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By the Board of Directors of
The Metropolitan Water District
of Southern California
at its meeting held

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

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Baron E. Duff
EXECUTIVE SECRETARY

June 30, 1994

To: Board of Directors
From: General Counsel
Subject: Legal Department Report for June 1994

This report discusses significant matters with which the Legal Department was concerned during June 1994.

I. Litigation

A. Proceedings in Which Metropolitan Is a Party

1. United States v. Fallbrook Public Utility District, et al.

On June 16, a member of the Legal staff appeared before the Court-appointed Steering Committee and Watermaster for the Santa Margarita River System water rights Judgment, to describe a proposed Memorandum of Understanding and Agreement for Operation of Domenigoni Reservoir. The Judgment requires that any new water storage impoundment on the System's streams is operated consistently with the rights established under the 1966 Judgment.

Domenigoni Reservoir is located on Warm Springs Creek, a tributary of the Santa Margarita River by way of Murrieta Creek. However, that Creek contributes only a small amount of surface flow to the River, and its groundwater flows into the San Jacinto Watershed rather than the Santa Margarita Watershed.

The Steering Committee consists of representatives of the United States, including the U.S. Marine Corps and the Department of Justice; Fallbrook Public Utility District, Rancho California and Eastern Municipal Water District. The Committee indicated it would provide comments on Metropolitan's proposal in early August, in anticipation of a possible recommendation at its September 15 meeting.

The Court approved in 1975 a similar Memorandum of Understanding and Agreement for Metropolitan's Lake Skinner, which is located on Tualota Creek, another tributary of the Santa Margarita River. The Operating Criteria contained in that Memorandum of Understanding has worked well over the past 19 years.

2. Eagle Mountain Pumped Storage License Proceedings

Metropolitan filed a request with the Federal Energy Regulatory Commission (FERC) on June 28, to require Eagle Mountain Energy Company (EMEC) which has filed an application for a license to build and operate a 1000 MW pump storage project in old mining pits at Eagle Mountain, to perform additional studies needed to form an adequate factual basis for evaluating the Application. Metropolitan's requests relate to potential impacts of the proposed project on Metropolitan's Colorado River Aqueduct and related facilities, and on Metropolitan personnel and their families.

3. Bay/Delta Hearings

A member of staff continued to assist the General Manager's staff in the preparation of materials for the State Water Resources Control Board hearings. The Urban Coalition, CUWA and Metropolitan all submitted comments to the June 14 workshop. The issues addressed in the June 14, 1994 workshop of the Board included what factors other than water diversions impact fish and wildlife resources, what effect do upstream water projects have on the Bay/Delta, and what are the status and trends of biological resources in the Bay/Delta. Work continues on preparation for the July workshop of the Board.

4. Metropolitan v. Rucker (Domenigoni Condemnation Case)

A motion by the Rucker's to recover their litigation costs was heard by the Court in June. The Court denied the recovery of costs saving Metropolitan a potential fee award of \$193,500 in attorney's and expert's fees. The motion was handled by the law firm of Hill, Farrer & Burrill.

5. Domenigoni Condemnation Cases

Trial preparations are underway in two major cases, that involving the Domenigoni family itself and the 3M property. Both cases are scheduled for August and will be principally handled by Best, Best & Krieger.

6. Metropolitan v. JWP et al.

This case was filed and served by Metropolitan and relates to the failure by the contractor to provide in a timely manner a controls system for various District facilities. This matter is the subject of a separate confidential letter.

B. **Proceedings of Interest to Metropolitan**

Ward Valley Disposal Facility Litigation

On June 24, The California Department of Health Services (DHS) requested the Los Angeles Superior Court to discharge the challenges to its September 16, 1993 approval of a low-level radioactive waste disposal facility in Ward Valley, some twenty miles west of the Colorado River. DHS also submitted supplemental findings and a consultant's report that conclude that contamination of the Colorado River from the proposed facility is for all practical purposes impossible. DHS prepared the supplemental findings pursuant to the Court's May 4 Order directing it to review and evaluate a December 1993 Report, identified as the Wilshire Report, regarding potential underground pathways to the Colorado River.

II. Resource/Environmental Issues

1. **Water Transfers-Areias**

The initial agreement was completed and executed by the parties. Documentation has been submitted to the Bureau of Reclamation and the Central California Irrigation District for their review.

2. **Colorado River Endangered Species**

Work continued with the steering committee of the three lower basin states to reach an agreement to guide the process for developing a management plan for listed and sensitive species. Two agreements are presently under discussion, the first would provide for funding of a feasibility study of potential multi-species management plans and would be funded by the Colorado River Board of California, the Arizona Department of Water Resources and the Nevada Colorado River Commission. The second agreement would add other parties, such as the Department of the Interior and the states' fish and game agencies and would provide for a partnership to attempt to develop a management plan which would meet the goals of restoring listed species, preventing future

listings and accommodating existing and future water and power operations.

3. Groundwater Matters

(a) Chino Basin

A member of staff continued to meet with Chino Basin interests relating to the Chino Basin Demonstration Project.

(b). Ventura County-Calleguas and Fox Canyon Groundwater Management Agency

A member of the staff participated in preliminary discussions relating to a potential groundwater conjunctive use program in Ventura County which would involve Calleguas and the Fox Canyon Groundwater Management Agency.

III. Contracts

1. AMP

Members of the staff continued to negotiate the final language for the acquisition of the AMP pipeline, which was approved by your Board last month. Draft final documentation is expected to be prepared by mid-July.

2. South County Pipeline Capacity Fee

A member of staff continued to work with the Santa Margarita Water District on issues associated with possible acquisition of this pipeline. This matter may be ready for the Board's consideration in August or September.

IV. Headquarters Project

1. Permanent Headquarters

A member of staff continued to assist the lead negotiator and special counsel on legal issues arising out of negotiations with Catellus Corporation and the City of Los Angeles.

2. Sunset Property

A member of staff continued to assist the General Manager's staff in discussions with the Los Angeles Building and Safety and Fire Departments in resolving issues associated with continued use of the Sunset facility pending extension of the current compliance date under Fire/Life Safety Order to Comply.


N. Gregory Taylor

NGT:
Monthly