

- **Board of Directors**
Budget and Finance Committee

May 17, 2000 Board Meeting

9-1

Subject

Resolution to Impose and Extend a Water Standby Charge for Fiscal Year 2000-01

Description

In January 2000, Metropolitan's Board of Directors adopted Resolution 8667, declaring the intention to impose a readiness-to-serve charge to be allocated among the member public agencies. Resolution 8667 provided the 23 participating member public agencies the ability to have all or portions of their readiness-to-serve charge collected by water standby charges within their respective agencies. In March 2000, Metropolitan's Board adopted Resolution 8671, fixing and adopting the readiness-to-serve charge for fiscal year 2000-01.

On April 11, 2000, a public hearing was held allowing interested parties to express their views regarding the proposed standby charges. The board received one written comment and comments at the public hearing from the San Diego County Water Authority, in each case opposing the imposition of the water standby charge. The written comment and response by the Chairman is attached hereto as [Attachment 1](#). The request of San Diego County Water Authority for rescission and reconsideration of the Readiness to Serve/Standby Charge will be considered by the Subcommittee on Rules and the Executive Committee. The comments of the San Diego County Water Authority are attached hereto as [Attachment 2](#).

[Attachment 3](#) is a form of final resolution that, if adopted by your Board, will impose and extend a water standby charge on non-exempt real property within the service areas of participating member public agencies for fiscal year 2000-01. As indicated in the resolution, 23 of Metropolitan's 27 member public agencies have opted to have the standby charge imposed within their service areas. The standby charge, per acre or per parcel if less than an acre, within each participating member agency has remained the same since fiscal year 1993-94. Because Metropolitan proposes to reimpose the standby charge for the coming fiscal year at the same rate as prior years, and proceeds of the charge will be used for purposes specified in Section 5 of Article XIII D of the California Constitution (Proposition 218), no additional procedures under Proposition 218 are required for approval.

Recently annexed land within participating member agencies, which did not have standby charges imposed prior to the passage of Proposition 218, may be subject to new standby charges. These new standby charges will be separately imposed and extended in the same amounts as existing standby charges within the applicable member agency, but under the procedures required by Article XIII D.

The resolution also authorizes the General Manager to act upon applications for exemption of certain lands from imposition of the water standby charge in accordance with the terms and conditions for exemption specified in the resolution. In addition, the resolution provides for establishment of an Ad Hoc Committee of the Board to review and make recommendations to the Board on appeals by property owners who have been denied exemption, with final determinations to be made by the Board. The exemption criteria are the same as those adopted for prior years and will be subject to specific guidelines set by the Ad Hoc Committee.

The 2000-01 standby charges are being imposed and extended under the authority embodied in Section 134.5 of the Metropolitan Water District Act and in accordance with provisions of the Uniform Standby Charge Procedures Act (USCPA). Under the USCPA, if your Board receives written protests representing 15 percent or more of the approximately 4 million parcels subject to the charges, the Board can still adopt or modify the charges, but the charges will be ineffective until approved by a majority vote in an election within the service area. If the written protests represent 40 percent or more of the parcels, the charge can not be implemented for

that year. If protests in the amount of 15 percent or more of the affected parcels are received on or before May 9, 2000, the Resolution will not go into effect.

Funds collected from the proposed water standby charge will be segregated to ensure that they are used only for the purposes for which the water standby charge was imposed. The resolution contains a finding by your Board that adoption of the charges provided in this Resolution is exempt from the provisions of the California Environmental Quality Act (CEQA) since they are rates and other charges which are for the purposes of (a) meeting operating expenses; (b) purchasing or leasing supplies, equipment or materials; (c) meeting financial reserve needs and requirements; and (d) obtaining funds for capital projects necessary to maintain service within existing service areas. Additionally, they are exempt from CEQA under State CEQA Guidelines 15378 (b)(5) since they constitute the creation of government funding mechanisms which do not involve commitment to any specific project which may result in a potentially significant physical impact on the environment or which will be used to fund projects which have CEQA documentation in place prior to construction of any facility or facilities.

Policy

The 2000-01 standby charges are being imposed and extended under the authority embodied in Section 134.5 of the Metropolitan Water District Act and in accordance with provisions of the Uniform Standby Charge Procedures Act.

Board Options/Fiscal Impacts

Option #1

Approve the resolution to impose and extend a water standby charge.

Fiscal Impact: \$42 million (approximately)

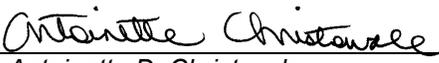
Option #2

Do not approve imposition of the water standby charge, which would require certain member agencies to collect their portion of the Readiness to Serve (RTS) charge by other means.

Fiscal Impact: \$42 million (approximately)

Staff Recommendation

Option #1.


 Antoinette D. Christovale
 Acting Chief Financial Officer

4/24/2000
 Date


 General Manager

4/27/2000
 Date

Attachment 1 – Public Comment, Comments by Chairman

Attachment 2 – Comments by SDCWA

Attachment 3 – Resolution



May 17, 2000 Board Meeting
Kevin D. Jeffries
17666 Grand Avenue
Lake Elsinore, CA. 92530
EMail: jeffries@inland.net
909-678-4730, Fax: 909-678-2341

Attachment 1, Page 1

Fax-Letter

Date : 4/7/1900

To: Board of Directors

Company : MWD

Re. Public hearing of 4/11/00
Water Standby Charge

On behalf of the parcels indicated below, please accept this protest to any proposal to continue or raise your Water Standby charge (tax). We fully realize that MET is working to cut costs, streamline your operations and improve public relations, however, continuing to impose a "tax" that was not approved by the voters is not in the best interest of the tax paying public or MET.

Respectfully,

Kevin Jeffries
Judy LeBlanc

Parcels:

- 381242023-3 381174058-5
- 381040023-9 381040022-8
- 381040026-2 381180001-2
- 381180007-8 381174059-8
- 381242018-9 363162042-1
- 363162019-1 381040002-0,
- 381040016-3 381040017-4
- 381040018-5 381040019-6
- 381040020-6 381040021-7
- 381041001-2 381041002-3
- 381041005-6 381041006-7
- 381041007-8 381041008-9
- 381041012-2 381041013-3
- 381041014-4 381041015-5
- 381041017-7 381041018-8



MAY 17, 2000 2:04PM MET WATER DIST

NO.938 P.1

May 17, 2000 Board Meeting

Attachment 1, Page 2



MWD
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Office of the General Manager

April 13, 2000

Mr. Kevin D. Jeffries
17666 Grand Avenue
Lake Elsinore, California 92530

Dear Mr. Jeffries:

Thank you for your written comments submitted to the Board of Directors for their consideration at the April 11, 2000 public meeting with respect to the adoption of water standby charges for fiscal year 2000-2001. For your area, Metropolitan proposes no increase in the water standby charge for fiscal year 2000-2001.

The water standby charge is collected by Metropolitan, at the request of a member agency, as a mechanism for collecting such member agency's readiness-to-serve-charge obligation. The water standby charge is designed to recover the principal and interest payments on non-tax supported indebtedness issued to fund capital improvements necessary to meet water reliability and water quality needs. Metropolitan first authorized and imposed water standby charges in 1992, after holding public hearings in each of the six counties within its service area. The water standby charge has been authorized and imposed by Metropolitan in each year thereafter, and moreover has been imposed at the same rate since fiscal year 1994-95. Under the provisions of Proposition 218, existing assessments (which term encompasses water standby charges) imposed on or before November 5, 1996, and "imposed exclusively to finance the capital costs or maintenance and operations expenses for [among other things] water" are specifically exempted from the procedures and approval process of Proposition 218.

We appreciate your comments and hope this letter addresses your concerns.

Very truly yours,

Phillip J. Pace
Chairman of the Board of Directors

COMMENTS AT PUBLIC HEARING ON
STANDBY CHARGE
AT BOARD MEETING
APRIL 11, 2000

Dan Hentschke:

Mr. Chairman, my name is Dan Hentschke, General Counsel, San Diego County Water Authority, speaking on behalf of the Water Authority, and also as a property owner within the Metropolitan Water District's service territory. The essence of my presentation is to protest the proposed standby charge to the extent that it is used to pay for facilities that provide no benefit to property in the Water Authority's service territory as demonstrated by the report prepared by Bartle Wells Associates, Inc., and signed by Thomas Gaffney, John Economides, and Gordon Hess, all experienced registered civil engineers in California, or by--with regard to matters of water service. This report was presented to the Board at its last regular meeting.

The Bartle Wells report demonstrates that the RTS charge and the standby charge are levied respectively upon the Water Authority and property in its service territory and lack appropriate foundation because revenues from those charges are used to pay capital costs or facilities that provide no benefit or service to the Water Authority or property in San Diego County.

The standby charge which is used to offset the readiness-to-service charge suffers from the same infirmities as the readiness-to-serve charge. Revenues generated from San Diego pay for facilities benefiting others and from which those others--not San Diego--should pay. We request that the Bartle Wells report presented to this Board at its last meeting be made a part of the record of the proceedings of this hearing as a basis for this protest.

Finally, with regard to the readiness-to-serve charge which is being paid by the standby charge, I would like to refer to a letter that was addressed to Joseph Parker, Chair of San Diego County Water

Authority, dated April 3, 2000, in which Mr. Parker's formal request for reconsideration--rescission and reconsideration of the readiness-to-serve charge was addressed by Chair Pace. The last paragraph of that letter indicates that Chair Pace is concerned about placing Chair Parker's request for rescission and reconsideration on the April Board agenda in light of the actions of two committees which have previously rejected that request. In the light of communicating San Diego is, of course, free to request at the April Board meeting that this matter be agendized for future Board action. So in addition to the protest, I would like to formally request on behalf of the San Diego that Chair Parker's request for rescission and reconsideration of the determination of fixing and adopting the readiness-to-serve charge be placed on the agenda for the Board meeting of this Board in May, I believe that's May 17. Thank you, I will be happy to answer any questions.

Chairman Pace:

Thank you. If that is the wish of Director Parker, he can submit his request to the Rules Committee and they will take the action on it. That's the process. Any questions?

Director Parker:

This request is being made at this time.

Chairman Pace:

I am noting that this request has been made and we will look forward to the Rules Committee, and then we'll go on.

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

RESOLUTION [____]

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA
FIXING AND ADOPTING WATER STANDBY CHARGES
FOR FISCAL YEAR 2000-2001**

WHEREAS, by Resolution 8667, adopted at its meeting held January 11, 2000, the Board of Directors (Board) of The Metropolitan Water District of Southern California (Metropolitan) resolved and determined that the public interest and necessity require Metropolitan to develop a reliable source of revenues less susceptible to seasonal and annual variation, through imposition of a readiness-to-serve charge to be collected from Metropolitan's member public agencies; and that said readiness-to-serve charge should be in an amount sufficient to provide for payment of the debt service, not paid from ad valorem property taxes, of capital expenditures for projects needed to meet the reliability and quality needs at existing demand levels;

WHEREAS, at its meeting on March 14, 2000, the Board adopted Resolution 8671, "Resolution of the Board of Directors of The Metropolitan Water District of Southern California Fixing and Adopting Readiness-to-Serve-Charge;"

WHEREAS, pursuant to Resolution 8671, Metropolitan fixed and adopted a readiness-to-serve charge for fiscal year 2000-2001 in the amount of \$80,000,000 allocated among member agencies and levied as described in Resolution 8671;

WHEREAS, certain member public agencies of Metropolitan have elected to provide collection of all or a portion of their readiness-to-serve charge obligation through a Metropolitan water standby charge imposed on parcels within those member agencies;

WHEREAS, Metropolitan may fix different standby charge rates for parcels situated within different member public agencies;

WHEREAS, Metropolitan is willing to comply with the requests of member public agencies opting to have Metropolitan reimpose water standby charges within their respective territories, on the terms and subject to the conditions contained herein;

WHEREAS, the provisions of the Uniform Standby Charge Procedures Act (USCPA), sections 54984-54984.9 of the Government Code, are available to any local agency authorized by law to provide water or water service, and authorized to fix, levy, or collect any standby or availability charge or assessment in connection with the provision of that service;

WHEREAS, notice was given by Resolution 8667 to the public and to each member public agency of The Metropolitan Water District of Southern California of the intention of Metropolitan's Board to consider and take action at its regular meeting to be held May 17, 2000, on the General Manager's recommendation to impose a water standby charge for fiscal year 2000-2001 under authority of Section 134.5 of the Metropolitan Water District Act and the USCPA on land within the member public agencies providing such written request to Metropolitan, at the rates per acre of land, or per parcel of land less than an acre, specified in Resolution 8667;

WHEREAS, the particular charge, per acre or per parcel, applicable to land within each member public agency, the method of its calculation, and the specific data used in its determination are as specified in the Engineer's Report (the "Engineer's Report") dated February 2000, a draft of which was attached to Resolution 8667 and is on file with Metropolitan;

WHEREAS, the Board conducted a public hearing at its regular meeting on April 11, 2000, at which interested parties were given the opportunity to present their views regarding the proposed water standby charge and the Engineer's Report and to file written protests, if they so desired, for consideration prior to final implementation of the proposed water standby charges;

WHEREAS, notice of the proposed water standby charge and of a public hearing on the date and at the time and location specified in Resolution 8667 was published prior to said hearing, pursuant to Resolution 8667, in various newspapers of general circulation within Metropolitan's service area; and

WHEREAS, under the USCPA if written protests are received representing 15 percent or more of the parcels subject to the proposed water standby charges, which are not withdrawn, the Board may still adopt, revise, change, reduce or modify a charge, but such charges shall be ineffective until approved by a majority of the voters in an election within the affected territory, and if written protests are received representing 40 percent of the parcels subject to the proposed water standby charges no further proceedings may be had on such charges for at least one year.

NOW THEREFORE, the Board of Directors of The Metropolitan Water District of Southern California does hereby resolve, determine and order as follows:

Section 1. That the Board of Directors of Metropolitan, pursuant to the Engineer's Report finds that lands within Metropolitan are benefited as described in such report and on that basis, hereby fixes and adopts a water standby charge for fiscal year 2000-2001 on land within requesting member agencies of Metropolitan to which water is made available for any purpose, whether water is actually used or not, as specified in the Engineer's Report.

Section 2. That the rates of such water standby charge, per acre of land, or per parcel of land less than an acre, as shown in the Engineer's Report, may vary by member public agency, and shall

not exceed the amount of Metropolitan's 1995-96 standby charge for the member public agency. The standby charge applicable to each electing member public agency, the method of its calculation, and the specific data used in its determination are as specified in the Engineer's Report which was prepared by a registered professional engineer certified by the State of California, which methodology is in accordance with Section 134.5 of the Metropolitan Water District Act.

Section 3. The water standby charge includes the reimposition of water standby charges on parcels with respect to which water standby charges have been imposed in fiscal year 1996-97 and annually thereafter ("pre-1997 standby charges") and the levy of standby charges on certain parcels annexed to Metropolitan and to an electing member agency after January 1997 ("post-1997 standby charges"). Only land within each electing member public agency with respect to which standby charges were imposed in fiscal 1996-97 will be subject to the reimposition of pre-1997 standby charges for fiscal 2000-2001. Only land annexed to Metropolitan and to an electing member public agency with respect to which standby charges were approved in accordance with the procedures of Article XIID, Section 4 of the California Constitution will be subject to the imposition or reimposition, as the case may be, of post-1997 standby charges for fiscal 2000-2001. The Engineer's Report lists parcels annexed or to be annexed to Metropolitan and to electing members during the 2000-2001 fiscal year, such parcels being subject to the post 1997 standby charge subject to annexation standby charges. All parcels referenced in the Engineer's Report are subject to post-1997 standby charges unless otherwise indicated. These parcels are identified in a listing filed with the Executive Secretary.

Section 4. That the water standby charge, per parcel or per acre, applicable to land within each electing member public agency as allocated in the Engineer's Report shall be as follows:

2000-2001 Water Standby Charge

| Member Agency | Amount |
|------------------------------|--------|
| Anaheim | \$8.55 |
| Beverly Hills | -0- |
| Burbank | 14.20 |
| Calleguas MWD | 9.58 |
| Central Basin MWD | 10.44 |
| Chino Basin MWD | 7.59 |
| Coastal MWD | 11.60 |
| Compton | 8.92 |
| Eastern MWD | 6.94 |
| Foothill MWD | 10.28 |
| Fullerton | 10.71 |
| Glendale | 12.23 |
| Las Virgenes MWD | 8.03 |
| Long Beach | 12.16 |
| Los Angeles | -0- |
| MWD of Orange Co. | 10.09 |
| Pasadena | 11.73 |
| San Diego CWA | 11.51 |
| San Fernando | 7.87 |
| San Marino | 8.24 |
| Santa Ana | 7.88 |
| Santa Monica | -0- |
| Three Valleys MWD | 12.21 |
| Torrance | 12.23 |
| Upper San Gabriel Valley MWD | 9.27 |
| West Basin MWD | -0- |
| Western MWD of Riverside Co. | 9.23 |

Section 5. That with respect to annexation standby charges, the Engineer's Report separates the special benefits from the general benefits and identifies each of the parcels on which a special benefit is conferred. No annexation standby charge on any parcel exceeds the reasonable cost of the proportional special benefit conferred on that parcel, as shown in the Engineer's Report.

Section 6. That the water standby charge shall be collected on the tax rolls, together with the ad valorem property taxes which are levied by Metropolitan for the payment of pre-1978 voter approved indebtedness. Any amounts of such standby charges so collected shall be applied as a credit against the applicable member agency's obligation to pay a readiness-to-serve charge. After such member agency's readiness-to-serve charge allocation is fully satisfied, any additional collections shall be credited to other outstanding obligations of such member agency to Metropolitan or future readiness-to-serve obligations of such agency. Any member agency requesting to have all or a portion of its readiness-to-serve charge obligation collected through standby charge levies within its territory as provided herein shall pay any portion not collected through net standby charge collections to

Metropolitan within fifty days after Metropolitan issues an invoice for remaining readiness-to-serve charges to such member agency, as provided in Administrative Code Section 4507.

Section 7. That the following exemption procedures apply with respect to pre-1997 standby charges:

(a) It is the intent of the Board that the following lands shall be exempt from the pre-1997 water standby charge: (1) lands owned by the Government of the United States, the State of California, or by any political subdivision thereof or any entity of local government; (2) lands permanently committed to open space and maintained in their natural state that are not now and will not in the future be supplied water; (3) lands not included in (1) or (2) above, which the General Manager, in his discretion, finds do not now and cannot reasonably be expected to derive a benefit from the projects to which the proceeds of the water standby charge will be applied; and (4) lands within any member public agency, subagency, or city if the governing body of such public entity elects and commits to pay out of funds available for that purpose, in installments at the time and in the amounts established by Metropolitan, the entire amount of the water standby charge which would otherwise be imposed upon lands within those public entities. However, no exemption from the pre-1997 water standby charge shall reduce the applicable member agency's readiness-to-serve charge obligation. The General Manager may develop and implement additional criteria and guidelines for exemptions in order to effectuate the intent expressed herein.

(b) The General Manager shall establish and make available to interested applicants procedures for filing and consideration of applications for exemption from the water standby charge pursuant to subsections (2) and (3) of Section 7(a) above. All applications for such exemption and documents supporting such claims must be received by Metropolitan in writing on or before December 31, 2000. The General Manager is further directed to review any such applications for exemption submitted in a timely manner to determine whether the lands to which they pertain are eligible for such exemption and to allow or disallow such applications based upon those guidelines. The General Manager shall also establish reasonable procedures for the filing and timing of the appeals from his determination.

(c) The Budget and Finance Committee of Metropolitan's Board of Directors shall hear appeals from determinations by the General Manager to deny or qualify an application for exemption from the pre-1997 water standby charge. The Budget and Finance Committee shall consider such appeals and make recommendations to the Board to affirm or reverse the General Manager's determinations. The Board shall act upon such recommendations and its decision as to such appeals shall be final.

Section 8. That no exemption from the water standby charge shall reduce the applicable member agency's readiness-to-serve charge obligation, nor shall any failure to collect, or any delay in collecting, any standby charges excuse or delay payment of any portion of the readiness-to-serve charge when due. All amounts collected as water standby charges pursuant to this Resolution shall be applied solely as credits to the readiness-to-serve charge of the applicable member agency, with any excess collections being carried forward and credited against other outstanding obligations of such member agency to Metropolitan.

Section 9. That the readiness-to-serve charge is imposed by Metropolitan as a rate, fee or charge on its member agencies, and is not a fee or charge imposed upon real property or upon persons as incidents of property ownership, and the water standby charge is imposed within the respective

territories of electing member agencies as a mechanism for collection of the readiness-to-serve charge. In the event that the water standby charge, or any portion thereof, is determined to be an unauthorized or invalid fee, charge or assessment by a final judgment in any proceeding at law or in equity, which judgment is not subject to appeal, or if the collection of the water standby charge shall be permanently enjoined and appeals of such injunction have been declined or exhausted, or if Metropolitan shall determine to rescind or revoke the water standby charge, then no further standby charge shall be collected within any member agency and each member agency which has requested imposition of Metropolitan water standby charges as a means of collecting its readiness-to-serve charge obligation shall pay such readiness-to-serve charge obligation in full, as if imposition of such water standby charges had never been sought.

Section 10. That the General Manager is hereby authorized and directed to take all necessary action to secure the collection of the water standby charge by the appropriate county officials, including payment of the reasonable cost of collection.

Section 11. That the General Manager and the General Counsel are hereby authorized to do all things necessary and desirable to accomplish the purposes of this Resolution, including, without limitation, the commencement or defense of litigation.

Section 12. That this Board finds that adoption of the charges provided in this Resolution is exempt from the provisions of the California Environmental Quality Act (CEQA) since they are rates and other charges which are for the purposes of (a) meeting operating expenses; (b) purchasing or leasing supplies, equipment or materials; (c) meeting financial reserve needs and requirements; and (d) obtaining funds for capital projects necessary to maintain service within existing service areas; and, additionally, are exempt from CEQA under State CEQA Guidelines 15378(b)(5) since they constitute the creation of government funding mechanisms which do not involve commitment to any specific project which may result in a potentially significant physical impact on the environment or which will be used to fund projects which have CEQA documentation in place prior to construction of any facility or facilities.

Section 13. That if any provision of this Resolution or the application to any member agency, property or person whatsoever is held invalid, that invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid portion or application, and to that end the provisions of this Resolution are severable.

I HEREBY CERTIFY, that the foregoing is a full, true and correct copy of a Resolution adopted by the Board of Directors of The Metropolitan Water District of Southern California, at its meeting held on May 17, 2000.

Executive Secretary
The Metropolitan Water District
of Southern California