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METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

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David Plin
EXECUTIVE SECRETARY

September 22, 1998

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

From: General Manager

Edward J. Meyer
Debra C. Man

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

Subject: California Environmental Quality Act: Rulemaking Diminishes Ability to Protect
Water Resources

RECOMMENDATION

For information only.

EXECUTIVE SUMMARY

The California Resources Agency completed a proposed rulemaking in September 1998 to modify the State California Environmental Quality Act (CEQA) Guidelines, and submitted the rulemaking package to the Office of Administrative Law. This rulemaking contains significant changes and deletions to the existing Guidelines that will greatly diminish the ability to protect water supplies and quality during the CEQA planning process.

Metropolitan raised this issue during formal comment periods on the rulemaking. Since the rulemaking has not been modified in a manner that would alleviate concerns for water resources, Metropolitan has urgently alerted its member agencies, the California Urban Water Agencies, and the Association of California Water Agencies, and initiated discussions with the environmental community to improve understanding and awareness of the potentially significant adverse effects of the rulemaking on water resources and to encourage the Resources Agency to modify the rule to maintain existing language in the Guidelines providing coverage for water resources. A letter campaign has been initiated focusing on top administration officials including Governor Wilson and Resources Secretary Wheeler.

DETAILED REPORT

The California Resources Agency is required by statute to update the State CEQA Guidelines at least every two years to reflect changes to and judicial interpretations of the CEQA statute. The current rulemaking is extensive and addresses numerous important updates to the Guidelines. However, the Resources Agency has also proposed changes that would significantly diminish the ability to protect water resources in the CEQA planning process. This rulemaking was completed

in September 1998 and submitted to the Office of Administrative Law. The Administrative Procedures Act specifies a minimum 30-day review and certification period by OAL, followed by a 30-day waiting period prior to becoming effective.

Specifically, the rulemaking would modify requirements for assessing cumulative impacts such that a cumulative impact would be deemed significant and require mitigation only if a potentially significant impact from other projects already exists and the proposed project's incremental addition is "cumulatively considerable". Thus, it would be difficult to protect water supplies from incremental degradation while the water quality is good. It also could be more difficult to recover an impaired supply (such as an aquifer) because the rulemaking could allow more piecemeal degradation than would occur under the existing Guidelines.

The rulemaking would also eliminate significant protections for water resources through changes to the Initial Study Checklist and deletion of Appendix G listing of probable significant impacts. Under the rulemaking, CEQA review of water quality impacts would be limited to violation of water quality standards or waste discharge requirements. This is unacceptable for two reasons. First, unregulated contaminants would not be subject to CEQA review. Second, reliance on water quality standards and waste discharge requirements for making the initial threshold determination of significance, which controls whether an EIR is required, would inappropriately factor economic considerations into this evaluation. The CEQA process is only intended to factor in economics later on during discussion of feasible alternatives and mitigation measures in the EIR. Further, the rulemaking would remove considerable detail from the set of Initial Study Checklist questions as relates to surface and groundwater resources.

If these changes to the State CEQA Guidelines become effective, it will be more difficult to effectively protect water resources in the CEQA planning process. Metropolitan and other urban drinking water suppliers have previously used CEQA to effectively challenge projects such as proposed oil pipeline projects that would expose water supplies to significant risk of contamination, proposed industrial projects that would discharge wastes into important sources of water supplies, and proposed landfill projects that would risk contamination of important groundwater basins.

A letter campaign has been initiated focusing on top Administration officials including Governor Wilson and Resources Secretary Wheeler. Metropolitan has urgently alerted its member agencies, the California Urban Water Agencies, and the Association of California Water Agencies, and initiated discussions with the environmental community to improve understanding and awareness of the potentially significant adverse effects of the rulemaking on water resources and to encourage the Resources Agency to modify the rule to maintain existing language in the Guidelines providing coverage for water resources.

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