

July 19, 1999

To: Board of Directors (Legal and Claims Committee--Information)

From: General Counsel _____

Subject: Legal Department Report for July 1999

RECOMMENDATION(S)

For Information only.

EXECUTIVE SUMMARY

This report discusses significant matters which the Legal Department was concerned with during the month of July 1999.

DETAILED REPORT

1. Recent Developments of Interest to Metropolitan

None to report.

2. Litigation to Which Metropolitan Is a Party

Abacus v. MWD

Christina Bionghi dba Abacus was a temporary agency doing business with Metropolitan on the Eastside Reservoir Project and a subcontractor to Parsons and SCA on Metropolitan projects. After her contracts with MWD, Parsons and SCA were terminated she filed litigation alleging a variety of contract and tort causes of action against Metropolitan and claiming several million dollars in damages. In October, 1997 the Superior Court (Case No. BC146354) granted a summary judgment motion in favor of MWD dismissing all claims. The plaintiff filed an appeal. After oral argument in October, 1998, the Court of Appeals ruled in MWD's favor in early December, 1998. Plaintiff then petitioned the California Supreme Court for review. On June 30, 1999 the Plaintiff's petition was denied by the Supreme Court. The matter is now finally concluded in MWD's favor.

State Water Contractors v. Spear

The State Water Contractors (SWC) have amended their complaint in this matter by adding Kern County Water Agency, Tulare Lake Basin Water Storage District and Metropolitan as individual plaintiffs. The action was originally filed on May 12, 1999, challenging the United States Fish and Wildlife Service's listing of the Sacramento splittail as a threatened species under

the Federal Endangered Species Act. SWC practice is generally to name individual contractor agencies along with the SWC organization as co-parties. However, at the time the SWC filed the initial complaint, time had not expired on the individual contractor's 60-day notices of intent to sue, which is required before litigation can be filed under the Act. Upon expiration of the 60-day period, the complaint was amended.

3. Resource Matters

State Water Resources Control Board Hearings

The State Water Resources Control Board concluded Phase 2B of its hearings to implement Bay/Delta flow requirements. Phase 2B considered petitions by San Joaquin River water users to amend their water rights to accommodate the San Joaquin River Agreement/VAMP and to protect the pulse flows in the San Joaquin River required by the Agreement. State Board has now completed the first 7 phases of the process. It has not yet indicated whether it will issue partial orders dealing with the issues heard in those phases prior to commencing Phase 8, when it will finalize its EIR on the water rights hearings, or when Phase 8 will begin.

4. Claims

None to report.

5. Financing

None to report.

6. Administrative Matters

None to report.

NGT:sk