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The Metropolitan Water District
of Southern California
at its meeting held

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

MAR 14 1995

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Robert E. Duff
EXECUTIVE SECRETARY

February 28, 1995

To: Board of Directors
From: General Counsel
Subject: Legal Department Report for February 1995

This report discusses significant matters with which the Legal Department was concerned during February 1995.

I. Litigation

A. Proceedings in Which Metropolitan is a Party

1. San Bernardino Valley Audubon Society, et al. v. City of Moreno Valley, et al.

On February 2, 1995, the Riverside Superior Court (Palm Springs Branch) denied the petition of the National Audubon Society (NAS) for a Writ of Mandate to invalidate the Department of Fish and Game's "2081" Agreement. The Court ruled that Fish and Game was authorized under that section to allow management take of the Stevens Kangaroo rat (SKR). The Court also agreed with respondents that DFG had not improperly delegated its authority to the Riverside County Habitat Conservation Agency. Even though the Court has not yet signed the respondent's proposed judgment, NAS on February 17, 1995, filed a Notice of Appeal, Notice to Elect to Proceed by way of an appendix pursuant to California Rule of Court 5.1 in lieu of the Clerk's Transcript, designated the Reporter's Transcript and filed a Motion to Consolidate Appeals in the Court of Appeal, Fourth Appellate District. The Motion to Consolidate requests that the second cause of action dealing with the 2081 issues be consolidated with the three other causes of action which were severed from the second cause of action and tried in April 1994. The appellate briefing is now complete on the other three causes of action and NAS is asking the Court to consolidate for the purposes of a shared record, review, oral argument and decision but does not want consolidation of the briefing and preparation of the appendix. Counsel for all respondents are conferring with respect to what position to take with regard to the motion to consolidate.

2. Eagle Mountain Pumped Storage Project

On January 31 the Federal Energy Regulatory Commission issued Notice that it had accepted the license application for permission to build and operate a 1000 megawatt pumped storage hydroelectric generating project at Eagle Mountain, near Metropolitan's Colorado River Eagle Mountain pumping station. The project will use two empty Kaiser mining pits as reservoirs for the project, and proposes to obtain its water supply from groundwater wells in the area.

The project developers, Eagle Crest Energy Company (formerly Eagle Mountain Energy Company), obtained a permit to study the feasibility of the project four years ago. It initially proposed to use Metropolitan's Colorado River Aqueduct for the project water supply, but now proposes to use groundwater. Metropolitan actively participated in the study permit proceedings and has filed a motion to intervene in the current license proceedings which are still in an early phase.

The Energy Company proposes to operate its project next to the regional solid waste landfill project proposed by Kaiser Resources, Inc., and Mine Reclamation Company.

3. Domenigoni Valley Reservoir Project

Staff continued to work with outside counsel on a number of condemnation actions related to the Domenigoni Valley Reservoir Project. During the month, staff assisted outside counsel in settlement discussions in five separate cases as well as assisting in ongoing discovery in several other matters.

4. Inland Feeder

Staff continued to work on matters related to negotiations to acquire the Campus Crusade property.

B. Proceedings of Interest to Metropolitan

None.

II. Resource Matters

1. State Water Project

Work continued on drafting contract language to implement the Monterey Principles. Significant progress was made by the Transportation Reservoirs Committee. Staff also

participated in the Agricultural Sales and Implementation Committees and the CEQA Compliance Committee.

2. Bay/Delta

Comments were submitted to the State Water Resources Control Board at a February 23, 1995 hearing on the draft Water Quality Control Plan for the Delta as a part of the CUWA/Agricultural group. The comments of the group generally supported the draft plan but did raise a series of technical issues.

Work is also continuing on implementation of the December 15, 1994 Framework Agreement. A member of staff is participating as the urban representative on a Category III Workgroup who is tasked with developing an institutional framework to manage Category III funding and to chose projects for funding.

3. Water Transfers

Work continued on the Areias Water Transfer Agreement to document the amendments which your Board approved at the February meeting.

Work also continued on a number of groundwater programs, including an Orange County Water Storage agreement, Las Posas and Chino Basin.

4. Contracts

Work continued to finalize the acquisition of the Allen-McCulloch Pipeline with a March 1 signing date.

Work also continued on the agreement to provide labor to staff the Calleguas Filtration plant in accordance with the Board's approval in February.

III. Claims

Nothing to report.


N. Gregory Taylor
General Counsel