

● **Communications and Legislation Committee**

November 15, 1999 Committee Meeting

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**C&L7A**

**Subject**

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Legislative Policy Principles on the CALFED Bay-Delta Process

**Description**

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In July and August 1999, the board adopted a Policy Direction Framework and a Statement of Needs (see [Attachment 1](#)) that provides direction to staff on the main elements needed from the CALFED Bay-Delta Program, as well as direction regarding future Metropolitan planning studies. To ensure consistency with this new policy and to guide staff efforts concerning state and federal legislation, staff is recommending the board adopt the following legislative policy principles on the CALFED Bay-Delta Process.

These updated policy principles would replace existing sets of legislative policy principles addressing CALFED appropriations, comprehensive Bay-Delta solutions, the Water Resources and Delta Restoration Act of 1996, and CALFED water use efficiency to form one comprehensive set of CALFED legislative policy principles.

Recommended New Legislative Policy Principles

- CALFED Overall Program. Support legislation concerning CALFED that is consistent with Metropolitan's Bay-Delta Policy Direction Framework and the Statement of Needs (see [Attachment 1](#)), and serves as a building block to support Southern California's Integrated Resources Plan.
- CALFED Funding Appropriations. Support state and federal appropriations for the CALFED Bay-Delta Program that provide more equitable funding for water quality and supply reliability programs for urban water interests in Southern California. Support financing of Bay-Delta environmental, recreational and public health water quality improvement programs with public funds.
- CALFED Administration Costs. Support state funding of CALFED administration fees through the State General Fund rather than from the State Water Contractors.
- CALFED Governance Structures. Support legislation concerning CALFED's governance structure that provides a unified and consistent approach to managing the overall CALFED Bay-Delta program. This legislation should include authority to provide for centralized (one-stop) processing and actions on all project decisions, permits and other elements of the plan.
- CALFED Water Use Efficiency
  - Support the inclusion of water use efficiency strategies for all water use sectors including urban, agricultural, and environmental in the overall CALFED solution.
  - Support the "certification framework" as described in the CALFED PEIR/EIS dated June 1999 as part of an agreed-upon CALFED solution.
  - Support the allocation of financial resources to water agencies to fund projects required as part of the CALFED solution, especially those projects which exceed local levels of cost-effectiveness.

**Policy**

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Board Letter 9-3, July 23, 1999: Metropolitan Statement of Needs Regarding CALFED Bay-Delta Program.

Board Letter 7-10, January 27, 1998: Legislative Policy Principles (see [Attachment 2](#))

**Board Options/Fiscal Impacts**

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**Option #1**

Adopt the policy principles as proposed

**Fiscal Impact:** Unknown at this time

**Option #2**

Adopt the policy principles with specific revisions.

**Fiscal Impact:** Unknown at this time

**Option #3**

No action

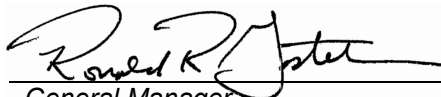
**Fiscal Impact:** Unknown at this time

**Staff Recommendation**

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Option #1

	10/28/99
Stephen N. Arakawa, Acting Manager Water Resource Management Group	Date

	11/2/99
General Manager	Date

**Attachment 1**

**Attachment 2**



● **Board of Directors**  
**Water Planning and Resources Committee**

July 23, 1999

9-3

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**Subject**

Metropolitan Statement of Needs Regarding CALFED Bay-Delta Program

**Description**

CALFED released its revised Programmatic Environmental Impact Statement/Report (PEIS/R) and revised Phase II Report outlining a draft preferred alternative for the Bay-Delta on June 25, 1999, with a 90-day review period. By April 2000, CALFED is scheduled to release a final PEIS/R. A Record of Decision and initiation of Stage I implementation is expected by June 2000.

The Board has held a series of workshops and Bay-Delta workgroup meetings to examine existing policy and consider a range of alternative courses of action toward protecting our State Water Project (SWP) resources and securing needed Bay-Delta improvements. Key discussion has centered on the following questions:

1. Should Metropolitan continue to participate in the CALFED process?
2. Are there elements that should be added or refined in CALFED's Phase II Report on a Bay-Delta solution?
3. Given the uncertainty at this time regarding the results of a CALFED solution, what actions should be taken that do not rely on Metropolitan's currently assumed CALFED result?

On July 13, 1999, Metropolitan's Board adopted a policy direction framework (Attachment 1) that addresses these questions and provides direction to staff on the main items needed from the CALFED Bay-Delta Program, as well as direction regarding future Metropolitan planning studies. In addition to the policy direction framework, several associated elements were identified as critical components of a successful CALFED solution that would be communicated when commenting on the PEIS/R. Therefore, this Board letter supplements the July 13, 1999 policy. A proposed Metropolitan Statement of Needs for the CALFED Bay-Delta Program (Attachment 2), which identifies the specific associated elements that must be included prior to finalizing the PEIS/R and the Record of Decision is presented for the Board's consideration and adoption.

**Policy**

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CALFED Bay-Delta; State Water Project

**Board Options/Fiscal Impacts**

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**Option #1**

Adopt the Statement of Needs for the CALFED Bay-Delta Program as proposed.

**Option #2**

No Action

**Option #3**

Adopt the Statement of Needs for the CALFED Bay-Delta Program with specific revisions.

**Staff Recommendation**

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Option #1

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Stephen N. Arakawa, Acting Chief  
Planning and Resources Division

Date

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General Manager

Date

Attachments

**Metropolitan Water District of Southern California  
Policy Direction Regarding CALFED Bay-Delta Program**

**Adopted July 13, 1999**

CALFED's decision to proceed with a phased approach and the lack of a clear decision-making process regarding conveyance improvements raises concerns that source water quality improvements are not on a schedule to meet future drinking water regulations and other water management needs. Therefore, Metropolitan's Board of Directors provides the following focused direction as a matter of policy:

**CALFED Participation:**

- Metropolitan's continued participation in CALFED will be to ensure that the final PEIS/EIR and Record of Decision includes the following key items and associated elements:
  - ◇ Elements in the CALFED program that can help Metropolitan toward achieving its source water quality needs for protection of public health and water management purposes.
  - ◇ Enhanced water system capability through expanded pumping at the Banks plant (10,300 cfs) and solutions from the Integrated Storage Investigation to provide for economic and environmental needs.
  - ◇ An additional 200,000 acre-feet per year of dry-year yield to Metropolitan from the Delta, over existing available supplies, by the year 2020.
  - ◇ State and federal funding of the environmental and recreational costs associated with the Bay-Delta.
- Ensure that CALFED's final PEIS/EIR fully discloses the consequences of CALFED not meeting the water quality and reliability objectives outlined above. This should include estimated expenditures for enhanced treatment facilities and alternative water supply sources, and an evaluation of the feasibility/effectiveness of these alternatives versus a Delta solution. CALFED must also evaluate and disclose the economic ramifications and financing arrangements associated with inducing such alternative expenditures.

**Direction Regarding Future Metropolitan Planning Studies:**

- Conduct future planning studies including scenarios in which CALFED does not provide source water quality in the Delta consistent with Metropolitan's objectives;
- Develop a range of options to meet future water quality and reliability needs for the service area.

Attachment 1 for Board Letter 9-3  
Planning and Resources Division  
July 23, 1999

**STATEMENT OF NEEDS FOR THE CALFED BAY-DELTA PROGRAM**  
**The Metropolitan Water District of Southern California**

**Preamble**

On September 15, 1998, Metropolitan adopted a CALFED Bay-Delta Program Policy Position to state our objectives in the critical areas of public health protection, salinity management, supply reliability, and assurances. At that time, we stated that CALFED must consider a full range of alternatives capable of meeting the program's objectives. Instead, CALFED delayed making difficult but crucial decisions and opted for a phased decision-making approach. CALFED's decision to proceed with a phased approach and the lack of a clear decision-making process regarding conveyance improvements raises concerns that source-water quality improvements are not on a schedule to meet future drinking water regulations and other water management needs.

Because of these and other concerns, Metropolitan's Board held a series of workshops and Bay-Delta workgroup meetings to examine existing policy and consider a range of alternative courses of action toward protecting our State Water Project (SWP) resources and securing needed Bay-Delta improvements. On July 13, 1999, Metropolitan adopted a policy direction framework (Attachment 1) that provides direction to staff on the main items needed from the CALFED Bay-Delta Program as well as direction regarding future Metropolitan planning studies. In addition to the policy direction framework, several associated elements were identified as critical components of a successful CALFED solution.

Metropolitan is communicating this Statement of Needs for the CALFED Bay-Delta Program to articulate a number of specific elements that will need to be included in the program prior to finalizing the Programmatic Environmental Impact Statement/Environmental Impact Report (PEIS/R) and the Record of Decision (ROD). To secure broad support for the program, including the support of Southern California and much of urban California, CALFED must move quickly to demonstrate that Stage I and long-term actions provide a beneficial value for those who will be asked to pay, commensurate with their proportional cost share. The elements outlined below are consistent with CALFED's primary objective of securing a balanced and comprehensive Bay-Delta solution, and represent the critical needs of Metropolitan's service area.

**What CALFED Must Provide**

- ***Drinking Water Quality and Salinity Targets.*** Metropolitan requires a safe drinking water supply from the Bay-Delta to meet current and future regulatory requirements for public health protection, achieved through reduced levels of total organic carbon (TOC), bromide, pathogens and other unknown contaminants. In addition, Metropolitan requires source water from the Bay-Delta that is consistently low in salinity to implement local water recycling and groundwater programs (for demand management) and to minimize economic impacts on residential and industrial users.

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CALFED's final PEIS/R and ROD must:

- Ensure the ability to meet anticipated more stringent regulations on disinfection by-product and pathogens to protect public health through water quality improvements of Delta water supplies, or through a cost effective combination of alternative source waters, source improvement, and treatment facilities. Water quality improvements need to be implemented in a timely manner to allow sufficient time to meet the effective date of the regulations.
- Identify and commit to Stage 1 projects tied to establishment of water quality performance milestones to assure compliance with existing and anticipated future regulations.
- Ensure the ability to meet Metropolitan's 500 mg/L salinity blending objective in a cost-effective manner while minimizing resource losses, and ensure the viability of recycling and groundwater management programs.
- Establish a Water Quality Account, including state and federal funding sources, to implement water quality improvement projects for salinity management and public health requirements.
- Ensure water quality improvement actions are cost effective compared to other alternatives.
- ***Water Supply Improvement and Regulatory Stability.*** Ensuring the reliability of Metropolitan's State Water Project (SWP) supplies is essential to Southern California's \$500 billion economy, quality of life and environment. Metropolitan's water management strategy is to minimize its current and future dry-year dependence on Delta water. This is being accomplished through cumulative investments by Metropolitan and its member agencies of approximately \$8 billion by year 2020 in the management and development of Southern California's local supplies, including conservation, recycling, and storage (ground and surface). However, this strategy of maximizing our local supplies is contingent upon a successful CALFED solution that provides substantially improved source water quality from the Delta, regulatory stability, greater SWP operational flexibility and access to wet year supplies, increased reliability against system failure, and financial incentives for additional local programs.

CALFED's final PEIS/R and ROD must:

- Commit to a "no-surprises" regulatory policy to eliminate the current regulatory-induced uncertainties and ensure no further losses of water supply compared with current available supplies. Ensure that regulatory decisions are science-based, with an appropriate review process to promote informed decision-making.

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- By the year 2020, provide Metropolitan with minimum SWP supplies of 650,000 acre-feet during a repeat of critical drought years such as 1977 or 1991 and an average annual delivery of 1.5 million acre-feet over all years. This reduction of dry-year demand on Metropolitan's 2.0 million acre-feet SWP entitlement can only be accomplished if Metropolitan has access to SWP supplies up to its full entitlement amount during wet years to replenish surface and groundwater storage.
  - Enhance the water system capability through expanded pumping at the Banks Plant (10,300 cfs), interchangeable operation between SWP and Central Valley Project (CVP) facilities, and solutions from the Integrated Storage Investigation (ISI) to provide for economic and environmental needs.
  - Establish and implement an Environmental Water Account (EWA) that is coupled with an overall operations agreement to achieve "no surprises" regulatory assurances for water users against further erosion of supplies. The EWA must be sufficiently equipped with assets from the ISI such as new storage, purchase options, efficiency measures, and the ability to apply flexible operations. The EWA must allow for sharing of the gains for environmental, water quality, and water supply purposes commensurate with sources of funding.
  - Define actions to streamline the approval process of an effective water transfer market.
  - Implement actions to increase reliability against system failure (e.g. floods or earthquakes) that threaten the water supplies to millions of Californians.
- **Full Disclosure of Alternatives.** CALFED's environmental documentation must fully disclose the consequences of CALFED not meeting Metropolitan's water quality and supply reliability objectives.

CALFED's final PEIS/R and ROD must:

- Fully disclose the costs, feasibility, and effectiveness for out-of-Delta solutions such as enhanced treatment facilities and alternative water supply sources, and provide a comparison of the performance of these alternatives versus a Delta solution.
  - Evaluate and disclose the economic ramifications and financing arrangements associated with inducing out-of-Delta expenditures.
  - Disclose the technical performance of all the Delta conveyance alternatives against meeting CALFED's water quality, ecosystem, supply reliability, and system reliability objectives.
- **Governance Structures.** Successful implementation of a CALFED solution will only be possible through an effective governance structure. Overall, CALFED must be operated as one program to preserve its overarching, balanced objectives as opposed to a collection of



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**July 23, 1999**

autonomous committees and agencies. Stakeholder representation needs to be integrated into the decision-making.

CALFED's final PEIS/R and ROD must:

- Include an overall governance structure that ensures integrated decision-making and timely implementation.
  - Provide equitable representation for Southern California.
  - Integrate on-going Bay-Delta ecosystem restoration programs (e.g. CVPIA) into the CALFED Ecosystem Plan. An integrated program is necessary to maximize the value from existing programs and minimize additional costs.
- ***Assurances and Implementation.*** Metropolitan must be assured that all of CALFED's stated purposes will be met and all components of the Bay-Delta solution will be implemented to provide regional and statewide benefit. An implementation agreement must be developed to ensure efforts to achieve CALFED's objectives move in parallel and on a balanced schedule. Funding and implementation of ecosystem restoration, in-stream quality improvements, and levee repairs should not proceed unless commensurate funding and implementation of actions benefiting safe drinking water quality, salinity control, and supply reliability also occur.

CALFED's final PEIS/R and ROD must:

- Identify State and federal funding sources for the environmental and recreational costs associated with the Bay-Delta.
  - Develop an Implementation Agreement that is agreeable with those expected to pay.
  - Ensure balanced implementation of ecosystem and non-ecosystem actions.
  - Include programmatic disclosure/findings sufficient to move forward with needed facilities.
  - Include a comprehensive species and habitat conservation strategy and a programmatic compliance strategy such that all necessary state and federal regulatory/permitting requirements are fulfilled in a coordinated manner.
  - Bundle Stage 1 projects into manageable substages, linked with funding sources.
- ***Finance and Cost Allocation.*** To date, CALFED has made little progress on an overall finance and cost allocation plan. To be successful, a plan that is agreeable to those parties expected to pay, including possible voter approval, needs to be developed prior to the ROD. CALFED should take every action possible to minimize the cost of the program while maximizing benefits in all program areas.

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CALFED's final PEIS/R and ROD must:

- Demonstrate that Stage 1 and long-term actions provide a beneficial value for those who will be asked to pay, commensurate with their proportional cost share.
- Establish a process to properly manage and administer program funds.

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January 27, 1998

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

**From:** General Manager \_\_\_\_\_

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

Mark D. Beuhler \_\_\_\_\_  
Director of Water Quality

**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.

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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**

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### **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.

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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.

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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.

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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 no adopted policy principles for CEQA, and has worked within existing CEQA compliance requirements to approve its own projects. To date, Metropolitan’s CEQA legislative strategy has been reactive-- Metropolitan has supported or opposed proposals advocated by others, but has not advocated any reforms itself. Support of 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

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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



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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.

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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.

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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.

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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

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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.

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- 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:

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- 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:

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**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