

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

NOV 14 1995

Baron E. Deff
 EXECUTIVE SECRETARY

7-6

October 31, 1995

To: Board of Directors (Land Committee--Action)
 (Legal and Claims Committee--Action)
 (Engineering and Operations--Action)

From: *for* John R. Wodraska
 General Manager

Debra C. Man, Chief
 Planning and Resources

Subject: Authority for the General Manager to Enter Into Agreements Regarding the
 Lake Mathews Multiple Species Habitat Conservation Plan and Natural
 Community Conservation Plan

RECOMMENDATIONS:

1. That your Board, having reviewed and considered the proposed Mitigated Negative Declaration (MND), the Initial Study and the public comments received in response to these documents, approve and adopt the MND for the Lake Mathews Multiple Species Habitat Conservation Plan and Natural Community Conservation Plan (Lake Mathews MSHCP/NCCP).
2. That your Board authorize the General Manager to enter into the Cooperative Management Agreement and related documents, in form approved by the General Counsel, for implementation of the Lake Mathews MSHCP/NCCP.
3. That your Board approve the amendment to the 1979 Memorandum of Agreement Regarding Mitigation of State Water Project Wildlife Losses in Southern California among Metropolitan, California Department of Fish and Game and Department of Water Resources for payment of \$500,000 to implement the Lake Mathews MSHCP/NCCP.

EXECUTIVE SUMMARY:

As reported to your Board in July, 1995, Metropolitan has completed the Lake Mathews Multiple Species Habitat Conservation Plan and Natural Community Conservation Plan (Lake Mathews MSHCP/NCCP). Approval of the Lake Mathews MSHCP/NCCP and authorization for the General Manager to enter into agreements and to take necessary

implementing actions regarding the Lake Mathews MSHCP/NCCP with the U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG), and the Riverside County Habitat Conservation Agency (RCHCA) is being requested from your Board at this time. With this authorization, USFWS will issue a Section 10(a) permit for the take of federally listed species and CDFG will issue a Section 2081 and 2835 authorization for the take of state listed species at Lake Mathews. These permits and authorizations are necessary for the take of the Stephens' kangaroo rat (SKR) at Lake Mathews because no take of SKR is currently allowed on Metropolitan's Lake Mathews properties since they are within a "Study Area" as designated under the RCHCA's Short-term SKR Habitat Conservation Plan.

Approval is also sought from your Board to amend the 1979 Memorandum of Agreement Regarding Mitigation of State Water Project Wildlife Losses in Southern California among Metropolitan, CDFG and DWR (1979 MOA). Pursuant to this amendment, Metropolitan will obtain an additional \$500,000 obligated to it from the Department of Water Resources (DWR) to be used for management of the existing ecological reserve at Lake Mathews. The amendment clarifies that the \$500,000 will be used according to the terms of the Lake Mathews MSHCP/NCCP.

To comply with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), a joint Mitigated Negative Declaration (MND) and Environmental Assessment (EA) for the Lake Mathews MSHCP/NCCP was distributed for public review for a 32-day review period on August 25, 1995. This document includes the Initial Study required under CEQA and accompanies this letter (or is available in the Executive Secretary's office) along with comments received on the MND/EA and responses to these comments. Your Board is required to consider the proposed MND, the Initial Study, and comments received during the public review period prior to approval and adoption of the MND. Approval of the MND is based on a finding by your Board that there is no substantial evidence that, with the mitigation required by the MND, the project will have a significant effect on the environment. The mitigation monitoring program required under CEQA Section 21081.6 is a fully enforceable condition of the federal Section 10(a) permit and the California Sections 2081 and 2835 authorization for take of listed species and is provided in the Cooperative Management Agreement.

Based on the EA, USFWS has determined that issuance of a Section 10(a) permit to Metropolitan will not have significant environmental effects. USFWS will issue a Finding of No Significant Impact (FONSI).

DETAILED REPORT:

As reported to your Board in July, 1995, Metropolitan has completed the Lake Mathews Multiple Species Habitat Conservation Plan and Natural Community Conservation Plan (Lake Mathews MSHCP/NCCP). Approval of the Lake Mathews MSHCP/NCCP and authorization for the General Manager to enter into agreements and to take necessary implementing actions regarding the Lake Mathews MSHCP/NCCP with the U.S. Fish and

Wildlife Service (USFWS), California Department of Fish and Game (CDFG), and the Riverside County Habitat Conservation Agency (RCHCA) is sought from your Board at this time. With this authorization, USFWS will issue a Section 10(a) permit under the federal Endangered Species Act (ESA) for the take of federally listed species and CDFG will issue a Section 2081 and 2835 authorization under the California ESA for the take of state listed species at Lake Mathews. These permits and authorizations are necessary for the take of the Stephens' kangaroo rat (SKR) at Lake Mathews because no take of SKR is currently allowed on Metropolitan's Lake Mathews properties since they are within a "Study Area" as designated under the RCHCA's Short-term SKR plan.

The Lake Mathews MSHCP/NCCP provides permits for the take of six species currently listed under the federal and state Endangered Species Acts (ESAs). The permits are required to minimize the potential for disruption and delay of Metropolitan's ongoing and future operational projects and activities at Lake Mathews due to the presence of endangered species. These species include the Stephens' kangaroo rat, the California gnatcatcher, and the Least Bell's vireo.

The Lake Mathews MSHCP/NCCP also includes pre-listing agreements and authorizations with USFWS and CDFG for 59 other sensitive species that currently occur or potentially could occur at Lake Mathews in the future. These prelisting agreements allow for the take of any of these species if and when they become listed and ensure that projects and activities at Lake Mathews will not be delayed or halted by the future listing of one or more of the species covered by the plan.

The Lake Mathews MSHCP/NCCP can be implemented at no additional cost to Metropolitan for two reasons. First, no additional land acquisition is required for mitigation. Biological mitigation under the Lake Mathews MSHCP/NCCP involves establishing a mitigation bank on Metropolitan's Lake Mathews properties that can be used to mitigate endangered species impacts of (1) ongoing and future operational projects and activities at Lake Mathews; (2) projects to be constructed on Metropolitan's properties at Lake Mathews, such as the Cajalco Creek Dam and Detention Basin; and (3) other Metropolitan projects within Riverside, Orange and parts of Los Angeles counties. This mitigation bank can be used to mitigate for project impacts under the California Environmental Quality Act (CEQA) as well as the federal and state ESAs.

Second, funding for the biological management of the mitigation lands will be provided through a partnership with the RCHCA. RCHCA will purchase conservation easements over 1,269 acres of occupied Stephens' kangaroo rat habitat on Metropolitan's properties for \$5 million. Metropolitan will establish an endowment for reserve management with the money provided by RCHCA.

Amendment to MOA with Department of Water Resources and CDFG

Approval is also sought from your Board to amend the 1979 Memorandum of Agreement Regarding Mitigation of State Water Project Wildlife Losses in Southern California among Metropolitan, CDFG and DWR (1979 MOA). Pursuant to this amendment, Metropolitan

will obtain an additional \$500,000 obligated to it from the Department of Water Resources (DWR) to be used for management of the existing ecological reserve at Lake Mathews. The amendment clarifies that the \$500,000 will be used according to the terms of the Lake Mathews MSHCP/NCCP.

Environmental Documentation for the Lake Mathews MSHCP/NCCP

To comply with CEQA and the federal National Environmental Policy Act (NEPA), a joint Mitigated Negative Declaration (MND) and Environmental Assessment (EA) for the Lake Mathews MSHCP/NCCP was distributed for public review for a 32-day review period on August 25, 1995. This document includes the Initial Study required under CEQA and accompanies this letter (or is available in the Executive Secretary's office) along with comments received on the MND/EA and responses to these comments. Your Board is required to consider the proposed MND, the Initial Study, and any comments received during the public review period prior to approval and adoption of the MND. Approval of the MND is based on a finding by your Board that there is no substantial evidence that, with the mitigation required by the MND, the project will have a significant effect on the environment.

Pursuant to CEQA Section 21081.6, when adopting a mitigated negative declaration, a monitoring program for the mitigation that is a condition of project approval must also be adopted in order to mitigate or avoid significant effects on the environment. This monitoring program is to be designed to ensure compliance during project implementation. The Lake Mathews MSHCP/NCCP provides mitigation for future projects and activities described in the plan. As such, the Lake Mathews MSHCP/NCCP incorporates mitigation measures and a mitigation monitoring program into its design. The mitigation monitoring program for the Lake Mathews MSHCP/NCCP is identified in the Cooperative Management Agreement (CMA) among Metropolitan, CDFG, USFWS, and RCHCA. The CMA establishes a management committee composed of representatives of each of these agencies. The management committee will prepare a management plan to implement the provisions of the Lake Mathews MSHCP/NCCP and will monitor this implementation throughout the 50-year term of the permits issued by USFWS and CDFG for incidental take. Establishment of the management committee and its subsequent actions is a fully enforceable condition of these permits.

Because of USFWS's action in issuing a permit for incidental take of listed species associated with the Lake Mathews MSHCP/NCCP, USFWS must prepare an Environmental Assessment to determine whether the action would result in any significant environmental effects. As stated above, a joint MND/EA was prepared and distributed for public review. USFWS has determined that no significant environmental effects will occur from the action and will issue a Finding of No Significant Impact (FONSI).

DSD:arb

Attachment