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METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

8-9

May 6, 1997

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

From: General Manager
for:

[Handwritten signature: Jay Malinski]
[Handwritten signature: Ray Wolfe]

Submitted by: Mark D. Beuhler
Director of Water Quality

Subject: Legislation on Methyl Tert-Butyl Ether (MTBE)

RECOMMENDATION

It is recommended that your Board support AB 592 (Kuehl - Santa Monica) and AB 1491 (Cunneen - Cupertino); support SB 1189 (Hayden - Brentwood) if amended; support SB 775 (Johannessen - Redding) if amended; and watch SB 521 (Mountjoy - Monrovia).

EXECUTIVE SUMMARY

Metropolitan has an aggressive Action Plan to respond to issues related to MTBE contamination of drinking water sources including groundwaters and surface water reservoirs. A component of that plan is to closely track and influence regulatory and legislative activities related to MTBE. Five bills have been introduced in the State Legislature that relate to MTBE. Based on existing policy principles previously adopted by your Board on groundwater and source water protection (see Attachment No. 1), staff recommends that your Board approve the following positions on these bills:

AB 592 (Kuehl)	Support
SB 1189 (Hayden)	Support if amended
SB 775 (Johannessen)	Support if amended
AB 1491 (Cunneen)	Support
SB 521 (Mountjoy)	Watch

Table No. 1 is a one-page table that summarizes information on these bills.

DETAILED REPORT

Contamination of both groundwater and surface water sources of drinking water has occurred as a result of the use of MTBE as an additive to gasoline to improve air quality. Staff presented a detailed information report on MTBE to your Board at its March, 1997 meeting. An information letter on pending State legislation related to MTBE was presented at your April, 1997 Board meeting but no recommendations were made at that time because legislative policy committee debate was expected to modify the legislation significantly.

There are currently four bills being considered by the Legislature which deal directly with MTBE and one additional bill that relates to underground fuel storage tanks that has bearing on the MTBE issue.

The following is a brief description of each of these bills including any amendments in print as of May 5, 1997, and the basis for staff's recommended position on each bill. It is known that several of the authors, Senator Hayden and Assemblywoman Kuehl in particular, are considering additional amendments.

AB 592 (Kuehl), sponsored by the City of Santa Monica, would require various actions by state agencies including setting of both primary (health related) and secondary (consumer acceptance) drinking water standards for MTBE, inspection of gasoline pipelines by the State Fire Marshall, testing of drinking water wells within 1,000 feet of any leaking pipeline and additional follow-up actions. No dates are specified for the setting of drinking water standards. AB 592 has an additional requirement preventing a discharger from being involved in the "regulation" of clean-up activities. The bill provides additional tools for water agencies to help prevent or clean up contamination of drinking water sources and should be supported.

SB 1189 (Hayden), also sponsored by the City of Santa Monica, is very similar to AB 592 except that it requires the drinking water standards be set by July 30, 1998 while AB 592 has no dates. Mandating the setting of a health-based drinking water standard for MTBE by a specific date is highly undesirable because good health effects data are not currently available and may take several years to produce. Establishing a secondary standard for aesthetic aspects of MTBE such as taste and odor by a near-term date is reasonable and will provide water agencies with an effective tool. SB 1189 should be supported only if amended to remove the specific date for setting a primary drinking water standard.

SB 775 (Johannessen) would require the State Air Resources Board (SARB) to conduct a study on health aspects of MTBE and other issues and report by July 30, 1998. The bill should be supported only if amended to clearly include drinking water issues (health

effects and taste and odor) in the study and should require SARB to consult with the California Department of Health Services in conducting the study.

AB 1491 (Cunneen), sponsored by the State Water Resources Control Board, would require that underground storage tanks for petroleum products meet certain specified standards and have appropriate permits. It would prohibit putting petroleum into any tank that does not meet the requirements. This prohibition would take effect on January 1, 1998, if the bill is passed and signed. The bill provides an additional tool for protection of groundwater sources of drinking water from contamination by gasoline components including MTBE and should be supported.

SB 521 (Mountjoy) would make it a misdemeanor to sell gasoline containing MTBE until January 1, 1999, or until certain state agencies certify the absence of health risk, whichever comes first, and prohibits SARB from requiring the use of MTBE in gasoline. It is recommended that staff continue to watch this legislation because Metropolitan should not take a position on an issue where there are significant scientific uncertainties concerning health risk tradeoffs between air and water.

Based on existing policy principles previously adopted by your Board on groundwater and source water protection, staff recommends that your Board approve the following positions on these bills:

AB 592 (Kuehl)	Support
SB 1189 (Hayden)	Support if amended
SB 775 (Johannessen)	Support if amended
AB 1491 (Cunneen)	Support
SB 521 (Mountjoy)	Watch

CEA/EGD/KMC/mi

Attachments

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TABLE NO. 1

Bill Number (Author)	Summary	Status	Recommended Position
SB 521 (Mountjoy)	This bill would, until January 1, 1999, or until the completion of a study and certification by specified state agencies that there is no health risk, whichever occurs first, make it a misdemeanor to sell gasoline containing MTBE. The bill would prohibit the State Air Resources Board from permitting or requiring the use of MTBE in gasoline.	Amended in Senate Trans. on 4/15/97 and moves on to Sen. Com. on Env. Qual. for 5/12/97 hearing.	Watch
SB 1189 (Hayden)	This bill would enact the Local Drinking Water Protection Act to require the State Department of Health Services to establish on or before July 1, 1998, a primary drinking water standard for MTBE pursuant to prescribed provisions of existing law and a secondary quality drinking water standard, on or before July 1, 1998, and to require the State Fire Marshall to test all gasoline pipelines for leaks every 2 years if the pipeline is located within 1,000 feet of a groundwater well used for drinking water.	Referred to Sen. Com. on Env. Qual. with a hearing scheduled for 5/12/97.	Support if amended to delete a specific date for setting a primary drinking water standard.
AB 592 (Kuehl)	This bill is similar to SB 1189 (Hayden) except there are no specific dates set for standards setting. This bill also contains a provision to exclude responsible parties from participating in the regulation of clean-up activities.	Bill passed Assembly Environmental Safety and Toxic Material Committee and moves to Assembly Appropriations (No hearing scheduled).	Support
SB 775 (Johannessen)	This bill would require the State Air Resources Board to conduct a study, in conjunction with private industry, on the health effects of MTBE, and to transmit the results of the study to the Governor and the Senate not later than June 30, 1998. The bill would declare that it is to take effect immediately as an urgency statute. (Requires 2/3 vote)	Amended on 4/14/97, double referred to Sen. Com. on Env. Qual. on 5/12/97 and Sen. Trans. (No hearing scheduled).	Support if amended to include drinking water in the mandated study (health effects & taste and odor) along with consultation with CDHS.
AB 1491 (Cunneen)	This bill would prohibit any person on or after January 1, 1999, from depositing petroleum into an underground storage tank system that does not display a certificate of upgraded compliance.	Passed out of the Assembly unopposed and moves over to Senate Com. on Rules for assignment.	Support

GROUNDWATER MANAGEMENT POLICY PRINCIPLES

Issue: Statewide groundwater management. Should Metropolitan support or pursue legislation to improve groundwater management in California? Is it in Metropolitan's interest to support or pursue legislation that would provide the State of California authority to manage groundwater?

Policy Adopted: Support groundwater management legislation that provides for management on a local level and conforms to the following ten principles:

- Coordination with existing groundwater management programs, especially judicially-imposed programs;
- Flexible extraction and production limits that protect local rights and needs;
- Replenishment and storage to increase yield;
- Long-term overdraft protection;
- Transfers and exchanges of groundwater supplies with appropriate safeguards;
- Regional conjunctive use of groundwater storage with imported water;
- Appropriate funding mechanisms;
- Groundwater quality protection;
- Operating strategies which mitigate contamination and prevent its spread; and
- Groundwater cleanup and recovery for beneficial uses.

Issue: Contamination. Should Metropolitan pursue legislation that would prevent groundwater contamination and promote the cleanup of already contaminated groundwater?

Policies Adopted:

- Support legislation that would provide additional funding and staff to help the Regional Board accomplish their groundwater protection mission.
- Support legislation that would provide low-interest loans for groundwater treatment plants.
- Support legislation that would provide State funding for regional brine disposal projects, brine disposal being a major cost in groundwater treatment.
- Support legislation that would provide State funding for the development of economically feasible technology to remove nitrates which are a major groundwater contaminant.

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- Support amendment of the federal Comprehensive Environmental Response, Compensation and Liability Act (Superfund) to expedite financial and other assistance for groundwater cleanup programs.

M.I. 39978 - December 8, 1992
Amended by M.I. 41222 - January 10, 1995

SOURCE WATER QUALITY PROTECTION POLICY PRINCIPLES

Issue: Protection of public drinking water supplies.

Policy Adopted: Support Clean Water Act amendments to explicitly include protection of public drinking water supplies as a goal of the Clean Water Act.

Issue: Source water protection.

Policy Adopted: Support legislation establishing partnership-based and/or regulatory-based source water protection programs, that are implemented in addition to existing water quality control requirements for point source and nonpoint source discharges, in order to facilitate resolution of source water quality problems. Support for cooperative source protection programs does not preclude support for regulatory-based programs in cases where cooperative programs are unsuccessful.

Issue: Source Water Quality Protection. Source water quality protection consists of monitoring contaminants and actively pursuing pollution prevention activities, in addition to or as part of existing regulatory programs in order to prevent or minimize the discharge of contaminants to surface waters or groundwater basins used as sources of drinking water. The source water quality protection policy issue involves optimizing the balance between source protection programs and drinking water treatment options, in order to achieve good quality drinking water at a reasonable cost.

Policy Adopted: Support federal and state legislative and regulatory proposals to establish source water quality protection programs that are consistent with the following principles:

- Provide water quality protection for surface water bodies and groundwater basins designated as public drinking water supplies, most importantly protection from sources of drinking water pollutants;
- Protect potential future uses of water bodies as drinking water supplies;
- Allow innovative approaches to source water quality protection, including incentive-based partnerships and other cooperative approaches to source protection; and

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- Allow flexibility in the implementation of source water quality protection programs to allow achievement of both water quality and water management objectives, and recognize that such programs will vary from site-to-site.

Issue: Implementation of Source Water Quality Protection.

Policy Adopted: Support legislation establishing partnership-based and/or regulatory-based source water protection programs, that are implemented in addition to existing water quality control requirements for point source and nonpoint source dischargers, in order to facilitate resolution of source water quality problems. Support for cooperative source protection programs does not preclude support for regulatory-based programs in cases where cooperative programs are unsuccessful.

M.I. 39929 - November 10, 1992
Added to by M.I. 40878 - June 14, 1994
Added to by M.I. 41222 - January 10, 1995