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METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

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To: Board of Directors (Water Planning and Resources Committee--Info)
(Committee on Legislation--Action)

From: *for* General Manager

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for Mark D. Beuhler, Director
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Subject: Legislative Policy Principles

RECOMMENDATION

Metropolitan staff recommends your Board adopt legislative policy principles for the following issues: Water Recycling; Growth Charges; Federal Endangered Species Act; CALFED Funding Appropriations and Budget Coordination for the Bay-Delta Estuary; Aquatic Toxicity Monitoring; Development of Geographic Information Systems (GIS); and Impact of Privatization on Water Quality Laboratories.

EXECUTIVE SUMMARY

At its October 8, 1996, meeting, the Committee on Legislation (Committee) prioritized various issues of concern to Metropolitan for the upcoming federal and state legislative sessions and requested staff to evaluate current and potential future policy concerns. Staff targeted eleven of the priorities and submitted issue papers for the Committee's consideration during its November, December and January meetings. Seven of those eleven issue papers are summarized below and include recommendations for action for new legislative policy principles. No further policy principles were deemed necessary in the issue papers presented to the Committee for the Model Water Transfer Act, State Revolving Fund for Drinking Water System Improvements, Restructuring of the Electric Utility Industry and Implementation of Farm Bill Conservation Programs.

WATER RECYCLING

Southern California has made a strong commitment to water recycling. About 235,000 acre feet of recycled water is used annually in Metropolitan's service area without any financial incentives from Metropolitan. Through the Local Projects Program (LPP), Metropolitan has committed financial assistance for development of 42 water recycling projects since 1982 that currently produce approximately 55,000 acre feet per year.

Expanding water recycling statewide can reduce demand for water from the Sacramento-San Joaquin Delta and the Colorado River and reduce the need for large regional infrastructure investments. In addition to traditional landscape irrigation and industrial applications, use of recycled water for agricultural irrigation, toilet flushing and groundwater recharge have tremendous potential but are challenged by regulatory, commercial and public acceptance.

Financing. Project owners and Metropolitan benefit when state and federal funding is available for water recycling projects. Low interest loans and grant funding are especially helpful in capital financing and in reducing Metropolitan's LPP contributions. Local agencies, however, have found the application procedures to be cumbersome and in need of streamlining.

Resource Management. The concentration of various wastewater constituents may affect the costs and the usefulness of the recycled water. Typical sources of salinity in recycled water include brackish groundwater infiltration into sewers, self-regenerating water softeners, normal domestic discharges, industrial discharges and salinity of the source drinking water.

Institutional. The development of recycled water systems involves many agencies, some with competing interests. This process requires cooperation and mutual agreement.

Regulatory Flexibility. Existing Title 22 regulations for direct application of recycled water were established in 1978 while groundwater recharge is handled on a case-by-case basis. Experience and demonstration programs are providing opportunities to revise conservative regulatory practices and reduce water recycling costs.

Public Awareness and Expanded Uses. As agencies take steps to expand the uses of recycled water under the watchful eye of regulatory agencies, the challenge of educating the public on the measures taken to safeguard recycled water supplies takes on greater importance. Recycling agencies are seeking greater uniformity in administration of the regulations.

Recommended Policy Principles

Metropolitan staff recommends that the Board adopt the following policy principles to promote water recycling and to guide staff regarding regulatory and legislative

review with respect to financing, resource management, institutional arrangements, regulatory flexibility and public awareness:

1. Support federal and state regulatory and legislative proposals to develop new financing for water recycling consistent with the following objectives:
 - Increased water recycling in California and the Colorado River Basin.
 - Research leading to advances in science and technology, health effects assessments, facility and regional planning, desalting and innovative demonstration projects.
 - Streamlining administrative procedures for state low interest-rate loans and federal grants for projects and research.
2. Support legislation and regulations that protect or improve the quality of wastewater and source water supplies from constituent concentrations that are adverse to recycled water use.
3. Support legislation that encourages voluntary cooperation and partnership among involved agencies to foster workable strategies for recycled water project implementation.
4. Support continuous review, appropriate revision and streamlining of water recycling regulations and uniform administration consistent with experience gained in operations, public health and environmental protection.
5. Support legislation and regulations which serve to increase public education and awareness of water recycling, its benefits and safety.

GROWTH CHARGES

There is no question that growth should pay its fair share of costs associated with meeting new demands. Whether such payment is made through water rates, taxes or other assessments is the issue to be addressed.

It was recognized during Phase I of the Rate Refinement Process (RRP) that the New Demand Charge (NDC) mechanism which was imposed for fiscal years 1995-96 and 1996-97 did not accomplish this goal. At its meeting in July 1996, Metropolitan's Board approved the recommendation presented by the RRP to suspend collection of the NDC for fiscal years 1995-96 and 1996-97 until an area-wide new development-based fee structure is implemented by Metropolitan or until normal system demands exceed 2.2 million acre feet per year, whichever occurs first. A new mechanism to ensure growth pays its fair share is needed.

Connection/Capacity Fee Alternative: Metropolitan is not presently authorized, under the Metropolitan Water District Act (Act) or other applicable law, to impose and collect connection or capacity fees from properties placing new or increased demands on water systems within Metropolitan's service area. This led to the development of the NDC, which was to be imposed on and collected from the Member Agencies under existing statutory authority. Legislation, whether in the form of amendments to the Act or a broader statute like those discussed below, will be required before MWD will be authorized to collect connection fees directly from property or property owners.

Current Plan: The RRP participants are evaluating a process to look at alternatives to the NDC, including a service area-wide connection fee. Responding to a request by Metropolitan's Board, RRP participants have developed a time schedule to revise, modify or replace the current NDC with a charge or fee that would ensure that growth creating new demand in Metropolitan's service area pays its fair share of costs to meet such demand.

A committee of Member Agencies and MWD staff has developed the following workplan and schedule for your consideration:

Fall 1996	Develop methodology for assessing appropriate costs to new growth.
	Identify and establish a service area-wide stakeholders list.
January 1997	Meet with Member Agencies, stakeholders and other interested parties.
	Prepare an RFP for a nexus study.
March through October 1997	Solicit comments from all parties on alternatives, perform rate analyses and develop strategic plans for feasible alternatives.
November 1997	Pending Letter to Metropolitan's Board recommending appropriate growth charge.
December 1997	Final Board Letter recommending appropriate growth charge and implementation strategy.

Recommended Policy Principles

Staff recommends that Metropolitan continue to work through the RRP to develop alternatives and build consensus for an appropriate new growth charge. Staff also recommends that the RRP participants should proceed within the following general principles:

1. Growth creating new demand in Metropolitan's service area must pay its fair share of costs to meet such demand.
2. Development of this charge will be an inclusive process involving the Member Agencies and other stakeholders in determining the appropriate costs for growth.

3. The program must be designed to work properly within the Metropolitan rate structure, generating sufficient revenues to pay for growth without creating disincentives to sound water management practices.

FEDERAL ENDANGERED SPECIES ACT

The federal Endangered Species Act (ESA) has required reauthorization since 1993. Since that time, the ESA has been implemented on a year-to-year basis. Reauthorization efforts stalled in both the 103rd and 104th Congresses, and were particularly contentious in the 104th Congress as reviews addressed property and water rights issues. In March 1995, Metropolitan adopted a set of moderate ESA policy principles and coordinated efforts through the Western Urban Water Coalition (WUWC) to have these principles included in moderate ESA reform discussions. In 1996, the WUWC participated in roundtable discussions composed of environmental, real estate and timber representatives to craft a moderate proposal highly reflective of Metropolitan's policy principles. This effort, however, was unable to advance an ESA reform package through both the House and Senate. It is unclear at this time how Congress may proceed on developing an ESA reauthorization bill during the 105th Congress.

Discussions with a broad range of legislators and interest groups will need to be continued and expanded in order to build support for the elements of the 1996 roundtable proposal. Of particular importance to Metropolitan is that support be expanded for its principle regarding voluntary natural systems management, which is being questioned by the environmental coalition in large part due to its inclusion of strong "no surprises" provisions and by some property rights interests as inserting federal controls into the area of local land use.

Recommended Policy Principles

Staff has reviewed the March 1995 policy principles and recommends that the existing principles be maintained as adopted at that time, and that an additional principle addressing "no surprises" be explicitly specified. A "no surprises" principle is currently subsumed within the principles for voluntary natural systems management and pre-listing agreements. However, because of the crucial nature of this concept and the likely continued debate regarding "no surprises," staff recommends the addition of the following principle:

"No Surprises." Continue to support statutory authorization for binding ESA compliance agreements and permits that:

- include a defined range of adaptive management measures to provide flexibility as appropriate to refine conservation commitments and to address unforeseen circumstances over the life of the permit; and

- provide that any modifications to the conservation plan necessary to address future unforeseen or extraordinary circumstances will not impose additional costs (dollars, land or water) on the permittee without the consent of that permittee.

The existing policy principles and the additional principle as proposed above support the capital improvement program and are critical to comprehensive, long-term resolution of endangered species issues in the Bay-Delta and on the Colorado River.

CALFED FUNDING APPROPRIATIONS AND BUDGET COORDINATION FOR THE BAY-DELTA ESTUARY

Passage of Proposition 204 by the California voters last November also led to the authorization by Congress in October 1996 of Title XI in the Omnibus Parks and Public Lands Management Act, H.R. 4236. Title XI includes \$143.3 million per year for 1998, 1999, and 2000 (\$430 million total) for the ecosystem-related Bay-Delta programs. These funds are in addition to the baseline funding levels documented in an interagency cross-cut budget that describes federal spending in fiscal years 1993 through 1998.

With voter approval of Proposition 204, Bay-Delta interests will need to continue their consensus-oriented discussions and work with Congress over the next three years to ensure actual appropriation of the authorized funds. Emphasis will also be placed on integrating and coordinating state and federal funding and administrative budget procedures to ensure efficient utilization of revenues for the Bay-Delta. Furthermore, a broader cost-share discussion must be initiated to integrate non-state and federal revenues into the long-term finance strategy.

CALFED agencies are currently preparing a five-year estimate of activities and costs to begin early implementation of CALFED restoration components and are developing an integrated state/federal administrative and budget approach. The five-year program concentrates on activities that will be beneficial to the long-term program regardless of which alternative is ultimately chosen. The program is estimated to cost approximately \$1.1 billion over the five-year span. Estimates of CALFED's long-term financial strategy will be detailed in the upcoming draft programmatic environmental impact report. The intent of the funds authorized under H.R. 4236 is to provide a contribution towards the federal government's responsibility and obligation in the Bay-Delta. Other issues relating to coordination of the CALFED Bay-Delta budget include coordinating the timing of projects consistent with the availability of funding; coordinating the expenditure of state and federal revenues; and crediting agencies for expenditures.

Recommended Policy Principles

In addition to the existing policy principles adopted by your Board in February 1996 concerning CALFED funding, Metropolitan staff recommends that the Board adopt the following policy principles to guide staff in working with federal and state agencies and stakeholder interests:

1. **Coordinate New and Existing Bay-Delta Funding Accounts.** Secure appropriate federal funds for a CALFED solution. Develop a process for more efficient and effective coordination of new and existing state and federal Bay-Delta restoration funds.
2. **Assure Corps of Engineers Involvement.** Participation in the CALFED effort by the Army Corps of Engineers has been identified as an important opportunity and appropriations for Corps efforts in the Bay-Delta will be a priority.
3. **Seek Funding Through Farm Bill Appropriations.** Metropolitan will work together with Bay-Delta interests to seek appropriation of 1996 Farm Bill funding for ecosystem-related projects in the Bay-Delta Estuary.
4. **Look at Full Range of Funding Options.** A full-range of options will be pursued to finance the long-term Bay-Delta solution, including new and reprioritized state and federal funds, water-user fees and private grants.

AQUATIC TOXICITY MONITORING

A recent study by California Urban Water Agencies (CUWA) indicates that significant levels of toxicity have been found in the surface waters of the Sacramento and San Joaquin River basins. Further studies, however, are needed to identify the chemicals responsible for toxicants and their sources. To develop this type of comprehensive aquatic monitoring program, it will be necessary to first assess the scope, purpose and methodology of the myriad of monitoring efforts that currently exist in the watersheds. While the need for monitoring is increasing, funding for many existing monitoring programs has significantly declined or has been eliminated.

CUWA's interest in aquatic toxicity monitoring stems from the fact that efforts to restore the Bay-Delta ecosystem often focus disproportionately on outflow and exports. Through aquatic toxicity monitoring, water interests aim to identify other factors which may contribute to fish declines and to focus resources on actions which will provide real environmental improvements.

In addition to CUWA, CALFED is expected to identify the need for increased monitoring in the Bay-Delta watershed. Discussions with CALFED staff have indicated that its draft Water Quality Common Program will be released in February 1997. Although the

specific monitoring proposals are not available at this time, an assessment of existing monitoring programs is likely to be included in CALFED's recommendations.

Recommended Policy Principles

Metropolitan staff recommends that the Board adopt the following policy principles to guide staff efforts to assess existing aquatic toxicity monitoring programs in the Sacramento-San Joaquin Bay-Delta watershed and to develop a comprehensive, long-term monitoring program in this region:

- A comprehensive assessment of existing aquatic toxicity monitoring programs in the Sacramento and San Joaquin Rivers, as well as the Bay-Delta, is necessary so that baseline data can be developed and gaps in monitoring data identified.
- Any new, comprehensive monitoring program must focus on establishing the link between fish declines and specific toxicants.
- The scope of any new, comprehensive monitoring program must include the Sacramento and San Joaquin Rivers and tributaries, as well as the Bay-Delta.
- A long-term funding source for comprehensive aquatic toxicity monitoring must be obtained that, to the extent possible, equitably allocates financial responsibility among all necessary parties in the Sacramento-San Joaquin Bay-Delta watersheds.
- Adequate, reliable funding for a comprehensive aquatic toxicity monitoring program must be available to the appropriate implementing agency.

DEVELOPMENT OF GEOGRAPHIC INFORMATION SYSTEMS (GIS)

Geographic Information Systems (GIS) are increasingly being used as an analytical tool for making local and statewide policy and planning decisions. Metropolitan uses digital geographic information to support its analysis of CALFED Bay/Delta alternatives, demographic trends for water demand forecasting, facility planning and evaluation of environmental mitigation and habitat conservation plans. Metropolitan obtains its geographic data from various sources including other public agencies, educational institutions and commercial vendors and will develop its own data if the data is not otherwise available.

Legislation to establish a grant program for the creation and maintenance of a new geographic information framework in the State of California failed during the 1995-96 legislative session. GIS development legislation is expected to be reintroduced during the 1997-98 legislative session. Metropolitan would benefit from legislation that encourages the

availability of statewide framework data bases to help ensure that data collected for different organizations can be integrated and used together. In addition, the creation of a state funding program would enhance statewide geographic data base development that could benefit Metropolitan.

Recommended Policy Principles

Staff recommends that the following policy principles be adopted by Metropolitan's Board to guide staff in discussions on legislation for development of statewide geographic information:

Funding and Cost Sharing

- Support legislation that provides funding mechanisms and grant programs for the development of statewide geographic information data bases in California.
- Support legislation that encourages the formation of consortia and public-private partnerships that can work together to produce commonly-needed data.

Responsiveness to the Needs of GIS Users

- Support legislation that promotes coordinated, efficient development and dissemination of geographic information and avoids restrictive policies for data access and dissemination.
- Support legislation that encourages public input to the process of developing new GIS data bases, such as creation of an advisory board to provide input to the Department of Information Technology on data needs and eligibility requirements of any funding program.
- Support the development of common framework data bases containing basic geographic information that provides a base to register other data and to ensure data collected for different themes or different organizations can be integrated and used together.

IMPACT OF PRIVATIZATION ON WATER QUALITY LABORATORIES

Several bills were introduced during last year's 104th Congress that could have required the use of qualified private laboratories for compliance monitoring to meet federal, state or municipal requirements. For Metropolitan, this would mean that no compliance analyses could be conducted at the Water Quality Laboratory (WQL) or treatment plants even if it were clearly less expensive than outsourcing these analyses. Use of private laboratories could result in increased costs and ultimately higher water bills for customers. While the bills

did not move through the 104th Congress, it is expected that the subject will resurface this year. Private laboratory advocates have stated that either a new bill will be introduced or language will be inserted into a larger privatization bill.

To ensure high quality drinking water and 100 percent compliance with all drinking water regulations, the WQL performs approximately 300,000 tests in-house annually. The WQL also utilizes the services of private laboratories for those analyses where it is cost effective to do so. The ability of Metropolitan, its Member Agencies and subagencies to perform required analyses in their own laboratories would have been negatively impacted.

Recommended Policy Principles

Staff recommends the following policy principles be adopted by Metropolitan's Board to guide discussions on privatization of water quality laboratories:

1. All water utilities, public and privately owned, should continue to have the flexibility to choose to conduct water quality analyses for compliance, special investigations or research, in their own laboratory or to contract for laboratory services with other public or private entities.
2. Metropolitan should oppose legislation that limits or constrains the ability of Metropolitan and its Member Agencies to make decisions on conducting water quality laboratory analyses.

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