

MINUTES
REGULAR MEETING OF THE
BOARD OF DIRECTORS
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
JULY 12, 2005

46274 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, July 12, 2005.

Chairman Bannister called the Meeting to order at 10:14 a.m.

46275 The Meeting was opened with an invocation by Eddie A. Rigdon, Diamond Valley Recreation Program Manager.

46276 The Pledge of Allegiance to the Flag was given, led by Director Ronald F. Deaton.

46277 Board Secretary Hansen called the roll. Those answering present were: Directors Abdo, Apodaca, Bakall, Bannister, Blake, Brick, Brown, Deaton, De Jesus, Dentler, Dick, Edwards, Farrar, Fellow, Foley, Grandsen, Griset, Hansen, Koopman, Lewis, Loveland, Mylne, Parker, Peterson, Pocklington, Record, Rez, Simonds, Tait, and Wright.

Those not answering were: Directors Hall, Harris, Kwan (entered 11:40 a.m.), Morris, Murray (entered 10:44 a.m.), Pace, and Veres.

Chairman Bannister declared a quorum present.

46278 Chairman Bannister invited members of the public to address the Board on matters within the Board's jurisdiction.

Comments in opposition to Agenda Items 8-7 through 8-11 regarding Seawater Desalination Program agreements were heard from:

Mindy McIntyre, Planning and Conservation League
Debbie Cook, Council Member, city of Huntington Beach
Joe Geever, Surfrider Foundation
Conner Everts, Statewide Desalination Environmental Working Group

Frances Spivy-Weber from the Mono Lake Committee, urged the Board to support the budgets for Agenda Items 8-1 and 8-2, the City Makeover Program and the advertising services agreement for water conservation, respectively.

William Seelig, Institute of Human Engineering Sciences, commented on the environmental effects of CALFED.

Jim Gates, Orange County Water Association and professor at Santiago Canyon College, urged the Board to go forth with the desalinization funding.

46279 At 10:38 a.m., the Chair called a public hearing to receive comments on the proposed standby charges for the annexations of the 84th Fringe Area Annexation to Eastern Municipal Water District and the Peaceful Valley Ranch Annexation to San Diego County Water Authority.

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 10:39 a.m.

46280 There being no objection, Chairman Bannister ordered the reading of the Minutes of the Meeting of June 14, 2005, dispensed with, a copy having been mailed to each Director.

Vice Chairman Blake moved, seconded by Director Edwards and carried, approving the foregoing Minutes as mailed.

46281 Chairman Bannister presented to Eddie A. Rigdon, Diamond Valley Recreation Program Manager, a pin for his forty years of service at Metropolitan Water District.

46282 Chairman Bannister presented to Arthur B. Riojas, Administrative Assistant II, a pin for his forty years of service at Metropolitan Water District.

Director Murray took his seat at 10:44 a.m.

46283 The Chair reported there were no new committee assignments.

46284 Chairman Bannister reported on events in which he participated during June, as follows:

- June 4 - Del Mar City Council meeting;
- June 16 - Guest speaker at the "Water Issues Study Group Meeting" at Mesa Consolidated Water District;
- June 22 - Keynote speaker at the "Global Energy and Water Cycle Conference" at the Westin-South Coast Plaza Hotel;
- June 28 - Interview by Alma Reyes for an article in the Asian Magazine;
- June 29 - Joint SDCWA/MWDOC meeting; and
- June 30 - Guest speaker at Three Valleys Municipal Water District "Leadership Breakfast"

Director Brick reported on the forum held last month as a result of our program of giving grants to college students to deal with world water issues. A video was shown entitled "Water for Life", which provided an overview of the process and progress on the new Southern California World Water Forum.

46285 Regarding Colorado River, Bay-Delta, and CALFED matters, CEO/General Manager Underwood referred to his activity report for June signed on July 7, 2005, which was distributed earlier.

CEO/General Manager Underwood highlighted three areas where the District has been making progress during the past month. The first was the working relationship on some common legislation that the member agencies and the District worked on together and reflected the outstanding efforts of what strong relationships can achieve. Next was the ozone startup at the Jensen plant as a primary disinfectant given the favorable weather conditions. Mr. Underwood then referred to the

excellent bond ratings that Metropolitan has received from the bond rating agencies reaffirming our sound investments.

46286 Regarding Legal Department activities, General Counsel Kightlinger referred to his activity report for June dated June 30, 2005, which was distributed earlier.

General Counsel Kightlinger reported that Metropolitan has joined with other State Water Contractors and filed an action in the Sacramento Regional Sanitation District case regarding a CEQA action on the proposed expansion of a sewer treatment plant that has the potential to impact water quality. The action was filed to reserve our rights.

In *Off, et al. v. United States, et al.*, a case regarding farmers in the Westlands Water District area, General Counsel Kightlinger reported that the United States Supreme Court ruled that the United States' waiver of sovereign immunity in the Reclamation Act did not apply to the farmers and they could not bring action against the United States to enforce Westlands' contract with the United States. Mr. Kightlinger commented that there would be a fair amount of discussion among the agricultural agencies in the water community on what the decision meant for large agricultural districts, and that this has implications for Imperial Irrigation District and other agencies.

46287 General Auditor Riss presented a summary report of the Audit Department's activities for the month of June. He stated that five audit reports were issued during the month. Specifically he noted that The Center for Water Education Audit Report; Agreement with Keith Companies, Inc. Audit Report; Risk Management Process Audit Report; Power Operations and Administration Audit Report; and Contract with Banshee Construction Company, Inc. Audit Report were issued during the month.

Mr. Riss began by discussing The Center for Water Education (CWE) Audit Report. Mr. Riss stated that although monthly financial reviews of CWE activities are performed, the Audit Department scheduled a full scope audit for fiscal year 2005/06. He then reported that this audit was issued with an audit opinion that the accounting and administrative procedures over The Center included those practices usually necessary to

provide for a generally satisfactory internal control structure. Mr. Riss added that comments and recommendations were made to improve operations and address open issues. Specifically, Mr. Riss noted that the primary comment contained in the report was the recommendation that the lease agreement between Metropolitan and The Center be revised to include the office space that The Center now occupies on the first floor of Metropolitan's headquarters. He added that management has submitted a revised lease agreement to The Center's outside counsel for review. Mr. Riss then noted that The Center has responded to all other comments included in the report in an appropriate and timely manner.

Mr. Riss then briefly discussed the other reports issued and noted that they were issued with opinions of either satisfactory or generally satisfactory. He added that management has presented timely and complete responses to all audit comments and recommendations included in these reports.

Director Dentler expressed concern on the negative audit reports and the conclusions drawn. Chairman Bannister requested Director Dentler meet with the Chairman of the Audit Committee and the General Auditor to receive a full explanation of her questions.

46288 Ethics Officer Elliott referred to her activity report for June dated June 30, 2005, which was distributed earlier.

Dr. Elliott reported that the Directors' Ethics Manual was sent to the Directors and requested that the acknowledgment cards be returned. Dr. Elliott reminded Directors, executive management, and member agencies of the upcoming workshop on "Ethics Leadership" to be held on Monday, July 25, 2005.

Vice Chairman Blake moved, seconded by Director Murray and carried, and the Board approved the Consent Calendar Items, **M.I. 46289** through **M.I. 46295**, as follows:

46289 Adopted the California Environmental Quality Act (CEQA) determination and (a) granted conditional approval for Annexation No. 86 concurrently to Calleguas Municipal Water District and Metropolitan, conditioned upon receipt in full of annexation fee of \$15,380 to Metropolitan if completed by December 31, 2005, or if completed later, at the then current

annexation charge rate; (b) approved Calleguas' Statement of Compliance with the current Water Use Efficiency Guidelines conditioned upon final acceptance of the city of Oxnard into the California Urban Water Conservation Council; and (c) adopted the resolution of intention to impose water standby charge **(Resolution 8950)** within the proposed annexation territories, substantially in the form of Attachment 3 to the letter signed by the CEO/General Manager on June 20, 2005, 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 – ANNEXATION NO. 86

Vice Chairman Grandsen requested to be recorded as abstaining.

46290 Adopted the CEQA determination and (a) granted conditional approval for the 86th Fringe Area Annexation concurrently to Eastern Municipal Water District and Metropolitan, conditioned upon receipt in full of annexation fee of \$13,650 to Metropolitan if completed by December 31, 2005, or if completed later, at the then current annexation charge rate; (b) granted conditional approval for the 87th Fringe Area Annexation concurrently to Eastern Municipal Water District and Metropolitan, conditioned upon receipt in full of annexation fee of \$251,836.40 to Metropolitan if completed by December 31, 2005, or if completed later, at the then current annexation charge rate; (c) approved Eastern's Statements of Compliance with the current Water Use Efficiency Guidelines; and (d) adopted the resolutions of intention to impose water standby charge **(Resolutions 8951 and 8952)** within the proposed annexation territories, substantially in the form of Attachments 3 and 6, respectively, to the letter signed by the CEO/General Manager on June 20, 2005, said Resolutions 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 – 86TH FRINGE AREA

**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 - 87TH FRINGE AREA**

Director Record requested to be recorded as abstaining.

46291 Adopted the CEQA determination and authorized the Chief Executive Officer to enter into an agreement to create the Colorado River Joint Powers Authority, as set forth in the letter signed by the CEO/General Manager on June 21, 2005.

46292 Adopted the CEQA determination and (a) appropriated \$920,000 in budgeted funds (Appropriation No. 15394, No. 2, from the Revenue Bonds, Replacement and Refurbishment or General Funds); (b) awarded a \$231,348 construction contract to Sabah International for the Fire Protection at Remote Communication Sites project; and (c) authorized installation of alarm sensors by Metropolitan forces, as set forth in the letter signed by the CEO/General Manager on June 21, 2005.

46293 Adopted the CEQA determination and (a) appropriated \$1.95 million in budgeted funds (Appropriation No. 15369, No. 14, from the Revenue Bonds, Replacement and Refurbishment or General Funds); and (b) authorized final design of three Weymouth plant rehabilitation projects, as set forth in the letter signed by the CEO/General Manager on June 21, 2005.

46294 Adopted the CEQA determinations and (a) appropriated \$890,000 in budgeted funds (Appropriation No. 15428 for \$545,000, and Appropriation No. 15377, No. 11, for \$345,000, both from the Revenue Bonds, Replacement and Refurbishment or General Funds); and authorized (b) preliminary design of the Orange County Cross Feeder; and (c) final design and construction of the Coastal Junction Bypass, as set forth in the letter signed by the CEO/General Manager on June 21, 2005.

46295 Adopted the CEQA determination and (a) appropriated \$630,000 in budgeted funds (Appropriation No. 15429 from the Revenue Bonds, Replacement and Refurbishment or General Funds); and (b) authorized studies and investigations for Treatment Plant Algae Control project, as set forth in the letter signed by the CEO/General Manager on June 21, 2005.

46296 Education and Outreach Committee Vice Chairman Wright moved, seconded by Director Peterson, that the Board adopt the CEQA determination and authorize up to \$950,000 over two years for the 2005/06 City Makeover Program, as set forth in the letter signed by the CEO/General Manager on June 21, 2005.

Director Brick requested to be recorded as abstaining due to a potential conflict of interest.

Chairman Bannister announced that he has received a request that this item be referred back to the committee for review, and the Board concurred without objections.

46297 Education and Outreach Committee Vice Chairman Wright moved, seconded by Director Peterson, that the Board adopt the CEQA determination and authorize the CEO/General Manager to enter into a three-year contract with a maximum amount payable of \$2.5 million annually with Johnson/Ukropina for advertising and media buying services, as set forth in the letter signed by the CEO/General Manager on June 21, 2005.

Chief Operations Officer Man stated that staff would again like to take a look at the structure of this contract for it to be more effective, and requested that it be referred back to the committee. Chairman Bannister then referred this item back to the committee for further study.

46298 Recreation Committee Chairman Record moved, seconded by Director Peterson, that the Board adopt the CEQA determinations and authorize (a) all activities in advance of award of a construction contract for Searl Parkway landscaping and signage at the Diamond Valley Lake East Recreation Area; (b) an agreement with RBF Consulting in an amount not to exceed \$300,000 for design services; and (c) an increase of \$3 million to the existing agreement with PinnacleOne for a new total not to exceed \$4.2 million for project management support, as set forth in the letter signed by the CEO/General Manager on June 21, 2005.

Director Bakall requested to be recorded as abstaining on item (a) of the above motion.

Director Edwards inquired about a past payment of \$189,000 to see if that amount included costs for signage.

Chief Operations Officer Man stated that after discussion with Directors and review of the recreation plans, staff would like to defer this item for further evaluation.

Director Murray expressed concern that staff may not have done a thorough study on the items that have been deferred prior to submitting them to the committees. Chairman Bannister stated in light of the conditions now with negotiations, management is reviewing all items again regarding expenses and spending.

Chairman Bannister then referred this item back to committee for further consideration.

46299 Engineering and Operations Committee Chairman Mylne moved, seconded by Director Bakall and carried, that the Board adopt the CEQA determination and authorize the Chief Executive Officer to enter into the following consultant agreements:

- Carollo Engineers, not to exceed \$11 million for final design of the Weymouth Oxidation Retrofit Program;
- Camp Dresser & McKee, not to exceed \$10.25 million for final design of the Diemer Oxidation Retrofit Program;
- Black & Veatch, not to exceed \$0.53 million for study and preliminary design of the Mills Solids Handling Facilities; and
- Vanir, not to exceed \$0.6 million/year for five years, for project control services,

as set forth in the letter signed by the CEO/General Manager on June 27, 2005.

46300 Budget, Finance, Investment and Insurance Committee Chairman Koopman moved, seconded by Vice Chairman Blake and carried unanimously, adopting the CEQA determination and authorizing the Chief Executive Officer to make payment of \$1,827,826 to the State Water Contractors, Inc. for fiscal year 2005/06, as set forth in the letter signed by the CEO/General Manager on June 21, 2005.

46301 Water Planning, Quality and Resources Committee Chairman Brown moved, seconded by Director Edwards and carried, adopting the CEQA determination and authorizing the Chief Executive Officer to enter into an agreement consistent with the

Agreement Summary attached to the letter signed by the CEO/General Manager on June 21, 2005, and in a form acceptable to the General Counsel for the Long Beach Conjunctive Use Program Expansion in Lakewood.

Board Secretary Hansen requested to be recorded as abstaining due to a possible conflict of interest.

46302 Desalination and Reclamation Committee Vice Chairman Pocklington reported that the committee unanimously approved all the desalination items, Agenda Items 8-7 through 8-11. In light of the comments made by members of the public earlier in the Board Meeting, he commented on the costs of obtaining water through desalination and from the Colorado River, and the possibility of Metropolitan losing more water from the Colorado River and Northern California. He stated that the Board would be irresponsible in not moving forward with the desalination projects; and that no monies would be spent until the affected agencies produce the water.

Director Bakall moved, seconded by Director Loveland, that the Board adopt the CEQA determination and authorize the Chief Executive Officer to (1) negotiate uniform terms and agreements for the Seawater Desalination Program with the five agencies listed in Agenda Items 8-7 through 8-11; and (2) bring back agreements for the Board's review and final approval.

A discussion ensued on reasons for the delay of the contracts and the necessity for the agreements to be returned to the Board; environmental issues; the length of time in which the member agencies and Metropolitan have spent in arriving at this point; and the differences in the contracts for the individual agencies who are participating in the desalination program.

Director Kwan took her seat at 11:40 a.m.

The Chair then called for a vote on the motion by Director Bakall.

The following is a record of the vote on the motion:

Ayes: Anaheim (Dir. Tait, 2,622 votes), Burbank (Dir. Brown, 1,287 votes), Foothill Municipal Water District (Dir. Edwards, 921 votes), Inland Empire Utilities Agency (Dir.

Koopman, 5,379 votes), Municipal Water District of Orange County (Dirs. Bakall, Bannister, Dick, and Foley, 25,126 votes), San Diego County Water Authority (Dirs. Lewis, Loveland, Parker, and Pocklington, 26,222 votes), West Basin Municipal Water District (Dir. Kwan, 4,887.5 votes). Total 66,444.5 votes.

Noes: Calleguas Municipal Water District (Dir. Grandsen, 5,928 votes), Central Basin Municipal Water District (Aye: Dir. Apodaca. Absent: Dir. Pace. 8,128 votes), Eastern Municipal Water District (Dir. Record, 3,570 votes), Fullerton (Dir. Blake, 1,090 votes), Glendale (Dir. Rez, 1,626 votes), Las Virgenes Municipal Water District (Dir. Peterson, 1,378 votes), Los Angeles (Dirs. Deaton, Dentler, Farrar, and Simonds, 28,088 votes), Pasadena (Dir. Brick, 1,381 votes), Santa Ana (Dir. Griset, 1,574 votes), Santa Monica (Dir. Abdo, 1,648 votes), Three Valleys Municipal Water District (Dir. De Jesus, 3,706 votes), Torrance (Dir. Wright, 1,652 votes), Upper San Gabriel Valley Municipal Water District (Dir. Fellow, 5,256 votes), West Basin Municipal Water District (Dir. Murray, 4,887.5 votes), Western Municipal Water District of Riverside County (Dir. Mylne, 5,043 votes). Total 74,955.5 votes.

Abstain: Long Beach (Dir. Hansen, 2,669 votes). Total 2,669 votes.

Absent: Beverly Hills (Dir. Harris, 1,407 votes), Compton (Dir. Hall, 230 votes), San Fernando (Dir. Veres, 109 votes), San Marino (Dir. Morris, 304 votes). Total 2,050 votes.

The Chair declared the motion failed by a vote of 66,444.5 ayes, 74,955.5 noes, 2,669 abstain, and 2,050 absent.

46303 Director Deaton moved, seconded by Director Murray and carried, that the Board adopt the CEQA determination and authorize the Chief Executive Officer to enter into a Seawater Desalination Program agreement with Long Beach Water Department, as set forth in the letter signed by the CEO/General Manager on June 20, 2005.

46304 Director Deaton moved, seconded by Director Murray and carried, that the Board adopt the CEQA determination and authorize the Chief Executive Officer to enter into a Seawater Desalination Program agreement with the Los Angeles Department

of Water and Power, as set forth in the letter signed by the CEO/General Manager on June 20, 2005.

Directors Foley and Wright withdrew from the Meeting at 11:50 a.m.

46305 Director Deaton moved, seconded by Director Murray and carried, that the Board adopt the CEQA determination and authorize the Chief Executive Officer to enter into a Seawater Desalination Program agreement with Municipal Water District of Orange County, as set forth in the letter signed by the CEO/General Manager on June 20, 2005.

Directors Bakall and Dick requested to be recorded as abstaining.

46306 Director Murray moved, seconded by Director Dick and carried, that the Board adopt the CEQA determination and authorize the Chief Executive Officer to enter into a Seawater Desalination Program agreement with West Basin Municipal Water District, as set forth in the letter signed by the CEO/General Manager on June 20, 2005.

Director Kwan requested to be recorded as abstaining.

46307 Director Mylne moved, seconded by Director Dentler and carried, that the Board adopt the CEQA determination and authorize the Chief Executive Officer to enter into a Seawater Desalination Program agreement with the San Diego County Water Authority, as set forth in the letter signed by the CEO/General Manager on June 20, 2005.

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

Director Wright returned to the Meeting at 11:54 a.m.

Director Lewis withdrew from the Meeting at 11:54 a.m.

46308 Legal and Claims Committee Chairman De Jesus moved, seconded by Vice Chairman Blake and carried, and the Board adopted the CEQA determination and approved amendment of the contract for legal services with Harkins Cunningham LLC to increase the maximum amount payable by \$200,000 in *Enron Power*

Marketing, Inc. v. The Metropolitan Water District of Southern California, U.S. Bankruptcy Court, SDNY, Adversary Proceeding No. 04-024968, as set forth in the confidential letter signed by Assistant General Counsel Barbosa for the General Counsel on June 27, 2005.

46309 Legal and Claims Committee Chairman De Jesus moved, seconded by Vice Chairman Blake and carried, and the Board adopted the CEQA determination and approved amendment of the contract for legal services with Bingham McCutchen LLP to increase the maximum amount payable by \$50,000 in the appeal of *Louis H. Cardenas, et al. v. Metropolitan*, Los Angeles Superior Court Case No. BC 298866, as set forth in the confidential letter signed by Assistant General Counsel Bennion for the General Counsel on June 24, 2005.

Director Griset withdrew from the Meeting at 11:55 a.m.

46310 Budget, Finance, Investment and Insurance Committee Chairman Koopman moved, seconded by Director Mylne and carried unanimously, and the Board adopted the CEQA determination, approved the new funding arrangement for the Colorado River Board based on the proposed cost-sharing percentage, and authorized the Chief Executive Officer to make payments totaling \$377,327 for the Six Agency Fund and the Colorado River Association for fiscal year 2005/06, as set forth in the letter signed by the CEO/General Manager on June 22, 2005.

46311 Communications and Legislation Committee Chairman Fellow moved, seconded by Director Murray and carried, that the Board adopt the CEQA determination and remain neutral on Assembly Bill 672 (Klehs, D-San Leandro) regarding the recreational use of drinking water reservoirs, as set forth in the letter signed by the CEO/General Manager on July 6, 2005.

Director Peterson requested to be recorded as voting no.

Director Lewis returned to the Meeting at 11:56 a.m.

46312 CALFED/Bay-Delta Oversight Subcommittee Chairman Bakall reported on the actions taken by the subcommittee and the Water Planning, Quality and Resources Committee on ACWA's Blueprint for California Water.

Subcommittee Chairman Bakall then moved, seconded by Vice Chairman Blake and carried, that the Board endorse the Association of California Water Agencies' "No Time to Waste, a Blueprint for California Water" and support submitting comments on the California Water Plan Update as outlined by staff.

Director Griset returned to the Meeting at 11:57 a.m.

46313 Legal and Claims Committee Chairman De Jesus moved, seconded by Director Murray and carried, and the Board adopted the CEQA determination and authorized the settlement of pending litigation with Griffith Construction Company for payment of \$216,000 in *Griffith Construction Company v. Metropolitan Water District of Southern California*, Los Angeles Superior Court Case No. BC 319223, relating to the Colorado River Aqueduct, as set forth in the confidential letter signed by Assistant General Counsel Bennion for the General Counsel on July 8, 2005.

46314 The following communications were submitted to the Board for information:

- a. Status report for the Inland Feeder Program for activities through May 2005 signed by the CEO/General Manager on June 20, 2005.
- b. Report on implementation of the first year of Metropolitan's Five-Year Conservation Strategy Plan, signed by the CEO/General Manager on June 21, 2005.
- c. Report on Senate Bill 350 (Machado, D-Linden) regarding San Joaquin River restoration, signed by the CEO/General Manager on July 6, 2005.

46315 Chairman Bannister reported that the compensation and pay-for-performance recommendation for the General Counsel, General Auditor, and Ethics Officer was deferred.

46316 There being no objection, Chairman Bannister adjourned the Meeting at 12:01 p.m.

HELEN Z. HANSEN

SECRETARY

WES BANNISTER

CHAIRMAN