



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

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To: Committee on Legislation--Information

From: *for* General Manager

Submitted by: Debra C. Man, Chief
Planning and Resources

Edward J. Mason
Debra C. Man

Subject: Issue Papers

RECOMMENDATION

For information only.

EXECUTIVE SUMMARY

In October, your Committee began the process of addressing anticipated legislative issues for 1998. To continue this discussion, three issue papers are submitted for the Committee's consideration in January:

1. Implementation of Farm Bill Conservation Programs
2. Expanded Use of Recycled Water
3. California Environmental Quality Act

In February, staff will return with recommendations regarding adoption of legislative policy principles for the issues considered by your Committee since October.

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Attachments

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IMPLEMENTATION OF FARM BILL CONSERVATION PROGRAMS

Issue

The Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104-127), commonly known as the Farm Bill, established new policies on crop subsidies, conservation practices, rural development initiatives, agricultural research and other agricultural programs. Of most interest to Metropolitan are several agricultural conservation programs which encourage the implementation of agricultural practices that benefit source water quality and the development of wildlife habitat on non-federal lands. The Farm Bill combined several U. S. Department of Agriculture (USDA) conservation programs, including that portion of the Colorado River Basin Salinity Control Program that is implemented by USDA, into a single Environmental Quality Incentives Program (EQIP), and authorized funding for EQIP through 2002. In addition, the Farm Bill established the Wildlife Habitat Incentives Program (WHIP), a new voluntary cost-share program that encourages landowners to develop wildlife habitat, and authorized funding for WHIP through 2002. Other beneficial USDA conservation programs, including the Conservation Reserve Program (CRP) and the Wetlands Reserve Program (WRP), were also reauthorized in the Farm Bill.

Sufficient federal funding for implementation of EQIP and other Farm Bill conservation programs is critical in order to achieve Colorado River Basin Salinity Control objectives, and is important for accomplishing source water quality protection and ecosystem restoration efforts in the Bay-Delta watershed and wildlife habitat restoration efforts in the Lower Colorado River region. Specific issues of interest to Metropolitan include: 1) Congressional appropriations for EQIP and WHIP at least at authorized levels, 2) allocation of EQIP funds for Colorado River Basin Salinity Control measures, 3) allocation of EQIP and WHIP funds in California, 4) priority setting and funding for EQIP projects that will provide source water quality protection and ecosystem restoration benefits in the Bay-Delta watershed, and 5) revisions to the CRP to enable California to compete more effectively for CRP funding.

The Farm Bill also reauthorized annual funding for numerous agricultural research, extension, and education programs through fiscal year (FY) 1997. Agricultural research programs of interest to Metropolitan include the water quality research and education program, and the development and demonstration of best management practices. Continued federal funding and authorization for these programs would be beneficial for the development of agricultural practices that facilitate achieving source water quality protection and habitat restoration goals.

Existing Situation

The Farm Bill authorizes a minimum of \$200 million annually for EQIP for fiscal years 1997 through 2002. Despite the relatively large amount of annually authorized EQIP funding, there is

no established funding allocation by State, and as a result, the program is very competitive. For FY 1998, EQIP funds are being allocated through a Natural Resource Inventory. Each regional office of the Natural Resources Conservation Service (NRCS) has received an allocation of funds based on the Natural Resource Inventory for that region. NRCS' Regional Conservationist has then allocated funds to each of the NRCS' state offices within the region on the basis of that state's Natural Resources Inventory. EQIP provides cost-sharing and incentive payments, technical assistance, and educational assistance to farmers and ranchers for the implementation of structural and land management practices that address the most serious threats to soil, water and related natural resources. Cost-share and incentive payments to an agricultural producer are limited to \$10,000 annually, and to \$50,000 for a multi-year contract. An exception to the annual payment limit may be allowed on a case-by-case basis if it is consistent with the purposes of EQIP.

EQIP funding and assistance is to be focused on conservation priority areas, and in watersheds, regions and priority areas where State and local sources of assistance for the same conservation projects are also available. Conservation assistance is to be provided in a manner that maximizes environmental benefits per dollar expended. Fifty percent of the EQIP funding is targeted at conservation practices related to livestock production.

In FY 1997, approximately \$3.1 million in EQIP funds were allocated for Colorado River Basin Salinity Control projects. In addition, the Colorado River Basin Salinity Control Forum agreed that funds should be allocated from the Upper Colorado River Basin Fund and the Lower Colorado River Basin Development Fund (Basin Funds), to fund separate but parallel salinity control measures through state and local soil conservation agencies within USDA designated salinity control areas. The funding amounts were determined in accordance with the proportionate allocations set forth in Section 205 of the Colorado River Basin Salinity Control Act. Funds in the amount of \$1.3 million are being provided from the Basin Funds by the U.S. Bureau of Reclamation to the NRCS, Wyoming State Engineer's Office, Colorado Department of Natural Resources State Soil Conservation Board, and the Utah Department of Agriculture and Food. These agencies are managing expenditure of these monies for technical and farm assistance to match the salinity control measures being implemented by USDA through EQIP. The Colorado River Basin Salinity Control Forum has determined that allocation of \$11 million in EQIP funds in FY 1998 is needed for on-farm measures to control Colorado River salinity. This level of funding is necessary to meet the salinity control activities schedule in order to maintain the state adopted and federally approved water quality standards. The Colorado River Basin Salinity Control Forum is exploring the possibility of joining with other regional groups interested in the establishment of national priority areas under EQIP to request that Congress appropriate greater than the minimum \$200 million authorized annually in the Farm Bill.

In FY 1997, the State of California received \$4.95 million in EQIP funds and funded 29 EQIP proposals. For FY 1998, the NRCS State Conservationist has received EQIP funding requests for 61 proposals totaling approximately \$17 million. However, the state is expected to receive about

\$6 million in FY 1998 EQIP funds, and is currently prioritizing proposals to receive funding. California has to date received a disproportionately small share of Farm Bill conservation program funding, compared to other states, even though it is the nation's leading agricultural producer.

The Wildlife Habitat Incentives Program is currently authorized for a total of \$50 million over the 1997-2002 period. WHIP funds are distributed to states based on state wildlife priorities, including wildlife habitat areas, and targeted species and their habitats. In California, the wildlife priorities include riparian areas, endangered species, wetlands and coldwater fisheries. Out of the \$20 million allocated nation-wide for FY 1997, California received \$610,000 in WHIP financial assistance. The NRCS State Conservationist expects to allocate FY 1997 WHIP funds in March 1998. For FY 1998, there will be \$30 million in WHIP funds available nation-wide.

Authorized funding for the CRP, the largest of the Farm Bill conservation programs, is \$2 billion annually through fiscal year 2002. Water quality improvement and wildlife habitat enhancement are two of the principal CRP objectives. The CRP promotes these objectives by encouraging the retirement of environmentally sensitive cropland from intensive production through a combination of rental payments, cost-share payments, and technical assistance. However, less than 1% of enrollments in the CRP are in California, primarily because CRP rental rates have not been sufficient to compensate California agricultural producers for loss of income. Changes are required in the operation of the CRP, if California is to benefit from this significant program.

The 1996 Farm Bill authorized specific agricultural research, extension and education programs through FY 1997. Congress is currently considering agricultural research reauthorization legislation. S. 1150 by Senator Richard G. Lugar (R-IN), the Agricultural Research, Extension, and Education Reform Act of 1997, passed the Senate on October 29, 1997. A companion measure in the House, H.R. 2534 by Representative Larry Combest (R-TX), passed the House on November 8, 1997. Both bills would authorize new agricultural research programs, reform existing agricultural research, education and extension programs, and reauthorize them through 2002. The types of reforms covered in the bills include: 1) requiring public input into priority setting for research and extension programs, 2) requiring all funding to be subject to scientific peer review or merit review, and 3) placing increased emphasis on research topics that are multidisciplinary and address multi-state concerns. Both bills are now waiting the appointment of a House-Senate conference committee to resolve differences between the two bills.

Metropolitan Position

Metropolitan has existing legislative policy principles on Colorado River Basin Management and Source Water Quality Protection, which support cooperative interstate efforts to control the salinity in Colorado River water and incentive-based approaches to source water quality protection. In addition, your Board previously adopted a legislative policy principle supporting appropriation of 1996 Farm Bill funding for ecosystem-related projects in the Bay-Delta Estuary.

In April, 1997, your Board adopted Colorado River policy principles concerning the development of a comprehensive Colorado River resources strategy plan for California. However, these principles were not considered by the Committee on Legislation, and therefore, were not adopted as legislative policy principles.

Recommended Policy Principles

Metropolitan staff will continue to closely monitor legislative and regulatory issues related to the implementation of Farm Bill conservation programs and agricultural research programs. Staff will coordinate advocacy efforts through the Colorado River Board of California, Colorado River Basin Salinity Control Forum, Association of California Water Agencies, California Urban Water Agencies and others, and will participate in State and local processes for the development of conservation priorities and the allocation of EQIP, WHIP, CRP, and other cost-share assistance funds.

Staff proposes the following set of policy principles to guide Metropolitan's efforts concerning the appropriation of funding for and implementation of Farm Bill conservation programs and agricultural research programs:

1. Support federal appropriations for the Environmental Quality Incentives Program (EQIP) and other Farm Bill conservation programs that provide benefits for Colorado River resources, the Bay-Delta watershed or in Metropolitan's service area.
2. Support the appropriation and allocation of EQIP funds that are necessary to advance the implementation of Colorado River Basin salinity control measures and meet salinity reduction targets in the Colorado River Basin.
3. Support the allocation of EQIP and Wildlife Habitat Incentives Program (WHIP) funds for source water quality protection and ecosystem restoration projects in the Bay-Delta watershed, and wildlife habitat restoration efforts in the Lower Colorado River region.
4. Support changes to the CRP which would make the program more attractive to California agricultural producers and thus improve source water quality through the conversion of environmentally sensitive cropland to less intensive uses.
5. Support authorization and federal appropriations for agricultural research, extension and education programs that provide source water quality protection benefits.

Staff also proposes that the Colorado River policy principles adopted by your Board on April 8, 1997, and provided in Attachment A, be adopted as legislative policy principles.

Attachment A

COLORADO RIVER POLICY PRINCIPLES

(Adopted by MWD Board on April 8, 1997, and proposed for adoption as legislative policy principles)

Overall Objective: To ensure that the Colorado River Aqueduct will be kept full of cost-effective water supplies, consistent with Metropolitan's Integrated Resources Plan and the Colorado River Board's draft policy principles.

Overall Strategy: Metropolitan will participate, through the Colorado River Board and other appropriate forums, in the development of a comprehensive Colorado River resources strategy plan for California which should: (1) provide flexibility and certainty through changes in reservoir operations; (2) require investments in conservation and transfers; and (3) reduce California's long-term reliance on surplus Colorado River water. The plan will be accomplished through well defined, enforceable programs that avoid the undue risk of supply shortages to the other Colorado River Basin states.

Policy Principles:

Metropolitan supports:

1. Establishing specific entitlements within the agricultural 3.85 million acre-feet of California's basic apportionment (quantification).
2. Reasonable and beneficial use of Colorado River water.
3. Revised set of operating criteria for the Colorado River reservoir system that increases the availability of water in the Lower Basin on an interim basis.
4. Voluntary transfers of Colorado River water that result from conserved savings in baseline entitlements.
5. Addressing on a case by case basis the financial, operational, environmental, and community impacts resulting from water transfers, consistent with federal and State law.
6. Achieving water quality objectives and reducing TDS levels in order to maximize and facilitate the full complement of regional water management opportunities.
7. Protecting Metropolitan's interests and its entitlements to Colorado River water, while collaborating with other California Colorado River agencies.
8. A process for communication and partnerships with other California Colorado River agencies to develop a comprehensive California plan for Colorado River water.

EXPANDED USE OF RECYCLED WATER

Issues

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 water supply infrastructure investments. In addition to traditional landscape irrigation, residential and industrial applications, use of recycled water for agricultural irrigation, potable reuse and groundwater recharge have tremendous potential but are challenged by regulatory, commercial, and public acceptance.

Southern California, including Metropolitan, has made a strong commitment to water recycling. About 300,000 acre-feet of recycled water is used annually in Metropolitan's service area and Metropolitan supports about 20 percent of that use through financial incentives. Improved water supply reliability has been a significant factor motivating development of recycled water in our service area.

Financial assistance provided by Metropolitan, the State of California, the U.S. Bureau of Reclamation and others has assisted agencies in developing recycled water supplies. The cost of water recycling and the need for incentive programs can be reduced by developing diverse and secure markets for recycled water. Expanded types of use of recycled water for agriculture and indirect potable reuse through replenishment have significant potential for improving cost-effectiveness of water recycling. Advancing technology is also expected to support development of indirect potable reuse.

Public acceptance of expanded uses of recycled water depends on a clear and consistent message regarding the:

- Safety of recycled water use when guided by objective health regulations
- Value of recycled water as a reliable water supply and its potential to reduce impacts to the environment

Existing Regulatory and Legal Situation

The Porter-Cologne Water Quality Control Act mandates that the State Department of Health Services establish statewide reclamation criteria for regulating safe use of recycled water. These regulations, known as Title 22 of the California Code of Regulations, are being revised to provide more uniform regulation of recycled water projects. Additionally, this Act established the State's nine Regional Water Quality Control Boards and the policies that govern their regulation of recycled water to protect beneficial uses of California's surface water and groundwater.

The California State Legislature has consistently demonstrated a commitment to expanding the beneficial use of recycled water. The enactment of the Water Reclamation Law in 1970 and its

subsequent amendments initiated a clear and defined water recycling management strategy that articulates safe and beneficial use of recycled water to help meet the State's growing demand for water supplies. The Water Code prohibits the use of potable water for non-potable purposes if suitable recycled water that meets specific quality and cost criteria is available.

Metropolitan Position

Your Board adopted policies pertaining to water recycling in February 1997. Support for financing of recycled water projects to increase recycled water use was included in those policies. Your Board also supported Assembly Bill 1522 (Thomson) which was signed into law in 1997 and provided for expanded use of recycled water for toilet and urinal flushing.

Recommended Policy Principle

Staff recommends that Metropolitan support legislation and regulations that expand the types of recycled water uses consistent with protection of public health.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

Background

The California Environmental Quality Act (CEQA) was enacted in 1970 shortly after the passage of the National Environmental Policy Act in 1969. The goals of CEQA are to: (1) inform public decision-makers of potential adverse environmental impacts of projects to be approved by them, (2) identify and require the implementation of feasible alternatives and mitigation measures to reduce or avoid adverse environmental impacts, and (3) provide for public participation in the environmental review process. Over time, the practice and interpretation of the requirements of CEQA have resulted in reviews and recommendations for improving and reforming CEQA, as well as on-going legislative efforts to amend CEQA and rulemaking procedures to update the CEQA Guidelines to reflect legislative changes and case law.

In January 1995, the CEQA Review Committee, Environmental Law Section of the State Bar of California published recommendations for CEQA amendments. The recommendations support the established purpose, principles, and general procedures of CEQA, and focus on clarification where there has been ambiguity in the law, guidelines, or case law. Recommendations address: (1) clarifying the timing of CEQA compliance with respect to project planning and commitments, (2) facilitation of master and tiered EIRs, (3) disclosure of significance thresholds in CEQA documents, (4) guidance on disclosure of varying levels of detail of mitigation measures and commitments, and (5) revised requirements for addressing cumulative impacts.

In November 1995, the Little Hoover Commission published, "Making Land Use Work: Rules to Reach our Goals" which focused in large part on CEQA reform in support of better land use decision making. The Commission found that the project-by-project reviews mandated by CEQA have failed to improve overall environmental quality. It further found that CEQA compliance has become overly costly as agencies attempt to bullet proof documents for potential litigation. Commission recommendations include: (1) substantial integration of regulatory decision making within the CEQA process to streamline project approvals, (2) provisions for formal dispute resolution between agencies, (3) provisions to encourage regional planning, and (4) requirements for infrastructure planning.

Also in 1995, the California Policy Seminar, a joint program of the University of California and State government, issued a report entitled, "Fixing CEQA: Options and Opportunities for Reforming CEQA". This report included CEQA reform recommendations in the following five areas: (1) improved State and regional agencies' CEQA review process for local projects, (2) increased certainty and consistency within jurisdictions' CEQA review process, (3) improved mitigation and monitoring of cumulative impacts, (4) improved alternatives analysis to make it more useful, and (5) the creation of consistency and predictability in judicial review of CEQA-related legal actions.

In March 1997, the State Legislative Analyst's Office issued a policy brief, "CEQA: Making it Work Better" which recommended measures to improve the efficiency of the CEQA process, improve the cost-effectiveness of mitigation required by CEQA, and improve the resolution of CEQA disputes. Also proceeding in 1997 and 1998 are rulemakings to update the CEQA Guidelines. While the purpose of the rulemakings is to cause the Guidelines to reflect legislative changes to CEQA and judicial interpretations of the substantive and procedural requirements of the law, such efforts are commonly subject to further controversial interpretations as a result of the effort itself.

Activity of the California Legislature with respect to CEQA has tended to address issues individually rather than to propose comprehensive reform. In the 1995-96 session, eleven CEQA-related bills were introduced. Of these bills, Metropolitan took a support position on nine and opposed two. Three of the bills were signed into law, including SB 901, which provides for integration of water supply considerations into land use planning efforts of city and county governments. In 1997, seven CEQA-related bills were introduced and remain to be acted upon in 1998. Metropolitan has taken a "watch" position thus far on these bills.

Metropolitan Position

Metropolitan has no adopted policy principles for CEQA, and has worked within existing CEQA compliance requirements to approve its own projects. To date, Metropolitan's CEQA legislative strategy has been reactive-- Metropolitan has supported or opposed proposals advocated by others, but has not advocated any reforms itself. Support of legislation has relied upon Metropolitan's adopted policy principles in other areas, such as permit streamlining, to react to legislation as it has emerged in discussions in Sacramento.

Recommended Policy Principles

It is recommended that Metropolitan adopt the six CEQA policy principles listed below. These principles provide for streamlining of CEQA and other regulatory procedures to improve efficiency without loss of environmental protections, and for clarifications which reduce the potential for litigation. Metropolitan's objective with respect to CEQA is to uphold the environmental protections and public participation provisions afforded by the Act while improving the clarity and workability of the statute and its implementing guidelines.

1. Advocate/support provisions to improve integration of permitting within the CEQA process.
2. Support measures that provide CEQA exemptions for minor activities subject to exceptions for special circumstances, including extension of such existing exemptions to water supply facilities.
3. Support amendments that clarify CEQA requirements in a manner which does not undermine environmental protection or reduce opportunity for public involvement ~~without significantly reducing environmental protections or opportunity for public involvement.~~

4. Oppose amendments that are ambiguous or contradict other code provisions and that are likely to increase the potential for CEQA litigation.
5. Oppose amendments that would significantly modify the threshold test for determining whether an environmental impact report (EIR) is required for a particular project.
6. Oppose amendments that would significantly reduce the ability of CEQA to protect the environment.