MWD
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

April 21, 1994

To: Board of Directors (Committee on Legislation--Action)

From: General Manager

Subject: California Endangered Species Policy Principles

Report

California Endangered Species Act Legislation. There are three main bills which have been introduced to amend the California Endangered Species Act (CESA). These are SB 2091 (Maddy) which will be the Administration's bill, AB 3052 (Bustamente) supported by agriculture and the building industry, and SB 1549 (Hart) supported by the environmental community. Also introduced are SB 1352 (Kelley) which is still a "spot" bill and SB 1621 (McCorquodale) which reflects agricultural interests. At the time of this writing, the bills are subject to significant amendment. Analysis of the main bills' key provisions will be provided at the committee meeting if the amendments are in place.

California Endangered Species Policy Principles. The Natural Community Conservation Planning Act (Section 2800 et. seq. of the Fish and Game Code effective January 1992) currently authorizes the California Department of Fish and Game (Department) to enter into conservation plans for multiple wildlife species not limited to those with threatened or endangered status. The Code also provides for the take of any species provided for in a Department approved conservation plan.

Issue 1: Multi-Species Approach. Species have traditionally been listed one at a time as threatened or endangered as data and procedural requirements have been met. The multi-species approach allows protection of many declining species associated with an area or region through one process relieving the need for individual listing of each species.

Policy Options:

1. Support protection of declining species on a comprehensive, multiple species basis.

2. Support continued listing of threatened and endangered species one at a time.

3. Remain neutral on this issue.

Recommendation: Adopt policy option 1.

Issue 2: Pre-listing Agreements. Traditionally, mitigation could not be approved for impacts to a threatened or endangered species until it was listed. Pre-listing agreements remove barriers to proactive planning important to projects with lengthy planning and construction time frames.

Policy Options:

1. Support continuation of pre-listing provisions provided in section 2800 of the Fish and Game Code.

2. Oppose provisions for pre-listing agreements.

3. Remain neutral on this issue.

Recommendation: Adopt policy option 1.

Issue 3: Clarify Validity of Take Permits. The state Endangered Species Act (Section 2081 of the Fish and Game Code) specifies that the Department may authorize take of endangered, threatened or candidate species for scientific, educational, or management purposes. Long-standing interpretation of this provision by the Department is to allow take for development when this supports management of the listed species. Recently, this interpretation has been challenged.

Policy Options:

1. Seek legislative clarification of the Code to ensure validity of take granted in connection with water supply facilities.

2. Defer resolution of this challenge to the courts.

Recommendation: Adopt policy option 1.

Board Committee Assignment

This letter is referred for action to:

The Committee on Legislation because of its responsibility for District positions on legislation.

Recommendation

COMMITTEE ON LEGISLATION FOR ACTION.

It is recommended that your Board adopt legislative policy principles for the California Endangered Species Act as recommended above.

for John R. Wodraska

KMK/dgs

S:MMShared/Board:CESA