

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

November 8, 1993

To: Board of Directors (Finance and Insurance Committee--Action)
(Legal and Claims Committee--Action)

From: General Manager

Subject: Administrative Code Provisions Regarding Payment of Lost or
Destroyed Bonds and Interest Coupons

Report

The Administrative Code provides procedures for payment of bonds and interest coupons issued by the District which have been lost or destroyed. The owner of the lost or destroyed bonds and/or coupons must provide (i) proof of loss or destruction, which may be an affidavit establishing ownership and reciting the circumstances under which the loss or theft occurred, (ii) all costs of the District in issuing a new bond, if the bond has not yet matured, and (iii) an indemnity bond or other security indemnifying the District against losses incurred on account of the bonds and/or coupons. This Board letter addresses the amount of coverage required under the indemnity bond.

The indemnity bond is required to protect the District in the event that the lost bond and/or coupon is presented to the District for payment, after the owner has received payment on account of the lost bond or coupon. Under California law, a subsequent purchaser of an instrument who gives value and takes the instrument in good faith, without knowledge of theft, or fraud or similar circumstances, may be entitled to payment of that instrument even if payment has already been made to the prior owner. The indemnity bond provides a source for reimbursement to the District of payment to a bona fide purchaser who presents lost or stolen bonds or coupons, after they have already been paid.

Under the Administrative Code, the indemnity bond is required to be at least double the amount of the lost bonds and/or coupons. This is double the amount necessary to protect the District from claims of bona fide purchasers, and double the amount generally required by corporate trustees and other issuers. This requirement has resulted in unnecessary costs to the District's bondholders. This

requirement also is inconsistent with Administrative Code provisions for the payment of lost coupons, which limit reimbursement to the District under a lost coupon indemnity to the face amount of the coupon paid under the bond.

It is proposed that the Administrative Code be amended to require that indemnity bonds for lost or destroyed bonds and interest coupons be required in an amount which is at least equal to the amount of the claim for payment of such lost bonds and/or coupons, as shown in Attachment A. This amendment brings the District's regulations into line with industry standards and eliminates the inconsistency in the regulations with respect to payment of lost coupons, described above.

The proposed revisions are shown by underscoring and strikeouts on Attachment B.

Board Committee Assignments

This letter is referred for action to:

The Finance and Insurance Committee, pursuant to its jurisdiction under Administrative Code Section 2441(b) with regard to sale of bonds and borrowing and repayment of money; and

The Legal and Claims Committee, pursuant to its jurisdiction under Administrative Code Section 2461(a) and (h) regarding claims brought by or against the District and the organization and contents of the Administrative Code.

Recommendation

FINANCE AND INSURANCE AND LEGAL AND CLAIMS COMMITTEES FOR ACTION.

It is recommended that Sections 5104 and 5105 of the Administrative Code be amended to read as shown in Attachment A.



John R. Wodraska

ATTACHMENT A

§ 5104. Payment After Loss of Bond Interest Coupon.

(a) The Treasurer of the District is authorized to effectuate payment, without action of the Board, of a claim arising from the loss of a bond interest coupon that has been detached from a District bond or from the destruction of a bond interest coupon at any time after the date of its maturity, and the Treasurer has received:

(1) An affidavit or affidavits establishing the ownership of the coupon and reciting therein the circumstances under which it was lost or destroyed; and

(2) An indemnity bond in a penal sum which is at least the amount of the claim, said sum being specifically stated in said bond, said bond to be approved by the General Manager and then filed with the Treasurer. The indemnity bond must include a rider substantially in the form hereinafter set forth:

(i) Rider.

This Rider is attached to and is a part of the Bond of Indemnity executed by the (enter name of insurance company) respecting the loss of coupons due _____ coupons at \$_____ per coupon -- total \$_____, detached from \$_____ Bonds of THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, numbered _____ to _____, _____/, maturing _____, at \$_____ each bond in bearer form.

It is understood and agreed that in the event the balance in the coupon account respecting the above-described issue of bonds, maintained by the Treasurer of said District, should hereafter not be sufficient as a result of the payment of coupon(s) to provide for outstanding unpaid coupons, (enter name of insurance company) will reimburse The Metropolitan Water District of Southern California, up to the face amount of the coupon(s) paid under this indemnity contingent upon presentation by said District of (a) evidence that said District has paid the afore-described coupon(s) or (b) a certificate from the Treasurer of said District that there is a deficiency in said coupon account balance.

It is understood that within the first year after the due date of the afore-described coupon(s) that (enter the name of the insurance company) may request that the Treasurer of said District search the

District's records to ascertain if in fact the afore-described coupon(s) have been paid, but any such request shall only be honored by said Treasurer upon payment by (enter name of insurance company) of any fee required by said Treasurer to cover costs of such search.

Executed this _____ day of _____, 19____.
(enter name of insurance company)

(b) The Treasurer shall report annually to the Finance and Insurance Committee of the Board all payments made pursuant to this Section 5104.

§ 5105. Lost or Destroyed Bonds.

(a) The Treasurer of the District is authorized to issue a new District bond or bonds similar to the original to replace it if the Treasurer has received:

(1) Proof satisfactory to the Treasurer that the bond has been lost or destroyed; and

(2) Security approved by the Treasurer and the General Counsel from the owner indemnifying the District against any loss incurred on account of the bond, such security to be equal to the principal amount of the bond plus the aggregate amount of any attached interest coupons; and

(3) The costs for issuance of the new bond.

(b) The Treasurer shall report annually to the Finance and Insurance Committee of the Board all issuances of duplicate bonds made pursuant to this Section 5105.

ATTACHMENT B

§ 5104. Payment After Loss of Bond Interest Coupon.

(a) The Treasurer of the District is authorized to effectuate payment, without action of the Board, of a claim arising from the loss of a bond interest coupon that has been detached from a District bond or from the destruction of a bond interest coupon at any time after the date of its maturity, and the Treasurer has received:

(1) An affidavit or affidavits establishing the ownership of the coupon and reciting therein the circumstances under which it was lost or destroyed; and

(2) An indemnity bond in a penal sum which is at least ~~double~~ the amount of the claim, said sum being specifically stated in said bond, said bond to be approved by the General Manager and then filed with the Treasurer. The indemnity bond must include a rider substantially in the form hereinafter set forth:

(i) Rider.

This Rider is attached to and is a part of the Bond of Indemnity executed by the (enter name of insurance company) respecting the loss of coupons due _____ coupons at \$ _____ per coupon -- total \$ _____, detached from \$ _____ Bonds of THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, numbered _____ to _____, _____/, maturing _____, at \$ _____ each bond in bearer form.

It is understood and agreed that in the event the balance in the coupon account respecting the above-described issue of bonds, maintained by the Treasurer of said District, should hereafter not be sufficient as a result of the payment of coupon(s) to provide for outstanding unpaid coupons, (enter name of insurance company) will reimburse The Metropolitan Water District of Southern California, up to the face amount of the coupon(s) paid under this indemnity contingent upon presentation by said District of (a) evidence that said District has paid the afore-described coupon(s) or (b) a certificate from the Treasurer of said District that there is a deficiency in said coupon account balance.

It is understood that within the first year after the due date of the afore-described coupon(s) that (enter the name of the insurance company) may request that the Treasurer of said District search the

District's records to ascertain if in fact the afore-described coupon(s) have been paid, but any such request shall only be honored by said Treasurer upon payment by (enter name of insurance company) of any fee required by said Treasurer to cover costs of such search.

Executed this _____ day of _____, 19____.
(enter name of insurance company)

(b) The Treasurer shall report annually to the Finance and Insurance Committee of the Board all payments made pursuant to this Section 5104.

§ 5105. Lost or Destroyed Bonds.

(a) The Treasurer of the District is authorized to issue a new District bond or bonds similar to the original to replace it if the Treasurer has received:

(1) Proof satisfactory to the Treasurer that the bond has been lost or destroyed; and

(2) Security approved by the Treasurer and the General Counsel from the owner indemnifying the District against any loss incurred on account of the bond, such security to be ~~double~~ equal to the principal amount of the bond ~~and double plus~~ the aggregate amount of any attached interest coupons; and

(3) The costs for issuance of the new bond.

(b) The Treasurer shall report annually to the Finance and Insurance Committee of the Board all issuances of duplicate bonds made pursuant to this Section 5105.