section 4117 to the Administrative Code to provide:

§ 4117. Local Projects Program Contribution.

"Local Projects Program Contribution" means the financial contribution, on a per acre-foot basis, provided by the District to projects in the Local Projects Program. Currently, the Local Projects Program Contribution is \$154 per acre-foot.

4. Amend Section 4516 of the Administrative Code to state:

§ 4516. Local Projects Program.

(a) To financially assist local agencies in the development of Local Projects Program Yield, there shall be a Local Projects Program. A member public agency may submit an application to the General Manager for a project proposed for inclusion in the Local Projects Program. The application shall be in the form designated by the General Manager. To qualify for the Local Projects Program Contribution, the Project Sponsor shall demonstrate and certify in the application to the General Manager's satisfaction that the following criteria will be met:

- (1) The project will produce Local Projectss Program Yield which will replace a demand ~~for non-interruptible-service-for-municipal-or-domestic uses on the District for any beneficial use;~~
- (2) The project will deliver at least 100 acre-feet per year of Local Project Program Yield;
- (3) The cost of the water to be produced by the project will exceed the cost of purchasing water from the District;
- (4) The project must be capable of being implemented in compliance with the Metropolitan Water District Act and any other applicable laws;
- (5) The Project Sponsor will obtain public health and regulatory permits required by the project; and
- (6) The obligations of the lead agency under the California Environmental Quality Act will be complied with by an agency other than the District.i

(7) The project is not existing or under construction when the application is submitted to the General Manager; and

(8) The project must be supported by a member public agency.

(b) The General Manager may reject any application for any reason.

(c) The General Manager is authorized to execute an agreement, subject to approval as to its legality by the General Counsel, with an agency that complies with the above criteria. Such agreement, at a minimum shall provide:

(1) That the District will purchase the Local Projects Program Yield from a project at a rate per acre-foot equal to the ~~local-project-contribution~~ Local Projects Program Contribution plus the District's rate for ~~treated-non-interruptible reclaimed water,-unless-a-capital-contribution-for a-project-is-authorized-by-the-Board~~. The ~~local~~

project-contribution Local Projects Program

Contribution is currently \$154 per acre-foot, but may be increased in the future by action of the Board for then-existing as well as future ~~Local~~ Project agreements. The increase shall apply to an then-existing existing agreement if the contracting Project Sponsor demonstrates to the satisfaction of the General Manager a need for the increase based on changes in costs of ~~Local~~ Project project operation and guarantees production and reuse of a certain annual amount of reclaimed water.

(2) That water purchased from a ~~Local-Project~~ project may be sold by the District to any member public agency including the member agency within whose territory the ~~Local-Project~~ project is located at the District's rate for reclaimed water.

(3) For a maximum term not exceeding 25 years from the date when the project first produces Local Project Program Yield. The term of the agreement will be for as long as the estimated cost of reclaimed water to be produced by the project exceeds District's projected rates for non-interruptible treated water.

- (4) That the Project Sponsor will pay and be responsible for design, construction, operation, maintenance, and management of the project.
- (5) The Project Sponsor agrees at its sole cost and expense to defend and hold District and its member agency harmless from any claim and all liability which may arise from construction and operation of the project.
- (6) District shall have no ownership right, title, security interest or other interest in any project facilities, nor any rights, duties or responsibilities for operation and maintenance thereof.