

• **Communications and Legislation Committee**

December 13, 1999 Committee Meeting

C&L8a

Subject

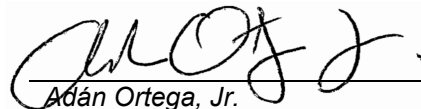

Issue Papers

Description

Last month this Committee began the process of reviewing substantive amendments to Board-adopted legislative policy principles. To continue this discussion, three issue papers are submitted for the Committee's consideration in December: **Federal Safe Drinking Water Act**, **Brackish Water Desalination** and **Watershed Management**.

Policy

New Policy

 Adán Ortega, Jr. Acting Manager of the Outreach Group	<hr/> 11/19/99 Date
 General Manager	<hr/> 11/30/99 Date

- Attachment 1 – Federal Safe Drinking Water Act**
- Attachment 2 – Brackish Water Desalination**
- Attachment 3 – Watershed Management**

FEDERAL SAFE DRINKING WATER ACT

Background

The Safe Drinking Water Act (SDWA) is the principal law governing drinking water safety in the United States. Enacted initially in 1974, the SDWA authorizes the U.S. Environmental Protection Agency (EPA) to establish comprehensive national drinking water regulations to ensure drinking water safety. EPA drinking water regulations require public water systems in the U.S. to meet specified drinking water quality standards. Regulations may also require that compliance monitoring be conducted, that specified treatment be applied, and that reports be submitted documenting that regulations are being met. Under the SDWA, EPA can delegate implementation of drinking water regulations to states that have developed programs "at least as stringent" as the federal one. Such states, including California, have "primacy" for administering their own programs. California's own Safe Drinking Water Act gives the responsibility to the state Department of Health Services' Division of Drinking Water and Environmental Management.

Analysis

To ensure compliance with water quality regulations, a water utility usually must produce water of a better quality than a standard or regulation would demand. Hence, each water utility needs its own water quality goals to ensure compliance while producing the highest quality tap water possible within its financial, technical and managerial capacity.

On Aug. 6, 1996, President Clinton signed Amendments to SDWA. The 1996 Amendments emphasize sound science and risk-based standard setting, small water supply system flexibility and technical assistance, community-empowered source water assessment and protection, public right-to-know, and water system infrastructure assistance through a multi-billion-dollar state revolving loan fund.

Other actions stemming from the 1996 reauthorization include regulatory actions on:

- Radon
- Disinfection/Disinfectant By-Products
- Arsenic
- MTBE
- Consumer Confidence Reports

Metropolitan Position

Metropolitan's Board of Directors previously adopted the following legislative policy principles addressing reauthorization of the Federal Safe Drinking Water Act:

1. Make selected amendments to the Act, (including some return of authority to the local government) to improve the ability to ensure safe drinking water at a reasonable cost. These amendments may include the following:
 - a. Replace the requirements of 25 new standards every three years with a periodic review of new studies.
 - b. Remove the continuous "ratcheting down" of the standards unless there are significant health benefits.
 - c. Reconsider the feasibility of granular activated carbon for the control of synthetic organic compounds.
 - d. Remove the conflicts between SDWA regulations and other environmental regulations.

- e. Place compliance deadlines in the regulations.
- f. Permit utilities to continue to meet existing regulations while the State is in the process of revising the rule.
- g. Develop regulations for “interrelated” contaminants simultaneously.
- h. Address small systems compliance problems.
- i. Require that public notification language reflect the degree of hazard.
- j. Consult equally between the National Drinking Water Advisory Council and the Science Advisory Board.
- k. Allow greater discretion in considering responsible use of public fiscal resources in setting drinking water regulations.
- l. Allow municipalities to prioritize risk reduction resources and address the most pressing needs first.

Recommended Policy Principles

It is recommended that Metropolitan adopt the following principles on the Federal Safe Drinking Water Act in order to improve the ability to ensure safe drinking water at a reasonable cost. These amendments may include the following:

- Seek an appropriate level of funding for the Safe Drinking Water State Revolving Fund (SRF).
- Seek increase funding for health effects studies on drinking water contaminants.
- Enhance source water protection through a “polluter pays” policy.
- Seek immunity for compliant water systems from frivolous lawsuits.
- Continue advocacy for drinking water legislation based on sound science.
- Incorporate Benefit/Cost analysis in developing treatment methods.

BRACKISH WATER DESALINATION

Background

Salinity in Southern California surface and groundwater supplies has been on the rise. Increased agricultural and urban development in the Colorado River Basin has led to higher salinity in Colorado River water – the major source of water for many communities throughout the southwest. High concentrations of salinity (known as total dissolved solids or TDS) cause problems for agriculture, industrial processes, and homeowners by corrosion and scaling of plumbing fixtures and appliances. Elevated TDS levels also limits the use of municipal wastewater for irrigation and groundwater recharge.

Salinity removal technologies are energy-intensive and expensive. For example, treating Colorado River water to the secondary TDS drinking water standard using conventional treatment methods can cost \$300 or more per acre foot. These high costs have precluded the widespread implementation of brackish water desalination technologies, especially for large-scale applications. Thus advances in TDS removal may help alleviate the economic problems associated with the use of Colorado River water and enhance the treatment of brackish groundwater, municipal wastewater and agricultural drainage.

Metropolitan and a group of partners have embarked on a project to develop new and innovative technologies to substantially reduce the cost of desalinating water from the Colorado River and other brackish water sources. This partnership is the Desalination Research and Innovation Partnership, or DRIP. In addition to Metropolitan, DRIP partnership includes the Orange County Water District, the San Diego County Water Authority, the West Basin Municipal Water District, Southern California Edison, the Electric Power Research Institute, the American Water Works Association Research Foundation, the University of California at Riverside, the Lawrence Livermore Laboratory, the State of California Department of Water Resources, Alameda County Water District, Sonoma County Water Agency, and the Santa Clara Valley Water District.

Analysis

The overall goal of the planned eight-year DRIP is to develop marketable water treatment processes that cost-effectively improve water quality and supply reliability while reducing energy usage. The specific objectives of the DRIP are to: (1) demonstrate new, large-scale technologies which reduce the energy requirement and cost of producing potable water; (2) partner with industry to ensure the commercial implementation of newly developed treatment technologies; (3) reduce the need for energy-intensive water imports; (4) improve water quality to meet future U.S. Environmental Protection Agency standards; and (5) cost-effectively develop new, local water supplies.

Assembly Bill 1605 by Assembly Bob Margett (Arcadia), a bill sponsored by Metropolitan, sought to appropriate \$1,000,000 from the General Fund to the Department of Water Resources for allocation to entities for the purposes of developing new and innovative technologies in brackish water desalination. The bill was vetoed by Governor Davis.

Recommended Policy Principles

It is recommended that Metropolitan adopt the following policy principles on brackish water desalination:

- Metropolitan, in conjunction with the other DRIP partners, shall continue its collaborative efforts in the area of brackish water desalination.
- Metropolitan, in conjunction with the other DRIP partners, shall continue its efforts to obtain research and development funding for brackish water desalination projects with an emphasis on leveraging appropriate local, state and federal funding sources.
- Metropolitan shall protect its intellectual property.

WATERSHED MANAGEMENT

Background

In recent years, the watershed management approach has been incorporated into programs at the federal, state and local level for the purposes of achieving water quality improvement, ecosystem restoration, water management, flood management and other objectives. For example, at the federal level, the Clean Water Action Plan, initiated in 1998, includes a number of initiatives that reorganize existing restoration and water quality protection efforts on a watershed basis. At the state level, the State Water Resources Control Board and the Regional Water Quality Control Boards have developed a Watershed Management Initiative, for the purpose of addressing water quality problems and implementing water quality improvement strategies on a watershed basis. The CALFED Bay-Delta Program includes a Watershed Management Program to provide technical and financial support for the implementation of watershed projects that are consistent with CALFED's goals and objectives. In addition, many local watershed groups have formed throughout the state in an attempt to address watershed restoration needs in a comprehensive and collaborative manner. The increased attention to utilizing the watershed management approach has triggered an interest in state legislation establishing a watershed management framework.

Analysis

Although currently there is not a comprehensive state-wide legislative framework specifically authorizing or mandating the development of watershed management programs, existing laws and regulations do not preclude the implementation of the watershed approach. As many watershed management activities move forward, concerns are being raised regarding existing state and local government authorities for developing, approving and/or implementing watershed management plans. Furthermore, many groups involved in local watershed activities have expressed the need for a steady source of funding for watershed management planning and implementation.

The Water Bond, AB 1584 by Assemblyman Machado (D-Linden) and Senator Costa (D-Fresno), if approved by the voters in March 2000, will provide substantial funding for watershed management projects. Specifically, the water bond will provide \$468 million in funding for watershed protection activities, including statewide funding for the development and implementation of watershed management plans, watershed education, river protection and habitat restoration, and funding for specific watershed projects throughout the state, such as the Southern California Integrated Watershed Program for the Santa Ana Watershed. In addition, the Non-point Source Pollution Control Program will provide \$100 million in funding for non-point source control projects, including projects that are consistent with local watershed management plans.

There are currently two bills pending before the State Legislature that address state-wide watershed management issues. AB 730 (Dickerson, R-Redding), is a two-year spot bill sponsored by the Regional Council of Rural Counties (RCRC). As introduced, AB 730 would require the Secretary of the Resources Agency to carry out a watershed management and rehabilitation program, and would appropriate an unspecified amount of funds to the Resources Agency to implement the program. RCRC and the Sierra Nevada Alliance are developing draft legislative language to potentially amend AB 730, and are circulating the draft to interested parties for review. The RCRC and Sierra Nevada Alliance draft legislative language proposes water user fees and hydroelectric surcharges to provide funds for a watershed management funding program administered by the Resources Agency. The proposal also

addresses required elements for local watershed management plans and authorities for developing and implementing watershed plans.

SB 1088 (Poochigian, R-Fresno), which is currently pending in the Senate Environmental Quality Committee, would create the California Watershed Planning Act. The purpose of the bill is to establish a process for the development and adoption or rejection of watershed management plans by local and/or state agencies. The proposed process would take into account the jurisdictional boundaries and authorities of local agencies and the rights of private land owners.

Metropolitan Position

Metropolitan's Board of Directors adopted the following legislative policy principles addressing watershed management programs and Metropolitan's involvement in watershed management programs on January 10, 1995:

1. Support federal and state legislative and regulatory proposals to establish watershed management programs that are consistent with the following principles:
 - State-level implementation of watershed management laws and regulations;
 - Development of watershed management programs which recognize local primacy in basin management and land-use controls, and which facilitate cooperative working relationships among all watershed stakeholders;
 - Development of watershed management plans based on site-specific conditions, needs and objectives;
 - Development of watershed management plans which consider all water resources management objectives for the watershed, including source water quality protection and/or improvement, water supply availability, water supply storage, flood and erosion control, and aquatic ecosystem protection objectives;
 - Inclusion of public drinking water suppliers in the group of stakeholders involved in the development of watershed management plans;
 - Development of watershed management plans which address all discharges within a particular watershed, and consider their relative impacts on the watershed in the implementation of control measures; and
 - Development of watershed management plans which ensure no interference with the authority of the state to manage allocation of water supplies within their jurisdiction.
2. Support Metropolitan's involvement as a stakeholder in watershed management planning efforts for imported sources of supply (i.e., the Bay-Delta watershed and the multi-state Colorado River watershed), in order to work in cooperation with other interests throughout the watersheds, and ensure consideration of drinking water quality and water supply availability objectives.
3. Support Metropolitan's involvement as a stakeholder working cooperatively with others on watershed management planning efforts impacting the District's locally stored water supplies.
4. Support Metropolitan's coordination with Member Agencies to cooperatively participate in watershed management planning efforts impacting local sources of water supply, and to provide assistance to local primacy agencies.

Recommended Policy Principles

In addition to the above-listed principles, it is recommended that Metropolitan adopt the following additional principles on watershed management to address funding mechanisms for watershed management programs and accountability to those providing watershed funding:

- Support public financing for watershed management projects that provide broad public benefits, including environmental and water quality improvements.
- Support funding mechanisms for watershed management projects that are based on the beneficiaries-pay principle and that directly link tangible benefits of watershed programs to those entities expected to provide funding. Funding for watershed management projects that provide water quality improvements should be equitably allocated among entities responsible for water quality degradation and project beneficiaries. The determination of beneficiaries of watershed management programs must be based on proven scientific information.
- Oppose watershed management funding mechanisms that impose mandatory water user fees or target water supply exporters, without agreements from those users.
- Watershed management programs should provide accountability to those entities, including the public, that provide funding. Accountable watershed management funding programs should include justification that funding levels represent actual needs, well-defined criteria for the distribution of funds, oversight for the funding program, and specific monitoring and reporting requirements for those entities receiving funding.