

MINUTES
ADJOURNED REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
NOVEMBER 18, 2003

45558 The Board of Directors of The Metropolitan Water District of Southern California met in Adjourned 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, November 18, 2003.

Chairman Pace called the Meeting to order at 12:30 p.m.

45559 The Meeting was opened with an invocation by Donald R. Kendall, General Manager of Calleguas Municipal Water District.

45560 The Pledge of Allegiance to the Flag was given, led by Director David Farrar.

45561 Board Secretary Hansen called the roll. Those answering present were: Directors Abdo, Apodaca, Bakall, Bannister, Blake, Brick, Brown, Coughran, De Jesus, Dentler, Dick, Edwards, Farrar, Fellow, Foley, Grandson, Harris, Hansen, Koopman, Kwan, Lewis, Loveland, Mejia, Morris, Murray, Mylne, Pace, Parker, Peterson, Record, Rez, Stanton, Turner, and Wright.

Those not answering were: Directors Herman, Luddy, and Orduna.

Chairman Pace declared a quorum present.

45562 At 12:32 p.m., the Chair called a public hearing to receive comments on the proposed standby charges for the 76th Fringe Area Annexation to Eastern 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 12:33 p.m.

45563 Chairman Pace invited members of the public to address the Board on matters within the Board's jurisdiction.

David Czamanske of the Sierra Club commented on the Senate bill presently being considered in Washington, D.C., particularly on the section relating to MTBE. He urged the Board to take whatever action was necessary to oppose the particular part of the bill that contains the exemption from liability for MTBE manufacturers. He stated there were adverse impacts on water quality and water supply, as well as the economic impacts.

45564 There being no objection, Chairman Pace ordered the reading of the Minutes of the Meeting of October 14, 2003, dispensed with, a copy having been mailed to each Director. The Chair stated that the Minutes of September 23, 2003, were deferred.

Director Blake moved, seconded by Director Abdo and carried, approving the foregoing Minutes as mailed.

45565 The General Counsel's letter signed November 3, 2003, was presented, transmitting the credentials evidencing the appointment by Inland Empire Utilities Agency of Gene Koopman as its representative on Metropolitan's Board for an indefinite term, replacing Wyatt L. Troxel.

General Counsel Kightlinger reported the credentials had been examined and found legally sufficient and that the Oath of Office had been administered to Director Koopman on November 14, 2003.

Chairman Pace ordered the credentials, together with the General Counsel's letter, received and filed.

Following an introduction by Director Record, Director Koopman took his seat as a Director representing Inland Empire Utilities Agency.

45566 Executive Vice President Ivey announced that starting on December 16 and then in January and February 2004 there will be orientation meetings for new Directors. Current Directors are also invited to participate. These meetings will give the new Directors an opportunity to learn in detail of the programs being considered such as the Integrated Resources Plan, the budget, other long-range programs and strategic issues, and the ethics program.

45567 Chairman Pace presented to Director Emeritus Regina Murph, a Commendatory Resolution for her years of service on Metropolitan's Board, representing the city of Compton from March 11, 1980 to March 25, 2003.

Director Emeritus Murph then presented a "Water Buffalo" to Director Brick, the current Director with the longest tenure on the Board.

45568 Director Blake moved, seconded by Director Coughran and carried, approving the committee appointments as recommended by the Chair and approved by the Executive Committee, of Director Farrar to the Asset, Real Estate and Infrastructure Policy Committee and the Engineering and Operations Committee, and Director Koopman to the Budget, Finance and Investment Committee and the Communications, Outreach and Legislation Committee.

45569 Chairman Pace reported that on November 6 he and Vice President of Colorado River Resources Underwood attended a speaking engagement at the Central Basin Water Association regarding the Quantification Settlement Agreement (QSA).

On November 7 Chairman Pace and Executive Vice President Ivey attended the 50th anniversary celebration of Calleguas Municipal Water District, one of Metropolitan's member agencies.

45570 Regarding Colorado River, Bay-Delta, and CALFED matters, Chief Executive Officer Gastelum referred to his activity report for October dated November 12, 2003, which was distributed earlier.

On the Colorado River matters and the QSA, Chief Executive Officer Gastelum requested General Counsel Kightlinger to report on the current status. Mr. Kightlinger stated there have been several lawsuits filed on the Colorado River, all relating in some fashion to the QSA. Two of the lawsuits were filed by Imperial County, one by Imperial Irrigation District (IID), one by the Imperial farm group, and the final one by an environmental group called Protecting Our Water and Environmental Resources (POWER). Of these lawsuits, two are specifically based on the IID/San Diego County Water Authority (SDCWA) transfer relating to the CEQA documentation, and Metropolitan not named as a party; two are validation and reverse validation-type actions between IID and the farm group to determine whether these contracts are valid; and the one by POWER is based specifically on the QSA itself and whether or not it has appropriate environmental documentation. To date Metropolitan was not served in any of these suits. They appeared largely to be within the Imperial Valley, the nature of the dispute being with the IID board, the Imperial County board, and the farmers themselves, with each having a different idea on how best to structure the program and how the money they receive should be spent. Most of the lawsuits will not likely involve Metropolitan directly although Metropolitan will be indirectly impacted because of the potential impacts of the QSA itself. The last lawsuit on the QSA itself does directly impact Metropolitan.

General Counsel Kightlinger further reported that IID has conducted a form of "dutch auction" to try and initially make the following limits that are called for in their transfer agreement with SDCWA. IID did have farmers sign up for that and they are now weighing the offers made by the farmers to fallow land, as well as to conserve land to conserve water. The IID board will start considering this and setting up a program.

Chief Executive Officer Gastelum reported that discussions have been taking place with legal counsel for the Palo Verde Irrigation District transfer, and Metropolitan plans to go forward in December to begin initiating discussions with the individual farmers on the basis of the terms previously negotiated and approved by the respective boards.

On the State Water Project/Central Valley Project Integrated Operations (the Napa proposal), Mr. Gastelum stated there was an extensive discussion at committee. He stated that the press in Northern California and some of the Bay area environmental groups, in particular, have seized on statements that possibly an additional one million acre-feet per year of water would be coming south, with possibly one-half million acre-feet to Metropolitan from the Napa proposal. On behalf of Metropolitan, Mr. Gastelum has testified before Congress, and will be providing clarifying statements to the Bay area environmental groups, in particular, that that is a misrepresentation of what is contained in the Napa proposal.

Referring to the state audit, Chief Executive Officer Gastelum reported that the state audit team was here about three weeks ago, at which time they asked questions and for documents. They then went away to review all the documents. During the process they interviewed individuals, including the Interim Ethics Officer, to understand more about that program. The team is now again at Metropolitan looking for more documents regarding the four areas that are the scope of their work. From all appearances, the state audit team is proceeding as planned and in a very professional manner.

Chief Executive Officer Gastelum introduced Debra Man, Vice President of Water Transfers and Exchanges, as the new Chief Operating Officer, effective December 15, 2003.

45571 Regarding Legal Department activities, General Counsel Kightlinger referred to his activity report for October, dated November 12, 2003, which was distributed earlier.

In the *Spirit of the Sage v. Babbitt* lawsuit, General Counsel Kightlinger reported that Metropolitan had intervened in this lawsuit in 1998. This is a suit filed by environmental groups trying to invalidate a rule that had been put in by the Clinton Administration, commonly known as the "No Surprises" rule that enabled certain federal agencies to issue permits under the Endangered Species Act under multi-species plans where you could get "No Surprises" protection if you are complying in good faith with the plan as filed. The environmental groups sued and after five years, a ruling just came down last week that basically said it invalidated the "No Surprises" rule. The

court said it would file an opinion sometime later and Metropolitan is awaiting that opinion in order to understand the basis for that ruling. This ruling has a potential effect on Metropolitan, as there is a multi-species conservation program at Lake Mathews that provides a "No Surprises" protection, and which could now be invalidated. Metropolitan is also currently working on a multi-species conservation plan on the Lower Colorado River along with three other Lower Colorado River Basin states and other water agencies. Also, IID and SDCWA are certainly planning on putting together a multi-species plan with "No Surprises" protection for their program as part of the QSA. Mr. Kightlinger stated that staff would continue to monitor this case and report back to the committee on potential actions, whether it be amicus or intervention as it moves forward.

45572 General Auditor Riss noted that for the month of October, a risk assessment report was issued on the Laboratory Information Management System, with a current exposure assessment to be low as project management controls continue to satisfactorily minimize risks.

Next, General Auditor Riss reviewed two special reports on Urban Park Concessionaire (UPC) and Water Resource Management. UPC is the organization Metropolitan contracted with for marina concession and entry fee collection/reservation services to support recreational fishing at Diamond Valley Lake (DVL). An audit was done of UPC during the opening week of DVL recreation to assess how UPC was functioning. He noted observations to improve operating controls.

In addition, an audit was requested by management to review the Local Resources Program, to evaluate its effectiveness, and to make appropriate recommendations. Mr. Riss stated that the report was completed and issued to the Water Resource Management Group Manager with recommendations to improve operations.

45573 The reports of the Standing Committees are as follows:

Chairman Pace reported the Executive Committee, at its meeting of October 28, approved Agenda Items 8-7 and 8-8. The proposed items for November's Board and committee agenda items were discussed and approved. The committee heard reports from

Directors Herman and Fellow on activities of the Special Committee on Water Education and the Ethics Subcommittee, respectively; and Vice Chairman Foley on the activities of the Colorado River Board.

Chief Executive Officer Gastelum reported on Metropolitan's activities, and asked Water System Operations Assistant Manager Rigdon to give a report on the impact the wild fires had on Metropolitan's facilities and the workforce. Mr. Gastelum commented on the meetings and discussions he has been having with Metropolitan's workforce, the meetings held in Washington, D.C., and also updated the committee on his search for a new Chief Operating Officer.

Asset, Real Estate and Infrastructure Policy Committee Chair Peterson reported the committee heard reports on the Diamond Valley Recreation Area; the terms and conditions for loans and grants from the California Department of Boating and Waterways for recreational boating facilities at Diamond Valley Lake; and the Infrastructure Reliability and Protection Plan. Staff discussed the investigations and monitoring of progress to ensure the integrity of Metropolitan's facilities.

Budget, Finance and Investment Committee Chairman Blake reported the committee approved Agenda Item 8-4. The committee also discussed Agenda Item 9-1 and approved Option #3 with one change. A strategy for bond refunding will be discussed at the December committee meeting.

Communications, Outreach and Legislation Committee Chairman Loveland reported that at the committee meeting he reported on his and Director Grandsen's individual inspection trips last month when they had to evade the wild brush fires and skirt the resulting road closures to return home. He commended the tour managers for their commitment and quick thinking. The committee heard reports on the legislative activities from both Washington, D.C., and Sacramento; the first Water Advisory Task Force meeting of the new administration in Sacramento, with the draft Water Action Plan for the 21st century to be distributed among the task force members and a finalized copy to be sent to Governor Schwarzenegger; the presentations by External Affairs of Metropolitan's "New Reality" message; the inspection trip for key legislative staff from the State Capitol; and the

forthcoming 75th anniversary celebrations. Throughout the month there were presentations for the Weeds 2 Wonder Program, which offers inner-city students a chance to connect with nature while learning about native plants and water conservation; and for the City Makeover Program to the city of Azusa to support the new San Gabriel River/Angeles National Forest Gateway Interpretive Center. The executive director of Association of Metropolitan Water Agencies also made a presentation outlining its efforts to secure certain legislation on the federal level.

Engineering and Operations Committee Chairman De Jesus reported the committee approved Agenda Items 8-1, 8-2, 8-3, 9-2, and 9-3, and he requested that Items 9-2 and 9-3 be placed on the Consent Calendar. The committee heard an oral report on the La Verne Area Master Plan; and accepted the written reports on system operations and engineering activities.

Legal, Claims and Personnel Committee Chairman Bannister reported the committee approved Agenda Item 9-5, and he requested that Item 9-5 be added to the Consent Calendar. The committee heard reports on new cases regarding the Colorado River Quantification Settlement Agreement, on the Bay-Delta/State Water Project matters, and on the State Water Resources Control Board Division of Water Rights fee policy to meet its funding shortfall. The committee also heard an overview of the liability, property and workers' compensation claims process.

Water Planning, Quality and Resources Committee Chairman Wright reported the committee amended and approved Agenda Item 8-5, tabled Agenda Item 8-6, and approved Agenda Item 9-4. The committee heard reports on Bay-Delta and State Water Project matters; perchlorate; the QSA implementation; the status of the state's Bulletin 160 Water Plan, and the supply and storage balances.

45574 Chairman Pace announced that Agenda Item 8-6, the Pilot High School Incentive program to achieve residential landscape irrigation efficiency, was tabled, with the instruction that staff should seek additional input on the program from member agency conservation managers and return with a proposal for board consideration.

Director Coughran moved, seconded by Director Fellow and carried, and the Board approved the Consent Calendar Items, **M.I. 45575** through **M.I. 45584**, as follows:

45575 Adopted the California Environmental Quality Act (CEQA) determination and **Resolution 8879**, as set forth in Attachment 1 to the letter signed by the Chief Executive Officer on October 27, 2003, said Resolution entitled:

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA ACCEPTING FUNDING PURSUANT TO THE NONPOINT SOURCE POLLUTION CONTROL PROGRAM OF THE SAFE DRINKING WATER, CLEAN WATER, WATERSHED PROTECTION AND FLOOD PROTECTION ACT (PROPOSITION 13, CHAPTER 7, ARTICLE 2) FOR LAKE PERRIS POLLUTION PREVENTION AND SOURCE WATER PROTECTION PROJECT

45576 Adopted the CEQA determination for all thirteen projects and (a) appropriated \$3.713 million (Appropriation No. 15377, No. 5, from the Construction Funds); awarded competitively bid contracts to (b) Fibwrap Construction, Inc. for \$316,000 for the San Diego Pipeline No. 4 and Auld Valley Pipeline Repairs; and (c) Nissho Iwai American Corp. for \$253,240 for the Santiago Lateral Valve Replacement; and (d) authorized thirteen Conveyance and Distribution System Rehabilitation Program projects as described in the letter signed by the Chief Executive Officer on October 28, 2003, as follows:

- Perform design of the replacement of turbine runners at the Foothill Hydroelectric Plant
- Perform design, authorize an agreement with Irvine Ranch Water District, and perform construction inspection of the East Orange County Feeder No. 2 pressure relief facility
- Perform design and construction to automate the sodium hypochlorite feed system at Garvey Reservoir
- Perform design and construction of a cathodic protection system on the Foothill Feeder
- Perform design, construction, and construction inspection of electrical current drain stations along the Second Lower and Sepulveda Feeders

- Purchase equipment and install upgraded cathodic protection rectifiers
- Perform studies to determine repair methods for repair of the Casa Loma and San Diego Canals
- Perform studies to determine the viability of renovating the east and west screening structures on the San Diego Canal
- Perform design, equipment procurement and installation to replace leaking sodium bisulfite tank
- Investigate methods to eliminate entrained air in the Upper Feeder
- Perform design and construction to eliminate water discharges into local storm drains at five hydroelectric plants
- Perform equipment procurement and installation to replace leaking Santiago Lateral valves
- Perform construction inspection of repair to the San Diego Pipeline No. 4 and Auld Valley Pipeline

45577 Adopted the CEQA determinations and (a) appropriated \$1,037,000 in budgeted CIP funds (\$585,000 from Appropriation No. 15365, No. 7; and \$452,000 from Appropriation No. 15415, both from the Construction Funds); authorized (b) final designs of the Skinner Flocculators and Tube Settlers Replacement, and Skinner Water Quality Monitoring Vaults Expansion projects; and (c) final design of the Jensen Main Chemical Tank Farm roof retrofit project, as set forth in the letter signed by the Chief Executive Officer on October 27, 2003.

Director Morris requested to be recorded as abstaining.

45578 Adopted the CEQA determination and **Resolution 8880**, providing that Metropolitan elects to receive its portion of revenue from taxes levied on redevelopment property, with these additional revenues attributable to any increase in Metropolitan's base year tax rate applied to the incremental assessed value of the project property, as set forth in Attachment 1 to the letter signed by the Chief Executive Officer on October 27, 2003, said Resolution entitled:

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN
WATER DISTRICT OF SOUTHERN CALIFORNIA ELECTING TO RECEIVE
ALLOCATION OF TAXES PURSUANT TO PROVISIONS OF THE COMMUNITY
REDEVELOPMENT LAW**

45579 Adopted the CEQA determination and amended the recommendation set forth in the letter signed by the Chief Executive Officer on October 27, 2003, to (a) authorize fixture incentives for new construction; and (b) return with a revised program that includes additional information on the pilot project such as a breakdown of costs and a proposal to work with the Building Industry Association to maximize the value on this pilot program.

45580 Adopted the CEQA determination and (a) granted conditional approval for the 49th Fringe Area Annexation, concurrently to Western Municipal Water District and Metropolitan, conditioned upon receipt in full of annexation fee of \$483,085.50 to Metropolitan if completed by December 31, 2003, or if completed later, at the then current annexation charge rate, and in compliance with those terms and conditions fixed upon final request for approval pursuant to Administrative Code Section 3100 et seq.; (b) approved Western's proposed Plan for Implementing Water Use Efficiency Guidelines; and (c) adopted the Resolution of Intention to Impose Water Standby Charge (**Resolution 8881**) within the proposed annexation territory, substantially in the form of Attachment 3 to the letter signed by the Chief Executive Officer on October 21, 2003, said Resolution entitled:

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN
WATER DISTRICT OF SOUTHERN CALIFORNIA GIVING NOTICE OF
INTENTION TO IMPOSE WATER STANDBY CHARGES CONTINGENT UPON
ANNEXATION**

45581 Adopted the CEQA determination and (a) **Resolution 8882** granting Calleguas Municipal Water District's request for approval of Annexation No. 77, 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 8883** 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 October 21, 2003, said Resolutions entitled:

Resolution 8882 **RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA CONSENTING TO CALLEGUAS MUNICIPAL WATER DISTRICT'S ANNEXATION NO. 77 AND FIXING THE TERMS AND CONDITIONS OF SAID ANNEXATION TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

Resolution 8883 **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. 77**

Director Grandsen requested to be recorded as abstaining.

45582 Adopted the CEQA determination and approved project modifications to the north Reach of San Diego Pipeline No. 6: new tie-in point, acquisition and use of temporary easements, service connection, and construction schedule, as set forth in the letter signed by the Chief Executive Officer on October 28, 2003.

45583 Adopted the CEQA determination and authorized an increase in change orders to L. H. Woods and Sons, Inc., from \$2.34 million (5% of original contract value) to \$4.34 million to cover costs for construction of a connection between San Bernardino Valley Municipal Water District's Foothill Feeder and Metropolitan's Inland Feeder Highland Pipeline, as set forth in the revised letter signed by the Chief Executive Officer on November 12, 2003.

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

45584 Adopted the CEQA determination and authorized an increase of \$490,000 in maximum amount payable under contract

with Bergman & Dacey to defend Metropolitan in related lawsuits challenging the employment status of temporary workers in *Dewayne Cargill, et al. v. Metropolitan*, LASC Case No. BC 191881 (consolidated with LASC Case Nos. BC 194444 and BS 052318, as set forth in the confidential letter signed by the General Counsel on November 13, 2003.

Director Dentler requested to be recorded as abstaining.

45585 Director Edwards moved, seconded by Director Stanton and unanimously carried, and the Board adopted the CEQA determination and **Resolution 8884**, giving notice of potential discontinuance of service of Interim Agricultural Water Program water in 2004, as set forth in Attachment 1 to the letter signed by the Chief Executive Officer on October 28, 2003, said Resolution entitled:

RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA DIRECTING THE GIVING OF NOTICE OF POTENTIAL DISCONTINUANCE OF SERVICE OF SURPLUS WATER IN 2004

45586 Budget, Finance and Investment Committee Chairman Blake moved, seconded by Director Edwards and carried, and the Board approved Option #3 in the letter signed by the Chief Executive Officer on October 27, 2003, with one change, and adopted the CEQA determination and provide credits on member agencies' water bills or block grant funds to support local water supply projects; and apply \$36.3 million as a credit on member agency bills or allocate \$36.3 million to member agencies on a pro-rata basis (in proportion to water sales revenue, exclusive of treatment surcharge revenue).

Director Peterson requested to be recorded as voting no.

45587 The following communication was submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through September 2003, signed by the Chief Executive Officer on October 27, 2003.

45588 Chairman Pace announced that next month's Board Meeting would be a historic one for Metropolitan as it is our 75th anniversary, and the first Board Meeting was held in the month of December 1928. After the meeting at the Headquarters at Union Station, there will be a celebration at the city of Pasadena Civic Center Auditorium.

45589 There being no objection, Chairman Pace adjourned the Meeting at 1:23 p.m.

HELEN Z. HANSEN

SECRETARY

PHILLIP J. PACE

CHAIRMAN