



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

7-10

January 27, 1998

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

From: *for* General Manager

Edward S. Meo III

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

Debra C. Man

to Mark D. Beuhler
Director of Water Quality

Ray Ward

Subject: Legislative Policy Principles

RECOMMENDATION(S)

Metropolitan staff recommends the adoption of legislative policy principles to be used during the 1998 federal Congressional and state legislative sessions. The issues fall into three categories:

1. Federal issues: Repeal of Federal Water Efficiency Standards; Implementation of Farm Bill Conservation Programs;
2. State issues: California Environmental Quality Act (CEQA); CALFED Water Use Efficiency; State Budget Issues Impacting the State Water Project Contractors; Expanded Types of Use of Recycled Water; and
3. Federal and State issues: MTBE Impacts on Surface Water; Source Water Quality Protection; Colorado River.

EXECUTIVE SUMMARY

At its October 14, 1997, meeting, the Committee on Legislation (Committee) considered a list of anticipated legislative issues that may be of concern to Metropolitan during the 1998 federal and state legislative sessions (see Attachment #1). The Committee reviewed the list, advising staff of their areas of concern, and directed staff to review the existing Board-adopted legislative policy principles and propose modified and/or additional policy principles for consideration at the February 1998 meeting. During the months between October and February, staff prepared Issue Papers for nine legislative issue areas and proposed modified or new legislative policy principles for the Committee's consideration.

The nine issue areas include some issues that may relate solely to federal legislation, others solely to state legislation, and others which may be considered at both levels. The issue areas include:

1. Federal issues: Repeal of Federal Water Efficiency Standards; Implementation of Farm Bill Conservation Programs;
2. State issues: California Environmental Quality Act (CEQA); CALFED Water Use Efficiency; State Budget Issues Impacting the State Water Project Contractors; Expanded Types of Use of Recycled Water; and
3. Federal and State issues: MTBE Impacts on Surface Water; Source Water Quality Protection; Colorado River.

This letter provides a brief summary of each of the above issue areas, indicates whether or not there are existing Board-adopted legislative policy principles addressing the issue, and includes staff recommendations for adoption of modified and/or new legislative policy principles. A complete set of the existing legislative policy principles is contained in the "Board Legislative Policy Principles" document, dated February 1997, which was provided to your Board on diskette and as a hard copy on April 29, 1997.

DETAILED REPORT

Federal Issues

REPEAL OF FEDERAL WATER EFFICIENCY STANDARDS

In February, 1997, Congressman Joseph Knollenberg (R-MI) introduced H.R. 859, amending the Energy Policy and Conservation Act of 1992 to repeal all existing water efficiency standards for toilets, showerheads, faucets, and urinals. Introduced because of perceived consumer dissatisfaction with these products, the bill is receiving increased attention in the media, and as a result the bill is gaining momentum. As of January 26, 1998, the bill has 33 Congressional co-sponsors, three of whom are from California (Campbell, Herger, and Calvert).

Maintenance of the federal plumbing efficiency standards is important to California. Although California has its own plumbing efficiency code, in effect since 1992, it is only one of thirteen states that have separate state plumbing standards. Should the federal standard be repealed or changed, there would be significant economic repercussions in the price of the low-flow fixtures. We can expect to pay a premium for fixtures that will no longer be the national norm. In addition, we can expect pressure from the industry to try to unify at one acceptable, higher national standard -- perhaps at 2.0 gallons per flush rather than the current 1.6 gallons per flush. It may be very difficult to stand firm against a national trend in this direction.

Maintenance of the standards is an important issue for Metropolitan. A full 45% of the conservation savings projected as necessary in the Integrated Resources Plan were to come from passive replacement of plumbing fixtures. These savings are "free" to the water agencies, not requiring any retrofit expenditure on their part. Should the federal standard change, the cost for achieving these savings will surely rise.

On November 10, 1992, Metropolitan's Board adopted a water conservation legislative policy principle that is related to plumbing efficiency standards. Specifically, the principle supports

legislation mandating the replacement of all non-low-flow plumbing fixtures upon the transfer or resale of any real property. At this time, however, Metropolitan has no legislative policy principles addressing proposed changes to federal water efficiency standards.

Recommended New Policy Principle

Metropolitan staff recommends that the Board adopt the following new legislative policy principle to guide staff efforts concerning proposed changes to federal and state water efficiency standards:

- Oppose the repeal or modification of any of the water efficiency standards for toilets, showerheads, faucets, and urinals contained in the Federal Energy Policy and Conservation Act of 1992. Oppose any repeal or modification of state water efficiency standards for the same fixtures. Work with appropriate coalitions to protect Metropolitan's interests and that of its member agencies to ensure that the standards are retained.

IMPLEMENTATION OF FARM BILL CONSERVATION PROGRAMS

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.

Metropolitan has Board-adopted legislative policy principles that are related to the issue of Farm Bill conservation programs. Specifically, there are existing legislative policy principles on Colorado River Basin Management (adopted January 10, 1995) and Source Water Quality Protection (adopted June 14, 1994 and January 10, 1995), which support cooperative interstate efforts to control the salinity in Colorado River water and incentive-based approaches to source water quality protection. In addition, on February 11, 1997, your Board adopted a legislative policy principle supporting appropriation of Farm Bill funding for ecosystem-related projects in the Bay-Delta Estuary. Legislative policy principles specifically addressing agricultural conservation and research programs authorized in the 1996 Farm Bill are needed.

Recommended New Policy Principles

Metropolitan staff recommends that the Board adopt the following new legislative policy principles to guide staff 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.

State Issues

CALIFORNIA ENVIRONMENTAL QUALITY ACT

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.

Activity of the California Legislature with respect to CEQA has tended to address issues individually rather than to propose comprehensive reform. During the 1997 legislative session, 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 has not 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 CEQA related legislation has relied upon Metropolitan's legislative policy principles in other areas, such as the principles addressing permit streamlining, which were adopted by your Board on April 13, 1993.

Recommended New Policy Principles

It is recommended that Metropolitan adopt the six CEQA legislative policy principles listed below. These principles provide for streamlining of CEQA and other regulatory procedures to improve efficiency without loss of environmental protection, and for clarifications which reduce the potential for litigation. Metropolitan's objective with respect to CEQA is to uphold the environmental protection 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.
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.

CALFED WATER USE EFFICIENCY

As a common element in the CALFED Bay-Delta Program, Water Use Efficiency has become a prominent discussion item this year among water agencies and the environmental sector. On a voluntary basis, water conservation has been practiced by many urban water agencies, particularly since the original signing of the Memorandum of Understanding in 1991. To date, compliance with the voluntary conservation measures (known as Best Management Practices or BMPs) has not been uniform statewide, although very strong in southern California.

For the Draft Programmatic Environmental Impact Report/Environmental Impact Statement, CALFED has developed a Proposed Water Use Efficiency Program (dated March 6, 1997) that is currently being discussed among the stakeholders. The proposed urban water use efficiency strategy provides a role for the California Urban Water Conservation Council (CUWCC) to monitor and evaluate urban water agency performance, and to certify each agency as having met the requirements of the Best Management Practices (BMPs). Adequate water management planning through the Urban Water Management Planning Act would be required, and under the proposal may be monitored by the Department of Water Resources (DWR).

The level of water use efficiency assurance is a factor in securing an agreement on a CALFED physical solution for the Delta. Of particular concern to environmentalists is the somewhat uneven compliance of urban water agencies statewide with the 16 BMPs -- a full six years after the signing of the Memorandum of Understanding (MOU) in 1991. Thus, water use efficiency, once assumed to be a resolved issue, has become a bargaining chip in the CALFED debate.

On November 10, 1992, your Board adopted legislative policy principles addressing water conservation, including support for the voluntary best management practices (BMP) process. At the September 15, 1997, meeting of the Board, policy principles were adopted to guide staff during the CALFED water use efficiency negotiations. At that time, the principles were referred to the Committee on Legislation for information only, and as a result, were not adopted as legislative policy principles.

Recommended Additional Policy Principles

Staff recommends that the September 15, 1997, CALFED Water Use Efficiency policy principles, detailed below, be adopted as legislative policy principles to guide staff in the event that legislation is submitted on any or all of these elements. These principles would replace the Water Conservation Best Management Practices (BMP) policy principle previously adopted by your Board on November 10, 1992.

1. Support the inclusion of water use efficiency strategies for all water use sectors including urban, agricultural, and environmental in the overall CALFED solution.
2. Support the cooperative development of a CALFED Water Use Efficiency Strategy that is credible, that includes provisions for assurances, and that would only be implemented as part of an agreed-upon CALFED solution, including Delta facility improvements.

3. Support a balanced CALFED Water Use Efficiency Strategy which includes the following components:
 - clarified and refined Best Management Practices (BMPs) to provide greater specificity;
 - continued use of the "cost-effective" yardstick for BMP implementation;
 - credit for conservation savings or recycling achieved to date;
 - a workable process for monitoring and evaluating water agency progress;
 - a certification and assurance process, where required, to encourage water agency compliance.
4. Support a strong urban water agency role in the design and implementation of any proposed water use efficiency strategy.
5. Support a tiered approach that initially emphasizes incentives and disincentives to encourage voluntary implementation of cost-effective BMPs, and only where voluntary implementation fails will it rely on increasingly stronger enforcement tools to achieve compliance.
6. Support a voluntary option for a wholesale water agency such as Metropolitan or a member agency water district to assume certification responsibility for a group of retailers if desired by all parties.

STATE BUDGET ISSUES IMPACTING THE STATE WATER PROJECT CONTRACTORS

In recent years, a number of state budget issues have developed that are of concern to the State Water Project (SWP) contractors, including Metropolitan. These issues include a lack of state General Fund revenues for: 1) the state's share of costs incurred in connection with the CALFED Bay-Delta Program, and 2) the recreation and fish and wildlife enhancement costs associated with the State Water Project.

When the CALFED Bay-Delta Program was initiated, the SWP contractors originally supported funding to help jump start CALFED, with the understanding that SWP funds together with matching state and federal funds would provide sufficient funding for CALFED planning activities. CALFED costs are now projected to be much higher than originally anticipated. As a result, the State Water Contractors (SWC), an organization representing 27 of the 29 SWP contractors, has expressed concern that as the scope and budget for the CALFED Bay-Delta Program expand beyond what was originally anticipated, the costs for the program may fall disproportionately to the SWP contractors if other non-SWP funding sources are not identified.

As a multi-purpose project, the State Water Project provides a number of other benefits including recreation and fish and wildlife enhancement. These features of the SWP were provided for in the initial legislative package for the SWP under the Davis-Dolwig Act of 1961. The Act requires that recreation and fish and wildlife enhancement be developed as part of the project, and establishes development and maintenance of such programs as an obligation of the general

public. Prior to the onset of state budget problems in the 1980's, State General Funds were allocated for recreation and fish and wildlife enhancement costs associated with the SWP. The state has in recent years failed to allocate General Fund moneys to cover these financial obligations, and the SWP has not been reimbursed.

The continued shortfall of General Fund revenues to reimburse the SWP for recreation and fish and wildlife enhancement costs has reached a critical level and will cause cash flow problems for DWR and the SWP contractors in the near term future. DWR will be seeking reimbursement for this shortfall during the state budget process for the 1998-99 fiscal year. In addition, the SWC is actively seeking support for a consistent annual General Fund appropriation for the authorized recreation and fish and wildlife enhancement purposes of the SWP.

On June 15, 1993, your Board adopted a legislative policy principle concerning the state budget, which voices opposition to efforts to transfer SWP revenues to the State General Fund. Metropolitan currently has no policy principles addressing the state budget issues currently impacting the SWP contractors, including CALFED Bay-Delta Program planning costs and the state's General Fund shortfall for SWP recreation and fish and wildlife enhancement costs.

Recommended Additional Policy Principles

Metropolitan staff recommends that the Board adopt the following additional legislative policy principles to guide staff efforts concerning state budget issues impacting the SWP contractors:

1. Support efforts to allocate CALFED Bay-Delta Program planning costs in an equitable manner, taking into account the intended beneficiaries of the CALFED program.
2. Support development of a CALFED funding plan in a timely manner, and support the appropriation of non-SWP revenues, such as a State General Fund appropriation, for CALFED Bay-Delta Program planning costs.
3. Oppose options for funding the CALFED Bay-Delta Program that would interrupt SWP cash flow and potentially interfere with the rate management provisions of the Monterey Amendment.
4. Users and beneficiaries of SWP facilities should pay their share of the costs for the construction, operation and maintenance of the facilities. When the SWP contractors pay for the revenue bond funded capital costs of multi-purpose SWP facilities, they should be expediently reimbursed for non-water supply related costs. Support legislation that allocates State General Funds for those programs which are the obligation of the general public.
5. Oppose efforts of the Legislature to establish new state program requirements for DWR or the SWP without appropriate allocation of State General Funds or some other non-SWP source of funds.

EXPANDED TYPES OF USE OF RECYCLED WATER

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.

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. Section 13550 of 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.

On February 11, 1997, your Board adopted legislative policy principles pertaining to water recycling. The adopted principles address the issues of financing, resource management, institutional arrangements, regulatory flexibility and public awareness. In addition, on May 13, 1997, your Board expressed support for Assembly Bill 1522 (Thomson-Fairfield), regarding the expanded use of recycled water for toilet and urinal flushing in certain structures.

Recommended Additional Policy Principles

Metropolitan staff recommends that the Board adopt the following additional legislative policy principle to guide staff efforts concerning expanded types of uses of recycled water:

- Support legislation and regulations that expand the types of recycled water uses consistent with protection of public health.

Federal and State Issues

MTBE IMPACTS ON SURFACE WATER

Methyl tert-butyl ether (MTBE) is an oxygenate which has become a major component of gasoline used in California. Use of oxygenates are mandated by the United States Environmental Protection Agency (USEPA) and the California Air Resources Control Board to reduce air pollution emissions. The use of MTBE in gasoline is reported to have improved air quality, but MTBE's unique properties make it a contamination threat to drinking water supplies. Because MTBE is highly soluble in water, does not absorb well onto soil particles, does not readily biodegrade and moves at rates similar to water, it can percolate through the ground into groundwater aquifers.

Extensive shallow groundwater and some deep drinking water wells (including some owned by the city of Santa Monica) have been contaminated with MTBE at relatively high levels by leaks from underground gasoline storage tanks and/or pipelines. Sampling of drinking water surface supplies, including Metropolitan's reservoirs, has shown widespread occurrence of MTBE contamination at lower but still potentially significant concentrations.

On October 9, 1997, Governor Wilson signed into law a package of four bills to address a number of health and environmental concerns about the use of MTBE and other oxygenates in California's gasoline. The four bills are listed below, as well as Metropolitan's position on each bill, as adopted by your Board on May 13, 1997:

- AB 592 (Kuehl-Encino) -- Support
- AB 1491 (Cunneen-Campbell) -- Support
- SB 1189 (Hayden-Los Angeles) -- Support if amended
- SB 521 (Mountjoy-Arcadia) -- Watch

While this legislation focused primarily on groundwater protection, new drinking water standards were mandated that will affect all sources including groundwater and surface water. Also, major evaluations of MTBE and alternative gasoline oxygenates are required to be conducted by various State agencies and the University of California.

It is expected that additional legislation related to MTBE will be introduced in the State Legislature and possibly in Congress. Some measures may deal primarily with surface water, including the use and control of emissions from motorized recreational watercraft.

Metropolitan has existing Source Water Quality Protection policy principles adopted on November 10, 1992, June 14, 1994, and January 10, 1995. At its December 9, 1997, meeting, the Committee on Legislation considered an issue paper on MTBE Impacts on Surface Water, which included the following proposed Source Water Quality Protection policy principles addressing MTBE contamination:

- Support legislation that provides adequate controls on motorized recreational watercraft and fueling operations that may contribute to surface water contamination by MTBE.
- Support federal legislation for better regulation of interstate pipelines to prevent MTBE contamination of drinking water sources.
- Support legislation to provide adequate funding for research, occurrence, treatment, health effects and environmental clean-up related to MTBE contamination of drinking water sources.

Based on advice from the Committee, staff has revised the proposed policy principles to be more protective and to apply to other gasoline additives in addition to MTBE.

Recommended Additional Policy Principles

Metropolitan staff recommends that the Board adopt the following additional Source Water Quality Protection legislative policy principles addressing contamination by MTBE and other gasoline additives:

1. Support federal legislation for better regulation of interstate pipelines to prevent contamination of drinking water sources by MTBE and other gasoline additives.
2. Support legislation that provides for the necessary controls on motorized recreational watercraft and fueling operations that may contribute to surface water contamination by MTBE and other gasoline additives.

SOURCE WATER QUALITY PROTECTION

Recently the chemical perchlorate has been found in drinking water supplies in northern and southern California. Perchlorate (as ammonium perchlorate) is used in solid rocket propellants and has been found in areas where aerospace material development and testing has occurred. Because perchlorate has not previously been considered a common drinking water contaminant, no federal or state drinking water standards exist. However, the California Department of Health Services (CDHS) has recently adopted a provisional action level for perchlorate in drinking water of 18 parts per billion (ppb).

It is expected that perchlorate will become an important issue for the rest of the country as additional occurrence data is obtained. Better health effects data and research on cost-effective methods for perchlorate removal are needed. Existing laws and regulations do not specifically address the protection of surface water and groundwater drinking water supplies from sources of perchlorate contamination.

Metropolitan has existing Source Water Quality Protection policy principles adopted on November 10, 1992, June 14, 1994, and January 10, 1995. At its December 9, 1997, meeting, the Committee on Legislation considered an issue paper on Water Quality Protection -- Perchlorate, which included the following proposed Source Water Quality Protection policy principles addressing perchlorate contamination:

- Support legislation to assure effective remediation and clean-up of perchlorate contamination in groundwater and surface water.
- Support legislation to provide additional funding for research on perchlorate including occurrence, treatment and health effects.

Based on advice from the Committee, staff has strengthened the proposed principles and revised them to more broadly apply to contaminants impacting groundwater and surface water drinking water supplies.

Recommended Additional Policy Principles

Metropolitan staff recommends that the Board adopt the following additional Source Water Quality Protection legislative policy principles addressing the clean-up of contaminated drinking water supplies, research on drinking water contaminants and the development of drinking water standards:

- Support legislation to assure effective remediation and clean-up of perchlorate, MTBE, other gasoline additives or other contaminants that have impacted groundwater and surface water.
- Support legislation to provide the necessary funding for research on the occurrence, treatment, health effects and environmental clean-up related to contamination of drinking water sources by MTBE, other gasoline additives, or perchlorate.
- Support legislation that incorporates sound scientific principles in adopting drinking water standards for drinking water contaminants.

COLORADO RIVER

On April 8, 1997, your Board adopted Colorado River policy principles concerning the development of a comprehensive Colorado River resources strategy plan for California. These principles were not considered by the Committee on Legislation, and therefore, were not adopted as legislative policy principles. As a result, these policy principles are included with the other 1998 legislative policy principles recommended for your review, consideration and adoption.

Recommended New Policy Principles

Metropolitan staff recommends that the Board adopt the April 8, 1997, Colorado River policy principles as legislative policy principles, to guide staff efforts with respect to any legislation which may be introduced concerning a comprehensive Colorado River resources strategy plan for California:

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.

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.

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Attachment



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

October 2, 1997

To: Committee on Legislation--Information

From: General Manager

Subject: Anticipated Legislative Issues for 1998

RECOMMENDATION

For information only.

EXECUTIVE SUMMARY

Previously during the September through December time period, your Committee has taken advantage of the seasonable legislative change of pace in Sacramento and Washington to reflect on the current year's activities and to begin the process of assessing and addressing anticipated legislative concerns for the coming year. This activity has been beneficial for at least the following reasons: (1) To ascertain which issues the professional legislative communities perceive will be addressed in either Sacramento or Washington or both; (2) To allow the District to identify the areas in which staff and other resources may be called upon in response to legislative priorities; (3) To allow the District to strategically plan a legislative program which encompasses proactive and assertive legislative activities.

In this memorandum, staff from the Sacramento and Washington offices as well as other division staff involved in reviewing legislation have prepared a list of the issues which appear to have some interest in the state and/or federal legislative arenas. The list is divided into three categories, representing the staff's current estimate of the level of District resources which may be required to adequately respond to legislative proposals.

First Level: Issues that have a direct impact on Metropolitan and require a project manager who is responsible for development of policy principles, if appropriate, for review and approval of Metropolitan's Board. The project manager will also oversee the development of an issue management plan.

Second Level: Issues that have an impact on Metropolitan and must be assessed in order to identify policy issues and to develop policy principles. In some cases, policy principles already have been adopted.

Third Level: Issues that should be monitored due to likelihood of becoming legislative initiatives which may have impact on Metropolitan.

While legislative proposals often change throughout the year, this list provides a reasonable beginning to identify what issues may be discussed in the upcoming legislative and Congressional sessions. An approach used in the past has been to review the list of anticipated legislative issues in conjunction with the Board-approved legislative policy principles in order to identify where new policy principles or changes to existing principles may be beneficial or warranted. The "*" indicates there is an existing MWD Board-adopted Legislative Policy Principle or position statement.

FEDERAL ISSUES

FIRST LEVEL

- Appropriations:
 - Bay/Delta Improvements*
 - CALFED*
 - Colorado River Salinity Control Program*
 - Recycling and Desalination Programs*
 - SDWA Program Funding*
- Federal Endangered Species Act*
- Habitat Conservation Planning within Colorado River System *
- Restructuring of Electric Utility Industry*
- Plumbing Efficiency Standards
- Clean Water Act*
- Clean Water Act - Wetlands*

SECOND LEVEL

- Groundwater Cleanup*
- Implementation of Farm Bill Conservation Programs (EQIP)
- Privatization Impacts on Water Quality Laboratories*
- Perchlorate Contamination
- Federal Cost Sharing for Local Utility Infrastructure

THIRD LEVEL

- Sale of Power Marketing Administrations
- Central Valley Project Improvement Act*
- Transfer of the Central Valley Project*
- Bureau of Reclamation Authorization
- Regulatory Reform - Specifically Cost Benefit Analysis and "Takings"*
- Interstate Water Transfers and Water Banking Arrangements*
- Sale of Federal Assets - Particularly Water Assets
- Superfund
- Federal Agency Consolidation
- Hazardous Waste Disposal (Resource Conservation and Recovery Act)
- Clean Air Act
- Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)
- Occupational Safety and Health Act Reform
- Tax Legislation Pertaining to State and Local Government Tax-Exempt Financing
- Lobbying Reform

STATE ISSUESFIRST LEVEL

- Bay/Delta - Implementation of Improvements/CALFED Preferred Alternative*
- Water Transfers and Wheeling*
- Authorization to Impose "Growth" Charges
- Department of Parks and Recreation Funding
- CALFED Administration Costs
- MWD Board Governance
- Safe Drinking Water Act Mechanism to Fund State's 20% SRF Match*
- Body-Contact Recreation on Drinking Water Reservoirs*
- MTBE Impacts on Surface Water

SECOND LEVEL

- California Endangered Species Act*
- CALFED Water-Use Efficiency
- California Environmental Quality Act
- Expand Use of Recycled Water
- Groundwater Cleanup*
- Watershed Management*
- Water Quality Protection - Perchlorate

THIRD LEVEL

- Implementation of the Restructuring Plan (AB 1890) for the Electric Utility Industry*
- Interstate Water Transfers and Water Banking Arrangements*
- Groundwater Management*
- Aquatic Toxicity Monitoring*
- Preservation of State Water Efficiency Standards
- Privatization Impacts on Water Quality Laboratories*
- Accidental Release of Hazardous Materials*
- Permit Streamlining*
- Special District Consolidation*
- Prevailing Wage
- Return of Lost Property Tax Revenues
- Funding for the State Infrastructure Bank

DETAILED REPORT

FEDERAL ISSUES

FIRST LEVEL

Appropriations

As Congress considers the fiscal year 1999 (FY 99) appropriations bills and addresses plans to end the federal deficit, funding levels for various federal programs of interest to Metropolitan may be challenged. As a result, Metropolitan's proactive involvement in the appropriations process will be a priority in order to ensure sufficient federal funding for critical water resources, habitat restoration and source water quality protection programs.

The appropriations bills of most interest to Metropolitan include Energy and Water Development, Interior, Agriculture and the Environmental Protection Agency's budget included in the VA, HUD and Independent Agencies appropriations bill. Specifically, Metropolitan is most interested in federal funding levels for the following programs:

- o Bay/Delta Improvements*: Sufficient federal funding for environmental restoration activities and improvements in fish and wildlife habitat in the Bay/Delta ecosystem will continue to be a priority for FY 99, including funding for the Central Valley Project Restoration Fund and implementation of Category III measures.

- o CALFED*: Metropolitan will work together with urban, agricultural and environmental interests to seek commitments for federal cost-share funding for development and implementation of the CALFED long-term Bay/Delta solution.
- o Colorado River Salinity Control Program*: Metropolitan will continue to work with the Colorado River Board of California and the Colorado River Basin Salinity Control Forum to ensure sufficient funding for the Colorado River Salinity Control Program.
- o Recycling and Desalination Programs*: Recent legislation has increased the number of recycling and desalination projects that are eligible for U. S. Bureau of Reclamation (USBR) Title XVI funding, but the federal funds in the budget may not be increased accordingly. Current Board policies support federal legislative proposals to develop new financing for water recycling but require that Metropolitan remain neutral regarding allocation of benefits. Metropolitan will seek increased USBR program funding consistent with new project authorization levels.
- o SDWA Program Funding*: The Safe Drinking Water Act (SDWA) Amendments of 1996 authorized \$1 billion of funding annually for fiscal years 1998 through 2003 for a new SDWA State Revolving Fund (SRF). In addition approximately \$55 million of funding annually has been authorized or set aside for drinking water studies and research. However, actual funding for these programs will depend on the amounts appropriated. Adequate funding of the SRF is critical, if Metropolitan and its Member Agencies are to have the opportunity for financial assistance. Adequate appropriations are needed for research to support the development of such regulations as the proposed Enhanced Surface Water Treatment Rule and Disinfectant By-Product Rule and drinking water standards for arsenic and research on Perchlorate.

Federal Endangered Species Act *

Metropolitan continues to seek amendments to the Endangered Species Act during its reauthorization in the 105th Congress that address voluntary natural systems management and expansion of "no surprises" to non-federal participants in section 7 consultations and recovery plans. Both provisions are essential to resolution of endangered species issues in the Bay/Delta and on the Colorado River. In 1997, these efforts were directed toward the Senate; these efforts will need to focus on the House of Representatives in 1998.

Habitat Conservation Planning within Colorado River System*

Regional, state, federal, tribal and non-governmental efforts to develop a comprehensive Multi-Species Conservation Program (MSCP) for federally-listed and sensitive species along the Lower Colorado River will continue. Several significant issues

affecting program progress were resolved in 1997. An exemption from the provisions of the Federal Advisory Committee Act was obtained through the designation of the MSCP Steering Committee as an Ecosystem Conservation and Recovery Implementation Team by the U.S. Fish and Wildlife Service, pursuant to Section 4 of the Endangered Species Act. A Joint Participation Agreement among the federal and state participants and an Interstate Cost-Sharing Agreement were executed. Contracts were awarded by the Steering Committee in September, 1997, to secure facilitation and conservation plan development services. Matters to be addressed in 1998 include, among others:

- o the appropriation of sufficient funding for the federal share of the MSCP development costs and Interim Conservation Measure costs; and
- o development and implementation of a long-term financing strategy.

Restructuring of the Electric Utility Industry*

Since the California Legislature and Governor approved state legislation to restructure the electric utility industry in 1996 and industry has been working diligently to implement the new industry structure by January 1, 1998, any federal legislation which would impose a new industry structure on the states should "grandfather" California's restructured electricity market. In the event that federal legislation to restructure the electric industry begins to move forward, Metropolitan should continue working with legislators to ensure that any restructuring legislation contains language to protect the water industry from the shifting of power-related restructuring costs.

Plumbing Efficiency Standards

In February of this year, Congressman Joseph Knollenberg (Michigan) introduced HR 859, a bill to eliminate all references to water efficiency standards. These standards apply to showerheads, toilets, faucet aerators and urinals, and requires the plumbing industry to re-engineer products to the new specifications. Assigned to the House Commerce Committee, the bill has not received much official action, but is continuing to gather support among apparently disgruntled consumers across the country. At this point, 28 Congressmen have co-sponsored the bill, including California Congressmen Calvert (Riverside), Campbell (San Jose), and Herger (Chico). The national print media, radio and electronic media are also giving it increased attention and focus, with the positive benefits of the plumbing standards not well portrayed in the coverage.

Metropolitan has expressed formal opposition to HR 859 by Joseph Knollenberg (Michigan), and is working with a coalition of agencies to mount a campaign against the bill both in Congress and in the media. The American Water Works Association, the Plumbing Manufacturers' Institute, numerous environmental organizations and Metropolitan have joined together in this lobbying effort. Although it appears that the bill may not make significant headway before Congress adjourns for 1997, the bill may be addressed in 1998.

Clean Water Act*

The original Clean Water Act of 1972 envisioned fishable, swimmable rivers throughout the nation. The strategy for achieving those goals was a major federal grant program to help build sewage treatment plants and also a requirement that all municipal sewage and industrial wastewater be treated before being discharged into waterways. The Act is currently up for reauthorization. The following 14 issues have been identified as being of interest to Metropolitan.

1. Wetlands
2. Beneficial reuse
3. Source water protection
4. Outstanding natural resource waters
5. Antidegradation
6. Water conservation and Integrated Resource Planning
7. Criminal liability
8. Discharge issues - - Best Management vs. End of Pipe Controls
9. Stormwater discharges
10. Chlorine ban
11. San Francisco Bay/Delta Estuary Task Force Report
12. Non-point source pollution
13. Watershed management
14. Lake Mathews Drainage Plan

Clean Water Act - Wetlands*

Metropolitan adopted wetlands policy principles in October 1993 and achieved most of its goals in Clean Water Act legislation that stalled in the 104th Congress. Efforts to reauthorize the Clean Water Act are expected to continue in the 105th Congress, and wetlands protection is likely to be part of these discussions. Work is needed to ensure that Metropolitan's issues are addressed in legislation in the 105th Congress, and to monitor the status of wetlands legislation.

SECOND LEVEL**Groundwater Cleanup***

In recent years, Congress has considered legislation authorizing federal funding for beneficial groundwater projects, such as groundwater recovery projects and projects for prevention of groundwater contamination. Other groundwater cleanup-related issues that are of concern to Metropolitan include groundwater monitoring requirements for landfills, solid waste disposal requirements, and cleanup requirements for Superfund sites.

Implementation of Farm Bill Conservation Programs (EQIP)*

The 1996 Farm Bill combined the Department of Agriculture's Colorado River Salinity Control Program and certain other farm-oriented source water quality protection programs into a single new conservation program, the Environmental Quality Incentives Program (EQIP). Adequate appropriations for the EQIP and other U.S. Department of Agriculture programs which can benefit source water protection objectives are necessary if these programs are to be effectively implemented.

Privatization Impacts on Water Quality Laboratories*

Legislation has been proposed that could require agencies to use qualified private laboratories for environmental analyses. Such a requirement could adversely affect the ability of Metropolitan and its Member Agencies to perform compliance monitoring and engage in research activities in an efficient and effective manner. Currently the legislation does not have strong support.

Perchlorate Contamination

Federal funding for Perchlorate research and treatment represented a major effort by water utilities and drinking water agencies. Budget appropriations will continue on this effort to address the needs of the water community. In addition to Perchlorate research appropriations, legislation may evolve due to the interstate nature of the Colorado River and potential identification of the Department of Defense as the primary responsible party for Perchlorate contamination.

Federal Cost Sharing for Local Utility Infrastructure

The relocation of existing public water utilities is of critical importance to Metropolitan and its Member Agencies. The Alameda Corridor Project represents a major effort to improve highway and railway transportation along this corridor, however some utilities will be impacted. Federal funding is available through the Interstate Transportation Efficiency Act or ISTEA to assist impacted agencies.

THIRD LEVEL**Sale of Power Marketing Administrations**

The sale of Power Marketing Administrations (PMA) continues to be an important issue for Metropolitan. Currently, there are four federal bills which have been introduced during the 1997-98 Congressional session to dismantle and/or dispose of the PMAs. At this time, there does not appear to be enough support to move any of these bills forward. The United States General Accounting Office, however, is currently working on two reports which will be presented to Congress on PMAs. Metropolitan continues to take

appropriate actions to protect its investment in long-term resources such as Hoover and Parker power plants.

Central Valley Project Improvement Act*

Achieving long-term consensus to problems in the Bay/Delta watershed requires that all stakeholders benefit from and support implementation of the Central Valley Project Improvement Act (CVPIA) enacted in 1992. However, current implementation of the Act by the U.S. Bureau of Reclamation and U.S. Fish and Wildlife Service have heightened concerns in the agricultural community resulting in introduction during the 104th Congress of the Central Valley Project Reform Act of 1995 (H.R. 1906, later renumbered H.R. 2738). Metropolitan participated with the Bay/Delta Urban Coalition in responding to introduced legislation and was instrumental in initiating a stakeholder/agency process for finding administrative solutions (the "Garamendi process") before identifying issues that may require legislative resolution.

Transfer of the Central Valley Project*

In 1996, the Central Valley Project Authority (CVPA) abandoned their efforts to introduce legislation that would allow for the purchase of the Central Valley Project (CVP) from the federal government. The concept advanced by the CVPA would have transferred control of the Project to a group of state agricultural contractors. However, this proposal was developed without the input of environmental or urban water interests and therefore failed to adequately address the concerns of those groups. In the event legislation is reintroduced, Metropolitan will respond according to legislative policy principles adopted by the MWD Board in January of 1996.

Bureau of Reclamation Authorization

The U.S. Bureau of Reclamation (USBR) generally receives new project or program authorizations during each Congress. The Reclamation Projects Authorization and Adjustment Act of 1992, which contained the major reforms for the Central Valley Project, was a major authorization bill for USBR. During the 104th Congress, Congress passed the Reclamation Recycling and Water Conservation Act of 1996, which authorized USBR's participation in additional water recycling, groundwater recovery and seawater desalination projects throughout the west, including projects in Metropolitan's service area. Similar legislation may be considered in 1998. In addition to local resources projects authorizations, Metropolitan is also interested in USBR participation in the Water Conservation Challenge Partnerships program.

Regulatory Reform - Specifically Cost Benefit Analysis and "Takings"*

Regulatory reform was one of the objectives of the 104th Congress. The Safe Drinking Water Act of 1996 addressed the issue of regulating drinking water constituents where the benefits of regulation are reasonably related to costs, which is consistent with Metropolitan's Board-adopted policy principles. There is potential that additional regulatory

reform may be pursued in the 105th Congress that may introduce additional regulatory requirements affecting drinking water suppliers.

During the 104th Congress, regulatory reform efforts also addressed the issue of private property "takings" and the diminution of private property values resulting from regulatory actions under federal environmental laws. Metropolitan took a position of unqualified opposition to two bills that would have required compensation whenever federal regulatory action diminished the fair market value of property, including the right to use or receive water. In 1997, Congress has continued to address regulatory reform issues, including the evaluation and reform of federal rulemaking decisions, and the protection of private property rights. Several bills have been introduced and hearings have been held. Since this issue has not been resolved, there is potential that it will be considered in 1998.

Interstate Water Transfers and Water Banking Arrangements*

A bill was introduced in 1996 in the California Legislature, which if enacted, would have required that proposed interstate water transfers or water banking arrangements regarding Colorado River water not take place until approved by the Governor. As discussions on a California Plan to reduce Colorado River diversions to 4.4 million acre-feet per year progress, a possibility exists that federal legislation could be introduced by a party seeking to define the terms and conditions under which interstate water transfers and water banking arrangements would be permitted or prohibited. Metropolitan has adopted policy principles on interstate water transfers which would guide review of any future legislation introduced on this topic.

Sale of Federal Assets - Particularly Water Assets

In the past few years, Congress has considered legislation to sell federally owned assets. Such legislation could set precedent for sale of all or parts of the Central Valley Project. Therefore, Metropolitan should continue to monitor related legislation.

Superfund

Created in 1980 and last reauthorized in 1986, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), commonly known as Superfund, was designed to respond to public concerns that abandoned and inactive waste disposal sites contaminated with hazardous substances pose a serious threat to human health and the environment. During the 105th Congress, efforts to reauthorize Superfund have picked up momentum. A comprehensive Superfund reform and reauthorization bill was introduced in the Senate in January, and bipartisan negotiations on the Superfund reform bill have been going on for months. Superfund hearings have also been held in both the House and Senate. Efforts to reauthorize Superfund will likely continue in 1998. Superfund issues of most concern to Metropolitan include implementation and financing of cleanup activities at Superfund sites impacting groundwater resources in Metropolitan's service area and liability for groundwater cleanup.

Federal Agency Consolidation

Although attempts in the 104th Congress failed to seriously advance legislation to eliminate such federal agencies as the Department of Energy, members of Congress continue to discuss similar proposals in the 105th Congress. Most legislative proposals to eliminate the Department of Energy include selling the Power Marketing Administrations. Other agencies suggested for elimination that could affect Metropolitan include the Bureau of Reclamation and the U.S. Geological Survey.

Hazardous Waste Disposal (Resource Conservation and Recovery Act)

Solid waste laws are embodied in federal statute by the Resource Conservation and Recovery Act (RCRA) and the Hazardous and Solid Waste amendments of 1984. RCRA has created a stringent system for regulating hazardous wastes. Subtitle C of the legislation mandates a "cradle-to-grave" tracking of hazardous wastes from generation through disposal. A waste is deemed to be hazardous if it is toxic, flammable, corrosive or reactive, or if it is listed as hazardous by EPA. The legislation is due for reauthorization. Since the District generates RCRA hazardous waste, these provisions should be monitored. Also, any change in the regulation of industrial waste should be monitored for potential impact on the classification, and resulting requirements, on water treatment residuals.

Clean Air Act

The 1990 Clean Air Act tightened pollution control requirements in cities that have not attained federal air quality standards and created many new or more stringent regulatory programs. During the last several years, there have been numerous legislative attempts to scale back many regulatory programs (e.g. smog check, federal operating permits, new source review, emissions monitoring, new standards for ozone and particulate matter). In some cases these programs have been adjusted on an administrative level while for others the debate may continue to generate proposed legislative solutions in the coming year.

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)

The sale and use of pesticides is governed by FIFRA. While both chlorine and copper sulfate are used as water treatment chemicals (disinfection and algae control), they are also regulated as pesticides and so any related legislation should be monitored for any impacts or use restrictions. Another Metropolitan interest in this issues relates to potential bans on products that are used to control rodent populations around dam structures (where rodent activity could affect the integrity of the structures).

Occupational Safety and Health Act Reform

The last several years have seen discussion regarding the federal Occupational Safety and Health Act (OSHA). Previous reform efforts had focused on increasing OSHA authority and liability. With a more conservative Congress, the most recent reform effort focused more on prescribing the limits of OSHA authority. Through Metropolitan is not

subject to federal OSHA, all requirements must be adopted by the state to be "at least as effective as" federal requirements. Therefore, what happens at the federal level does impact programs in California. Examples of potential issues include: the assignment of liability for violations at multi-employer worksites (e.g. construction projects with an owner, general and subcontractors); incentives for voluntary compliance; and employer defenses to citations.

Tax Legislation Pertaining To State And Local Government Tax-Exempt Financing

Tax-exempt financing for state and local governments is always under attack by the U.S. Treasury and members of Congress searching for new revenue sources. This is particularly true as Congress and the White House struggle to finance government operations while facing the decreasing availability of discretionary funds. While no major proposal is under serious consideration at this time, tinkering with arbitrage, private-use limitations, state caps and other issues could affect Metropolitan.

Lobbying Reform

Efforts to further restrict or control the influence of "lobbyists" will continue in the 105th Congress. Members of Congress have expressed interest in refining the comprehensive lobbying reform law passed in 1995. The new law redefines lobbying activities and requires lobbyists to register with the Clerk of the House and the Secretary of the Senate. The exemption for state and local government entities remain, but the law carves out public utilities and Metropolitan is now obligated to file semiannual reports on earnings and expenditures.

STATE ISSUES

FIRST LEVEL

Bay/Delta - Implementation of Improvements/CALFED Preferred Alternative*

Proposition 204 will provide vital capital for Category III, CVPIA implementation and ecosystem restoration components of the CALFED long-range plan. In 1998, a variety of legislation may be introduced affecting a multitude of Bay/Delta issues, and Metropolitan should monitor all proposed Bay/Delta-related legislation and respond accordingly. The role of MWD in introducing major new policy initiatives will depend in large part on progress towards consensus in ongoing discussions with stakeholders on development and implementation of CALFED alternatives.

Water Transfers and Wheeling*

Water wheeling legislation is anticipated to be an active issue in 1998. Several water transfer and wheeling spot bills were introduced during the first year of the

1997-98 legislative session, and at least one, SB 1011 by Senator Jim Costa (Fresno), is considered a two-year bill. A likely focus of legislation will be the proposed "Model Water Transfer Act for California." This proposal was developed by the California Business Roundtable, the California Farm Bureau Federation, the California Chamber of Commerce, and the California Manufacturers Association in order to streamline the rules for voluntary water transfers and wheeling in California. Additional legislation may also be introduced to target the CALFED program and the San Diego County Water Authority/Metropolitan wheeling negotiations, depending on their progress.

Authorization to Impose "Growth" Charges

It is anticipated that legislation for a Metropolitan connection fee may be introduced in 1999 if current efforts in the Rate Refinement Process result in recommendations that it would be the best solution to "growth" paying its share of development. Prior to any legislative initiative, development of a strategic plan and an assessment of support for such a fee will be done within the next year.

Department of Parks and Recreation Funding

The state has in recent years failed to allocate General Fund moneys to cover its payments for recreation and fish and wildlife enhancement costs associated with the State Water Project (SWP). The General Fund shortfall for these costs is projected to accumulate to over \$35 million by next year. By default, the SWP has had to pay for these costs, creating cash flow problems. In the Davis-Dolwig Act of 1961, recreation and fish and wildlife enhancement costs were deemed obligations of the general public, and General Funds were allocated prior to the onset of State budget problems in the 1980's. In 1989, legislation to cover the state's General Fund shortfall through 1988 was passed which offset the General Fund shortfall against SWP repayment obligations to the California Water Fund. However, a \$35 million General Fund shortfall has accumulated since 1989 and, since SWP repayment of the California Water Fund is expected to be complete in fiscal year 1997/98, using repayments to the California Water Fund to offset the General Fund shortfall is no longer an option.

CALFED Administration Costs

As the CALFED Bay/Delta Program moves forward, CALFED administrative costs are increasing and are projected to be much greater than originally anticipated. The State Water Contractors (SWC) originally approved funding to help jump start CALFED, with the understanding that SWC funds together with matching state and federal funds would provide sufficient funding for CALFED administrative activities. CALFED administrative costs are now projected to be much higher than originally anticipated, and there is concern as to where the additional funds will come from to solve the current CALFED budget shortfall. The State Water Contractors' position is that additional funds for the state share of the CALFED Bay/Delta Program must come from the state General Fund rather than from the

State Water Contractors. It is anticipated that legislation may be introduced in 1998 for the purpose of providing needed funds for the CALFED Bay/Delta Program from the state General Fund.

MWD Governance

This year two bills were amended in the Legislature which seek to change the structure of MWD's governing Board. Amendments were made to SB 926 by Senator Ruben Ayala (Chino) and AB 928 by Assemblyman Bruce Thompson (Fallbrook) which would replace the current 51 MWD Board Members with 15 appointees of the Governor, subject to Senate confirmation. Senator Ayala and Assemblyman Thompson have indicated they will consider moving their bills in 1998.

Over the years, the California Legislature has debated legislation to change the selection process of MWD Board Members. We anticipate the focus of next year's discussions to center around Board accountability and representation.

Safe Drinking Water Act

Mechanism to Fund State's 20% SRF Match*

The Safe Drinking Water Act Amendments of 1996 have authorized a new State Revolving Fund (SRF) program. In order for the program to be implemented in California, the Legislature passed SB 1307 (Costa - Fresno), which awaits action by the Governor. The state must also deposit matching funds equal to 20 percent of the federal capitalization grant. Methods for providing the state's match must be developed, if the SRF is to become a potential source of financial assistance for Metropolitan and its Member Agencies.

Body-Contact Recreation on Drinking Water Reservoirs*

This year Assemblyman Bruce Thompson (Fallbrook) introduced AB 145 which could possibly mandate certain body-contact recreation at the Eastside Reservoir Project. Assemblyman Thompson may revisit his bill next year. Metropolitan's Board adopted policy principles which support body-contact activities that do not result in a significant adverse impact to the health and safety of water users and consumers and that does not result in a significant degradation of secondary water quality standards. In addition, body-contact uses should not result in unreasonable cost to consumers and Member Agencies resulting from potential water treatment requirements. This year the Legislature passed AB 1460 (Bordonaro-Paso Robles) which authorizes body-contact recreation on Nacimianto Reservoir under certain conditions. The Governor has not taken action on AB 1460 as of this writing.

MTBE-Impacts on Surface Water

Methyl-tertiary-butyl-ether (MTBE) has been detected in MWD's surface water reservoirs as well as other surface water reservoirs around the state. There were several legislative initiatives this year directed at MTBE contamination in groundwater and the overall health effects of MTBE upon the environment. Legislation is anticipated to address possible MTBE contamination of surface water supplies. To examine the mounting concerns posed by watercraft with two-stroke engine in and around drinking water reservoirs, the Association of California Water Agencies (ACWA) is conducting a study of MTBE impacts on surface water. The study should be completed in early 1998. There is also general concern over other possible contaminants to surface water from other engine fuels and additives.

SECOND LEVEL**California Endangered Species Act ***

Efforts to clarify the Natural Community Conservation Planning Act (NCCP Act) were proposed by a number of California landowner interests in 1997. Those efforts were set aside in 1997, but are expected to be reinitiated in 1998. The NCCP Act is critical to comprehensive permitting pursuant to the California Endangered Species Act and any modification of its terms will be of importance to the Bay/Delta ecosystem restoration program, as well as to other activities requiring endangered species permitting.

CALFED Water-Use Efficiency

Water-use efficiency will be a common element in the final proposed CALFED Bay/Delta solution. Likely to be embodied in legislation over the next several years, the CALFED agreed-upon solution will be developed in stages. One stage that may be ready for legislative action in 1998 is water-use efficiency.

In March of this year CALFED issued a Proposed Water Use Efficiency Program, which is currently being discussed among the stakeholders. The proposed strategy provides a role for the California Urban Water Conservation Council to monitor and evaluate urban water agency performance, and to certify each agency as having met the requirements of the Best Management Practices. Adequate water management planning through the Urban Water Management Planning Act would be required and would be monitored by the Department of Water Resources. Still being discussed is the level of assurance that should be provided to enforce the strategy. The California Urban Water Agencies and the Environmental Water Caucus are jointly negotiating the terms of these assurances, and the final proposal should be ready for presentation to CALFED early in 1998.

California Environmental Quality Act

There is continuing interest among industry groups for reform of the California Environmental Quality Act (CEQA). While Metropolitan is not seeking specific reforms for CEQA, staff fully participates in such discussions to ensure that Metropolitan's interests are not compromised.

Expanded Use of Recycled Water

Future legislation can be expected to encourage expansion of the types of use that can safely be permitted in an effort to increase municipal and agricultural uses of recycled water. The inclusion of recycling as a major component of Metropolitan's regional planning and CALFED's efforts statewide suggests that Metropolitan support legislation and regulations that facilitate expanded uses of recycled water.

Groundwater Cleanup*

Groundwater cleanup, recovery and protection of groundwater quality continue to be important issues for Metropolitan. Legislative and regulatory issues that impact groundwater quality and are of concern to Metropolitan include groundwater monitoring requirements for landfills, solid waste disposal regulations, liability for groundwater cleanup, cleanup requirements for leaking underground storage tanks, and funding for groundwater treatment. Next year Senator Jack O'Connell (Carpinteria) will renew efforts to advance his bill, SB 661, which focuses upon implementation of the State Water Resources Control Board's Containment Zone Policy.

Watershed Management*

Watershed management is a fully integrated approach to water resources management that is utilized to address water quality and ecosystem restoration issues in a comprehensive manner. For example, source water quality protection for drinking water supplies can be improved through the implementation of watershed management programs which consider all sources of water pollutants in a watershed--both point sources and nonpoint sources--and develop strategies to cost-effectively control the discharge of those pollutants to the watershed.

Recently, there has been increased recognition of the importance of watershed management programs in the upper reaches of the watersheds that are tributary to the Bay/Delta. Issues such as forest management, grazing, erosion control, habitat restoration, water storage and water quality protection in the upstream regions above the dams are important in the development of the long-term Bay/Delta solution. CALFED is planning to utilize a watershed management approach in the development of the Bay/Delta solution in order to better integrate and coordinate State and federal resources management programs with local watershed activities, while ensuring long-term benefits for the Bay/Delta ecosystem.

Currently, the State Water Resources Control Board and the Regional Boards are taking administrative steps to implement a Watershed Management Initiative that includes the identification of priority watersheds in the state and implementation of watershed-based permitting and water quality control programs. It is anticipated that legislation may be considered in 1998 addressing the development and implementation of watershed management programs in the upper reaches of the watersheds that are tributary to the Bay/Delta. The Board previously adopted policy principles on watershed management.

Water Quality Protection - Perchlorate

Metropolitan completed an assessment of Perchlorate levels in the Colorado River watershed including Lakes Powell and Mead, and the major tributaries. Perchlorate was found entering Lake Mead at substantial concentrations (680 ppb) from the Las Vegas Wash into Las Vegas Bay. Legislative efforts may address the increasing concern of Perchlorate in the Colorado River as well as Perchlorate contamination in local groundwater supplies.

THIRD LEVEL

Implementation of the Restructuring Plan (AB 1890) for the Electric Utility Industry*

Since AB 1890 (Brulte-Ontario) was signed by the Governor in September of last year, several additional bills to implement the provisions of AB 1890 have moved through the Legislature but only one bill, SB 477 (Peace-El Cajon), was approved by the Legislature and signed by the Governor this past August. Substantive changes to AB 1890 made by SB 477 include the addition of consumer protection measures and the potential expansion of the available time for investor-owned utilities' collection of the Competitive Transition Charge for so long as the bonds to pay for their uneconomic electric utility assets remain outstanding.

- o Implementation of AB 1890 over the last year has resulted in the following:
- o Establishment of two state chartered, nonprofit corporations (the Independent System Operator (ISO) and the Power Exchange (PX)), and an Oversight Board which approves nominations of members to their respective Governing Boards. A Metropolitan representative is a member of the PX Governing Board.
- o The installation of several hundred million dollars' worth of computer software and hardware for the ISO and PX at their respective sites and the hiring of employees for both organizations.

- o Submission by the ISO and PX state-appointed trustee, and the ISO and PX Governing Boards of filings to the Federal Energy Regulatory Commission (FERC) to implement the new industry structure.

FERC is responsible for approving ISO/PX-related charges and the structure and operation of the ISO and PX. Metropolitan has, and will continue, to participate in the FERC proceedings to ensure that its existing contracts are honored.

Interstate Water Transfers and Water Banking Arrangements*

A bill was introduced in 1996, which if enacted, would have required that proposed interstate water transfers or water banking arrangements regarding Colorado River water not take place until approved by the Governor. AB 2409 (Aguiar - Chino), which passed the Assembly, would have required that the Colorado River Board evaluate any such proposed interstate water transfer or water banking arrangement and make a recommendation to the Governor regarding the approval of the proposed transaction. Prior to its defeat in the Senate Agriculture and Water Resources Committee, the bill was amended to require the Governor, in considering the approval of the proposed transaction, to take into consideration the effect that the proposed transaction would have on the State's ability to reliably meet its water needs. Although Metropolitan's Board had no position on AB 2409, policy principles on interstate water transfers have been adopted which would guide review of any future legislation introduced on this topic.

Groundwater Management*

Groundwater resources are generally managed at the local level through either the establishment of special districts specifically for the purpose of groundwater management, the adjudication of groundwater basins or the implementation of voluntary groundwater management plans. Recent groundwater management legislation considered in the state legislature has focused on specific groundwater basins. Groundwater management will become an increasingly more important issue as water agencies pursue innovative approaches to groundwater recharge, groundwater storage programs and conjunctive use.

Toxicity Monitoring*

Recent monitoring studies have identified significant toxicity throughout the Sacramento and San Joaquin River Basins and the Delta. Such toxicity may be responsible for the decline in Bay/Delta fisheries. It is recognized that further pollutant and aquatic toxicity monitoring is necessary in order to better characterize the chemicals responsible for the observed toxicity and identify their sources. While the need for water quality monitoring programs is widely recognized, available funding for such work has decreased. CALFED is developing a Comprehensive Monitoring, Assessment, and Research Program to coordinate and supplement existing monitoring programs in the Bay/Delta watershed. When

implemented, this program will help develop a more complete understanding of the impact of toxic pollutants on the Bay/Delta ecosystem, and will also provide benchmark data for the evaluation of water quality and ecosystem improvements. Legislation in this area is not anticipated, however, as the CALFED Bay/Delta Program moves forward, the need for a comprehensive monitoring program may be addressed.

Preservation of State Water Efficiency Standards

This issue has not yet surfaced, but if HR 859 by Joseph Knollenberg (Michigan) passes and the federal water fixture standards are repealed, significant pressure will be brought to bear on the 13 states -- including California -- that currently have their own state-enacted water efficiency standards. A change in those standards in California will have a disastrous impact on the ability of water agencies statewide to meet projected future demands for water, as the savings projected from these fixtures has already been a part of agency supply plans. As an example, the passive implementation of the current plumbing efficiency standards are 45% of Metropolitan's needed water conservation savings of 512,000 acre-feet by the year 2020. Without the standards, this 235,000 acre-feet would have to be achieved by another more expensive program.

The plumbing industry has indicated its opposition to repeal of the national standard. However, if the national standard is changed to some other standard (say 2.5 gallons per flush for toilets) then the plumbing industry will likely lobby in these 13 states for consistency with the new national standard. Staff will monitor these potential developments closely and work with coalition groups statewide should such an effort be necessary.

Privatization Impacts on Water Quality Laboratories*

Federal legislation has been proposed which could require agencies to use qualified private laboratories for environmental analyses. It is in Metropolitan's best interest to ensure that if similar state legislation is proposed, that it not adversely affect the ability of Metropolitan or its Member Agencies to perform compliance monitoring or engage in research activities in an efficient and effective manner.

Accidental Release of Hazardous Materials*

Legislation was enacted in 1996 to conform the state Risk Management and Prevention Program (RMPP) to the federal Risk Management Plan (RMP). The RMP is intended to prevent catastrophic release of hazardous materials (e.g. chlorine) and inform the surrounding community of chemical accident risks. Regulations to implement the program are currently under development and, as the program is refined, issues may emerge that should be identified as potentially affecting Metropolitan. Policy principles previously adopted by the MWD Board should be revised to reflect resolved issues (worst case definition) and issues no longer before the Legislature (model plans).

Permit Streamlining*

Many agencies have responded to a regulatory reform Executive Order issued by Governor Pete Wilson by consolidating requirements and deleting obsolete regulations. Other agencies, such as Department of Toxic Substances Control and the Division of Occupational Safety and Health, have undertaken "improvement initiatives" to look critically at their regulations and possibly initiate comprehensive reform. Some of these efforts may require action by the Legislature and should be monitored. In addition, legislation enacted in 1993 (SB 1082, Chapter 419), established a unified hazardous waste and materials management regulatory and permitting consolidation program. A single "consolidated unified permitting agency," or CUPA will manage all relevant programs (e.g. risk management, underground and above-ground tanks). Issues resulting from implementation of this program, fees, interface with the federal Risk Management Plan (RMP) rule and statewide consistency could result in legislative initiatives.

Special District Consolidation*

Members of the Legislature continue to explore ways to purportedly redesign the structure of local government to improve responsiveness to local needs while enhancing accessibility by its citizenry. Consolidation and reorganization supporters believe there must be a reduction in the number of local governmental entities to achieve that goal. They believe customers will receive improved and more cost efficient services with fewer agencies and a more streamlined delivery system. Opponents question whether massive state-imposed consolidation and reorganization will lead to the creation of large bureaucracies that are less accountable than their smaller counterparts. They believe the citizenry should have the right amount of government to meet their needs while providing appropriate government services and regulations.

AB 556 introduced by Assemblyman Curt Pringle (Garden Grove) this year would require the Orange County Local Agency Formation Commission (LAFCO) to initiate changes of organization or reorganizations that result in specified combinations of local agencies within Orange County. Assemblyman Pringle is expected to ask that the bill be reheard next year.

Despite the fact that legislation was not enacted this year to mandate a particular consolidation scheme, efforts will undoubtedly continue to analyze local service delivery to give way to new consolidation/restructuring possibilities.

Prevailing Wage

By law the prevailing wage is determined by the Director of the California Department of Industrial Relations by ascertaining and considering applicable wage rates established by collective bargaining agreements and by the federal government for local federal public work projects. Where such rates do not reflect the rates actually prevailing in

the locality, the Director obtains and considers data from labor organizations and employer associations.

This area continues to be the subject of numerous bills each legislative session, although few muster sufficient votes for enactment. In the past, legislation has been introduced to expand or decrease the type of public works projects subject to prevailing wage requirements; to reform the method for determining the prevailing wage rate; and to address contractor and subcontractor liability for prevailing wage violations. Further discussion of this issue by the Legislature is expected in 1998.

Return of Lost Property Tax Revenues

The legislative battle to secure reimbursement to cities, counties and special districts for a portion of the \$3.5 million in revenues lost from property tax shifts continues. Legislation is still pending before the Legislature which would cap the amount of property taxes shifted to schools and would begin returning a portion of the property tax base over a period of time. During the deliberations on the 1997-98 state budget, the Governor proposed returning \$100 million from the General Fund to permanently return a portion of the base amount. Unfortunately, the \$100 million property tax shift reimbursement fell victim to the budget ax despite the overwhelming bipartisan support in both the Assembly and Senate. No doubt the property tax reimbursement debate will resurface in the weeks ahead.

Funding for the State Infrastructure Bank

In 1994 legislation was enacted to create the California Infrastructure and Economic Development Bank which is authorized to issue, sell or purchase bonds, make loans and provide other types of financing for qualifying public improvement projects by public agencies, including water treatment and distribution facilities. The 1995-96 State budget appropriated \$250,000 to begin operating the Bank on a limited scale. During deliberations on the 1997-98 State budget, the Governor proposed that \$50 million be targeted to jump start the infrastructure bank. Unfortunately with the lion's share of the \$2.3 billion in unanticipated state revenues committed for the PERS repayment, the infrastructure bank funds were cut. Legislation may resurface in 1998 to seek additional funding opportunities for the Bank.