

MINUTES
REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

JUNE 11, 2002

44883 The Board of Directors of The Metropolitan Water District of Southern California met in Regular Meeting in the Board Room located in the building at 700 North Alameda Street in the City of Los Angeles, State of California, on Tuesday, June 11, 2002.

The Meeting was called to order by Chairman Pace at 10:09 a.m.

44884 The Meeting was opened with an invocation by Barbara Perkins, president, Los Angeles County Commission on the Status of Women.

44885 The Pledge of Allegiance to the Flag was given, led by Director Helen Z. Hansen.

44886 Secretary Coughran called the roll. Those answering present were: Directors Abdo, Ashley, Ball, Bannister, Blake, Brown, Castro, Coughran, De Jesus, Edwards, Foley, Grandsen, Harris, Hansen, Kwan, Lewis, Luddy, Mejia, Morris, Murph, Murray, Mylne, Owen, Pace, Parker, Peterson, Rez, Stanton, Swan, Wein, and Wright.

Those not answering were: Directors Brick, Fellow, Herman, Loveland, Morse, and Troxel.

The Chair declared a quorum present.

44887 At 10:13 a.m., the Chair called a public hearing to receive comments on the proposed standby charge for Annexation No. 78 to Calleguas Municipal Water District.

No members of the public responded; and after tabulation of the ballots was completed, and with no protests filed, the Chair closed the public hearing at 10:14 a.m.

44888 Chairman Pace announced the appointments of Gregory Ensminger, former employee in the External Affairs Group, and of Virginia Grebbien as the new General Managers of Rainbow Municipal Water District and Orange County Water District, respectively.

44889 Chairman Pace invited members of the public to address the Board on matters within the Board's jurisdiction.

Bud Pocklington, director, Sweetwater Authority and San Diego County Water Authority, commented on the rate study that was adopted by Metropolitan. He commended Metropolitan for working with San Diego towards a storage agency problem and for its successful cooperation in moving ahead with the rate study that the Authority will undoubtedly pass, with the new rates to be effective January 1, 2003. Mr. Pocklington remarked on the unfavorable editorial that was in the San Diego newspaper a few weeks ago, and stated that it has been up to Metropolitan in good faith to work out any problems that need to be resolved, and that there is no need for editorials like the one published. He stated he would work with the directors of the Authority and the Authority's Metropolitan delegation and hoped to resolve whatever problems there are so it would not happen again.

Teresa Brady of Alliance for Democracy spoke in opposition to the Cadiz Groundwater Storage and Dry-Year Supply Program and urged the Board not to approve the project.

44890 There being no objection, the Chair ordered the reading of the Minutes of the Meeting of May 14, 2002, dispensed with, a copy having been mailed to each Director.

Director Stanton moved, seconded by Director Edwards and carried, approving the foregoing Minutes as mailed.

44891 Board Secretary Coughran moved, seconded by Director Edwards and carried, authorizing a 30-day leave of absence for Director Herman, commencing June 9, 2002.

44892 Chairman Pace announced that Director Brick will continue to oversee the new Director orientation program, and that a workshop is being planned for later this summer.

44893 Chairman Pace reported that last night he, along with other Directors, attended the reception hosted by the Los Angeles Department of Water and Power in celebrating their 100th anniversary. The Chair stated that the Audit Subcommittee has selected a candidate for the position of General Auditor. The recommendation will go to the Executive Committee on June 24, and, if approved, will then go to the Board for confirmation in July. The Chairman will negotiate an agreement with the candidate. On Thursday, June 13, 2002, the Chair will be testifying at a congressional hearing in La Quinta on CALFED matters.

44894 Regarding the Colorado River, Bay-Delta and CALFED matters, and the summary of District activities, Chief Executive Officer Gastelum referred to his activity report signed June 5, 2002, which was distributed earlier.

Mr. Gastelum reported that this was an extraordinarily critical time for the Quantification Settlement Agreement (QSA) and the IID/San Diego transfer. He stated he would be going to Washington, D.C. that afternoon regarding this matter. Representatives of Imperial Irrigation District (IID), San Diego County Water Authority, and Coachella Valley Water District would also be there. A number of meetings have been scheduled including a briefing of congressional staff on the status of the QSA. Both Senator Dianne Feinstein and Congressman Duncan Hunter are engaged in these QSA discussions. The issues being considered are: Is it possible to get this QSA signed before December 31, 2002, and what will it take? The IID representatives have suggested that it would take money and some changes in the law, both state and federal, to make it easier to do the on-farm conservation program as currently proposed. Mr. Gastelum stated that nobody knows how much money it would

take because the study of reclamation alternatives for the Salton Sea that is being developed for the Salton Sea has not been completed. He believed that the California Department of Fish and Game and the United States Fish and Wildlife have informed IID they could not accept their current mitigation plan as appropriate mitigation for an on-farm conservation program. Where does that leave us? Mr. Gastelum believed it leaves us with an interim fallowing program as advocated by Senator Feinstein and others. It is anticipated that the Governor will become more proactive in this matter and will likely convene all the parties again to see where we go from here. Director Tom Hannigan of the Department of Water Resources will most likely represent the Governor at these meetings. Metropolitan's view is that an interim fallowing program is the simplest, cost-effective way to get the QSA signatures by the end of the year, which does not preclude an eventual on-farm conservation program. The economics are in place to do an interim fallowing program, which the farmers in the Imperial Valley have expressed a great interest in.

44895 Regarding Legal Department activities, General Counsel Kightlinger referred to his activity report dated May 31, 2002, which was distributed earlier. Mr. Kightlinger stated that the Chief Executive Officer reported on the QSA from the federal side, but there is a similar amount of activity on the state side. Metropolitan is working very closely with Senator Sheila Kuehl and Assemblymember Joseph Canciamilla regarding SB 482 which deals with fully protected species reform, basic elements of the provisions in state law, and the number of provisions that IID has asked for to move forward in its conservation and transfer program. That bill is currently in committee in the Assembly and will be taken up on June 18, hopefully to be moved out of committee. If the bill does not get out of committee, that will be a significant roadblock to move the QSA forward.

On the electrical restructuring, Metropolitan negotiated a very successful resolution of its bankruptcy claim against Pacific Gas & Electric. Metropolitan was being offered about 50 cents on the dollar by others for a return on that claim, but staff persevered and eventually got full payment plus interest.

General Counsel Kightlinger reported on a recent case that is very disturbing to Metropolitan, *Topsail Court*

Homeowners Association v. County of Santa Cruz. Metropolitan has built a number of water transmission facilities and those are traditionally deemed exempt from local building and zoning ordinances, and that is very crucial for Metropolitan to be able to build timely facilities. The actual statute says distribution facilities for the production, generation, storage, and transmission of water are exempt. In this case a treatment facility was to be built, but because the word "treatment" was not used in the statute a treatment facility was deemed not exempt and therefore had to comply with local building and zoning ordinances. Metropolitan has built a number of treatment facilities and has never actually gone through the permitting process of the local zoning. We feel that the decision is wrong in its interpretation of the statute. The case has been accepted by the California Supreme Court and Metropolitan will find an appropriate amicus brief to either join or if we do not find one, to file its own brief.

Mr. Kightlinger reported on the successful member agency counsel dinner held last night where four distinguished speakers--Honorable Shirley Hufstedler, Seth Hufstedler, Burt Gindler, and Tom Stetson--discussed Colorado River issues and some rather arcane issues involving *Aaron Burr and Marbury v. Madison*. Mr. Kightlinger thanked all the Directors and others who attended the event.

44896 Ethics Officer Anderson reported that she has been drafting and amending proposed language for the Administrative Code. Once that is completed and introduced to the appropriate committee for approval, a full presentation will be made to the Board.

44897 The reports of the Standing Committees are as follows:

Chairman Pace reported the Executive Committee, at its meeting on May 21, approved Agenda Item 8-6. The committee heard reports from the Subcommittee on Rules and Ethics, and from Director Foley on activities of the Colorado River Board. The Subcommittee on Rules and Ethics approved leaving the sub- and special committee meetings to remain on the third Tuesdays. However, for this month the meetings will be held on the fourth Tuesday, June 25 (subsequently changed to Monday, June 24) due to a conflict. A follow-up report for review on the proposed

"revolving door policy" was deferred to the June meeting of the Subcommittee on Rules and Ethics.

Chief Executive Officer Gastelum gave his report of Metropolitan's activities and briefly discussed SB 1768 regarding CALFED. He also provided the Board with his Business Plan for fiscal year 2002/03. Chief Operating Officer Tait gave a presentation on the third-year reorganization update.

Asset, Real Estate and Infrastructure Policy Committee Chairman Peterson reported the committee heard presentations on (a) the Riverside County Integrated Plan with staff identifying the three categories of property types--core properties, reserve properties, and other properties; (b) the potential impacts of the Multi-Species Habitat Conservation Plan; (c) the various signage plaques for Diamond Valley Lake, with all remaining plaques to be installed by the end of July 2002; and (d) the status of the Southern California Water Education Center and Museum.

Budget, Finance and Investment Committee Chairman Castro reported the committee approved Agenda Items 8-2, 9-1, 9-2, and 9-3 and requested that Items 9-1, 9-2, and 9-3 be added to the Consent Calendar (Items 9-2 and 9-3 subsequently removed from the Consent Calendar).

On behalf of the Communications, Outreach and Legislation Committee, Director Abdo reported the committee approved Agenda Items 9-6, 9-7, and 9-8 with recommended amendments and requested they be added to the Consent Calendar (Item 9-7 subsequently removed from the Consent Calendar). The legislative representatives in Washington, D.C. and Sacramento gave reports on current activities. A presentation was given on Metropolitan's conservation strategy.

Engineering and Operations Committee Chairman Ashley reported the committee approved Agenda Items 8-1 and 9-4. Committee Chairman Ashley requested that Item 9-4 be added to the Consent Calendar. A video was shown of the Engineering and Operations Committee inspection trip of May 23-24.

Legal, Claims and Personnel Committee Chairman Owen reported the committee approved Agenda Item 9-5 and requested it be added to the Consent Calendar. The committee also heard

reports on (a) the *Planning and Conservation League v. Department of Water Resources* mediation, (b) a pending claim based on alleged Brown Act violation, and (c) the MAPA contract negotiations.

Water Planning, Quality and Resources Committee Vice Chairman Wright reported the committee approved Agenda Items 8-4 and 9-3. The committee received a comprehensive presentation on the Perchlorate Action Plan and Remediation Update, and staff presented information that will be of help with the Board's inspection trip next week of the Las Vegas Wash.

Director Blake moved, seconded by Director Morris and carried, and the Board approved the Consent Calendar Items, **M.I. 44898** through **M.I. 44906** as follows:

44898 For three Capital Investment Plan appropriations for the Colorado River Aqueduct (CRA) Reliability Programs, the Board adopted the California Environmental Quality Act (CEQA) determination for the projects described in the letter signed by the Chief Executive Officer on May 20, 2002, and

- a. Appropriated \$19.66 million in budgeted and non-budgeted funds, as follows:

CRA Conveyance: \$10.33 million budgeted from Appropriation No. 15373, No. 3, from Construction Funds,

CRA Conveyance: \$6.32 million unbudgeted from Appropriation No. 15373, No. 3, from Construction Funds,

CRA Electrical/Power: \$2.77 million budgeted from Appropriation No. 15384, No. 2, from Construction Funds,

CRA Discharge Containment: \$240,000 unbudgeted from Appropriation No. 15385, No. 2, from Construction Funds;

- b. Awarded a construction contract in the amount of \$8,968,550 to Griffith Company for the CRA Conveyance Rehabilitation; and

- c. Delegated to the Chief Executive Officer the authority to award competitively bid contracts, not to exceed (1) \$1.2 million for the Iron Mountain circuit breaker construction contract, and (2) \$350,000 for the CRA Pumping Wells Conversion equipment procurement contract.

44899 Adopted the CEQA determination and (a) approved up to \$800,000 to obtain the expiring insurance coverages for Metropolitan's Casualty and Property Insurance Program; and (b) directed staff to investigate risk finance alternatives during this difficult insurance market cycle, as set forth in the letter signed by the Chief Executive Officer on May 28, 2002.

44900 Adopted the CEQA determination and (a) set the charges for emergency deliveries for Tijuana from July 1, 2002 through December 31, 2002 at a rate of \$230 per acre-foot plus actual net electrical energy costs; and (b) set the charges for emergency deliveries for Tijuana from January 1, 2003 through December 31, 2003 at a rate of \$246 per acre-foot plus actual net electrical energy costs, as set forth in the letter signed by the Chief Executive Officer on May 20, 2002.

44901 Adopted the CEQA determination and adopted (a) **Resolution 8814** granting Calleguas Municipal Water District's request for approval of Annexation No. 76, Parcel B, concurrently to Metropolitan and Calleguas, conditioned upon approval by the Ventura Local Agency Formation Commission, and establishing Metropolitan's terms and conditions for this annexation; and (b) **Resolution 8815** to impose water standby charge at a rate of \$9.58 per acre or per parcel of less than one acre within the proposed annexation, as set forth in the letter signed by the Chief Executive Officer on May 1, 2002, said Resolutions entitled:

Resolution 8814

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA CONSENTING TO CALLEGUAS MUNICIPAL WATER DISTRICT'S ANNEXATION NO. 76, PARCEL B, AND FIXING THE TERMS AND CONDITIONS OF SAID ANNEXATION TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Resolution 8815**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA FIXING AND ADOPTING
WATER STANDBY CHARGE CONTINGENT UPON
CALLEGUAS MUNICIPAL WATER DISTRICT'S
ANNEXATION NO. 76, PARCEL B**

Director Grandsen requested to be recorded as abstaining.

44902 Adopted the CEQA determination and (a) approved the 2002/03 Annual Budget; (b) appropriated \$706.9 million for the projected annual cash outlays for Metropolitan O&M, including power costs on the Colorado River Aqueduct, State Water Project (SWP) operations, maintenance, power and replacement costs and SWP capital charges; water management programs; and costs associated with supply programs paid from the Water Transfer Fund; (c) appropriated, as continuing appropriations, \$204.4 million for debt service on Metropolitan general obligation and revenue bonds; (d) appropriated, as continuing appropriations, \$8.5 million for operating equipment, computers and inventory supplies; (e) authorized \$21 million to be used to cash defease debt as directed by the Board in July 2000; (f) authorized the use of \$90 million in Pay-As-You-Go funds to finance a portion of the Capital Investment Plan during fiscal year 2002/03; and (g) authorized \$25 million to be deposited into the Water Transfer Fund in fiscal year 2001/02 and \$45 million in fiscal year 2002/03, as set forth in the letter signed by the Chief Executive Officer on May 20, 2002.

44903 Adopted the CEQA determination and authorized entering into an agreement with Rodbat/Worldwide Joint Venture, LLC to provide security guard services for a three-year period not to exceed \$19.5 million, as set forth in the letter signed by the Chief Executive Officer on May 28, 2002.

44904 Adopted the CEQA determination and authorized amendment of expert witness contract with History Associates, Inc. in *Arizona v. California* for an additional \$50,000, as set forth in the confidential letter signed by the General Counsel on May 20, 2002.

44905 Adopted the CEQA determination and expressed support for AB 1561 (Kelley) relating to high efficiency clothes washers, as set forth in the letter signed by the Chief Executive Officer on June 4, 2002.

Director Stanton requested to be recorded as voting no.

44906 Adopted the CEQA determination and expressed support for SB 1993 (Machado): Water Transfer Clearinghouse, and seek further amendments, with the amendments to also include deleting the word "fully" from the fully mitigated language, as set forth in the letter signed by the Chief Executive Officer on June 5, 2002. The Communications, Outreach and Legislation Committee would like Senator Machado to extend the study period and establish an interim process to facilitate water transfer during the study period.

Director Stanton requested to be recorded as voting no.

44907 Director Lewis asked if the Board did not adopt the new reserve policy, how much reserve would there be that could be returned to the various agencies. Chief Financial Officer Thomas replied that the asset replacement recommendation would reduce the amount of money that would be available at the end of the year by \$2.5 million. That is the impact of the action being taken today. Further question and answer session took place regarding the \$25 million to be deposited into the Water Transfer Fund as stated in the budget and whether that amount could be returned. Chief Financial Officer Thomas indicated that no change in any other policy was recommended and that it did not appear as if there would be reserve funds in excess of the maximum target at June 30, 2002.

Director Lewis then asked a question relating to the present policy that present ratepayers are footing the bill for the future ratepayers.

Budget, Finance and Investment Committee Chairman Castro replied that the asset replacement concept is simply to establish a funding mechanism to replace existing facilities that are aging and at some point will be in need of repair. For the first time in Metropolitan's history, we cannot ignore the

fact that existing facilities are aging and will need to be replaced. With respect to past, present, and future and who is going to pay the cost, even if we spend the next 20 years arguing about that, the fact remains that existing plants and facilities in place for a number of years need to be replaced. What Metropolitan is saying is there is a present value that can be attached to the cost of that future replacement. Metropolitan is not addressing facilities for the expansion of the existing system, which is a separate discussion. This is a discussion about existing facilities and what Metropolitan is going to do to replace them. Committee Chairman Castro continued to explain how these replacements could be financed and to recognize that somewhere in the rate structure would be the need for the replacement of the facilities.

Director Edwards stated he supported the concept of asset replacement but would not vote to support this item since the Board had established a policy which was in place for several years when there was a surplus that this Board changed the policy to a 60-40 split on returning monies. The staff is now recommending that the modified policy should be replaced, which is not appropriate for staff to do. This also establishes the ability to put a surcharge today on the water that is purchased today.

Budget, Finance and Investment Committee Chairman Castro responded that the way the Long-Range Finance Plan reads is that every year the Board will determine what to do with any funds above the maximum level as established by formula, and that policy is unchanged. The recommendation in the Board letter relates to spending monies to do asset replacement in which we asked the consultants what would the price be on a present value basis if we had to replace the entire system? They returned with a number, and we have to ask how are we going to finance the replacement of those existing assets. This is what the discussion is all about. We are not talking about changing the existing policy with respect to surpluses. We are starting out with a proposal that was made by staff as to how to begin to fund this replacement account.

Director Murray then moved, seconded by Director Blake and carried, and the Board adopted the CEQA determination and (a) approved the Pay As You Go (PAYG) policy and the replacement and refurbishment funding mechanism; (b) adopted **Resolution 8816**

in accordance with Section 125.5 of the Metropolitan Water District Act, with a change in Section 2 of the Resolution referring to allocations being made on the basis of the dollar value of all water sales; and (c) amended the Administrative Code to reflect change in the PAYG policy, as set forth in the letter signed by the Chief Executive Officer on May 23, 2002, said Resolution entitled:

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA PERTAINING TO THE USE OF UNRESERVED FUND BALANCES

Directors Ball, Edwards, Lewis, and Parker requested to be recorded as voting no.

44908 Director Stanton referred to the block voting done by the San Diego County Water Authority over the past four years, since he has been on the Board, against the Diamond Valley and Inland Feeder Projects. Director Stanton stated that as Anaheim's representative on Metropolitan's Board, which is one of the original thirteen agencies who banded together for the mutual aid of each other, he fully understood his responsibility on Metropolitan's Board to the other agencies. He expressed his reluctant vote on the San Diego Surface Storage Operating Agreement since it was for the benefit of all member agencies. Director Stanton stated that unless there is a rapid change in philosophy the next time this agency has a request for help, he would definitely look the other way in his responsibility.

Director Edwards moved, seconded by Director Stanton and carried, adopting the CEQA determination and (a) approving the principles for San Diego Surface Storage Operating Agreement; and (b) directing staff to develop the draft agreement, as set forth in the letter signed by the Chief Executive Officer on May 20, 2002.

Directors Ball, Lewis, and Parker requested to be recorded as abstaining.

44909 Director Bannister referred to AB 1972 being introduced by Assemblyman Frommer which would require reporting on any instance where a chemical ingredient in water may exceed the public health department standards. Director Bannister stated his objection to this bill in speaking against public

information. He is not against the concept of reporting to the public and keeping the public fully aware of all that is involved in water that might be harmful to the public. Much more details would have to be explained to the public so it is fully aware of what the possibilities might be, and this reporting might create a nightmare. Another area of concern that Director Bannister had with this bill and all other bills is the public mandate issue. He referred to the California Constitution that requires the state to reimburse local agencies and school districts for certain costs mandated by the state. In AB 1972 this requirement is stricken, and replaced with the bill providing no reimbursement is required by this act for a specified reason. Director Bannister objected to this requirement since any and all new charges will be passed on to the public indirectly through fees and water assessments. Director Bannister stated that Metropolitan should take no action on this bill.

Director Abdo moved, seconded by Director Peterson and carried, adopting the CEQA determination and expressing support, if amended, for AB 1972 (Frommer) - Consumer Confidence Reports, as set forth in the letter signed by the Chief Executive Officer on June 4, 2002.

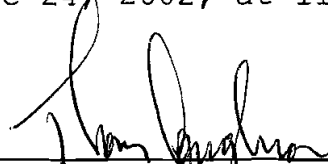
Directors Bannister and Stanton requested to be recorded as voting no.

44910 The following communications were submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through April 2002, signed by the Chief Executive Officer on May 20, 2002.
- b. Review of Perchlorate Action Plan, signed by the Chief Executive Officer on May 29, 2002.

44911 Director Swan reviewed his activities and accomplishments on the Board during his tenure. He has been with the water industry for 23 years and his time spent on Metropolitan's Board has been the "cap" of those 23 years. Since this would be his last meeting, Director Swan thanked the Board for the pleasurable two years and seven months.

44912 There being no objection, at 11:23 a.m., the Chair adjourned the Meeting to Monday, June 24, 2002, at 11:00 a.m.



SECRETARY



CHAIRMAN