



- Board of Directors  
*Legislation Committee*

5/10/2011 Board Meeting

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**8-9**

## **Subject**

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Remove opposition to AB 134 (Dickinson, D-Sacramento)—Appropriation of water: Sacramento Regional County Sanitation District

## **Description**

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At Metropolitan's February 8, 2011 board meeting, the Board voted to oppose AB 134. Since that time, the bill has been amended to restore SWRCB's discretion to consider effects of a new water right under the bill on legal users of water and fish and wildlife and the problematic intent language was deleted ([Attachment 1](#)). Since the legal impediments identified by staff in February have been deleted, staff recommends that Metropolitan act to remove opposition.

In December 2010, the Central Valley Regional Water Quality Control Board (Regional Board) issued a new discharge permit for SRCSD's 18-million-gallon per day wastewater treatment plant. The new permit requires nitrification/denitrification and tertiary filtration upgrades, which SRCSD claims could cost upwards of \$2 billion.

AB 134 is an effort by SRCSD to secure a revenue stream to offset costs related to their treatment plant upgrades. The bill authorizes SRCSD to apply to SWRCB for an appropriative right to, and permission to market, some of SRCSD's treated effluent as a water supply.

As introduced, AB 134 would have *required* SWRCB to issue a permit to SRCSD and limited SWRCB's authority to consider potential effects to downstream users and to fish and wildlife. Most recently, the author and Senate President pro Tempore Darrell Steinberg (D-Sacramento) invited representatives from Westlands Water District and Metropolitan to explore amendments that would remove the objectionable provisions of the bill. The March 23 and April 15 amendments reflect that discussion and restore SWRCB's traditional discretion to consider impacts on other water users and the environment when reviewing any application by SRCSD to appropriate water under the bill.

The bill could still encourage other dischargers to seek similar authorization to appropriate their effluent discharges, which could impact water available for downstream users. However, using the amended bill as a model would subject any such applications to SWRCB's existing discretion to consider impacts on other users and the environment before issuing a water right which is consistent with existing law.

## **Policy**

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This board action is consistent with the Board's Delta policy principles memorialized in the following prior policy adoptions:

By Minute Item 45753, dated May 11, 2004, and Minute Item 46637, dated April 11, 2006, the Board adopted a set of Delta policy principles to ensure a solid foundation for development of future Metropolitan positions and to provide guidance to Metropolitan staff.

By Minute Item 47135, dated May 25, 2007, the Board supported, in principle, the proposed Delta Action Plan, as set forth in the letter signed by the General Manager.

By Minute Item 47232, dated September 11, 2007, the Board adopted criteria for support of conveyance options in implementation of a long-term Delta improvement plan.

By Minute Item 47605, dated August 19, 2008, the Board approved Delta Governance Principles as outlined in the board letter.

### **California Environmental Quality Act (CEQA)**

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CEQA determination for Options #1, #2, and #3:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

### **Board Options**

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#### **Option #1**

Adopt the CEQA determination and remove Metropolitan's opposition to AB 134, as amended on April 15, 2011.

**Fiscal Impact:** Unknown. Potential costs to replace State Water Project supplies

**Business Analysis:** No change from SRCSD's existing legal right to seek to appropriate water supplies

#### **Option #2**

Adopt the CEQA determination and continue to express opposition to AB 134.

**Fiscal Impact:** None

**Business Analysis:** No change from SRCSD's existing legal right to seek to appropriate water supplies

#### **Option #3**

Adopt the CEQA determination and support AB 134, as amended on April 15, 2011.

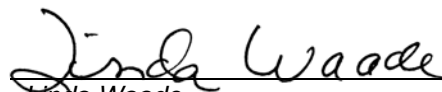
**Fiscal Impact:** Unknown. Potential costs to replace State Water Project supplies

**Business Analysis:** No change from SRCSD's existing legal right to seek to appropriate water supplies

**Staff Recommendation**


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Option #1

  
Linda Waade  
Deputy General Manager, External Affairs

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5/4/2011  
Date

  
Jeffrey Kightlinger  
General Manager

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5/4/2011  
Date

**Attachment 1 – Assembly Bill 134 (as amended 4/15/11)**

Ref# ea12612108