Testimony of Jeffrey Kightlinger, General Manager
Metropolitan Water District of Southern California

S.1894
California Emergency Drought Relief Act of 2015
SUPPORT AND SEEK AMENDMENTS

H.R. 2898
Western Water and American Food Security Act of 2015
NO POSITION

Chairman Murkowski and Ranking Member Cantwell:

On behalf of the Metropolitan Water District of Southern California, I would like to thank you for the opportunity to testify today. We appreciate your leadership and the ongoing efforts of the Committee to address the challenges gripping our state and much of the Western United States during this fourth year of an historic drought.

On September 22, 2015, the Metropolitan Board of Directors voted to support S.1894 and to seek certain amendments. At the present time, our Board does not have a position on H.R. 2898.

I wish to personally thank Senator Feinstein for her legislation. S. 1894 not only seeks to address the immediate water crisis, but provides much-needed direction to better prepare for future droughts and achieve California's co-equal goals of providing reliable water supplies while restoring the Sacramento-San Joaquin Delta ecosystem.

Before addressing some of the legislative or policy specifics, I would like to take a step back to provide some background on Metropolitan. In cooperation with our 26 member agencies, Metropolitan has done extensive planning and made significant investments that have allowed us to withstand this and future droughts and to prepare California for future water challenges we will face.

First MWD Board Meeting (December 29, 1928)

Metropolitan: A History of Regional Cooperation and Progress

Every generation of Southern Californians has had to face drought and in every generation, Metropolitan has made the necessary investments to ensure water supply reliability for the region. Metropolitan was created by the California Legislature in 1928 to form a regional water cooperative of the rapidly urbanizing areas of Los

Angeles and Orange counties. In the throes of the Great Depression, voters of these counties approved $220 million in bonds, funded through property taxes, to construct a 242-mile aqueduct from the Colorado River that would provide a needed water supply for future generations of Southern Californians. At that time, these urbanized areas had a combined assessed value of approximately $2 billion. Today, urban Southern California has an assessed property value of approximately $2 trillion. A secure reliable water supply has been one of the primary drivers fueling the great economic engine of this region for decades. If Southern California were a nation, it would be the 16th largest economy on the globe, just behind Mexico and ahead of Indonesia.

Federal and State Commitment to State Water Project

"Things do not happen. They are made to happen.

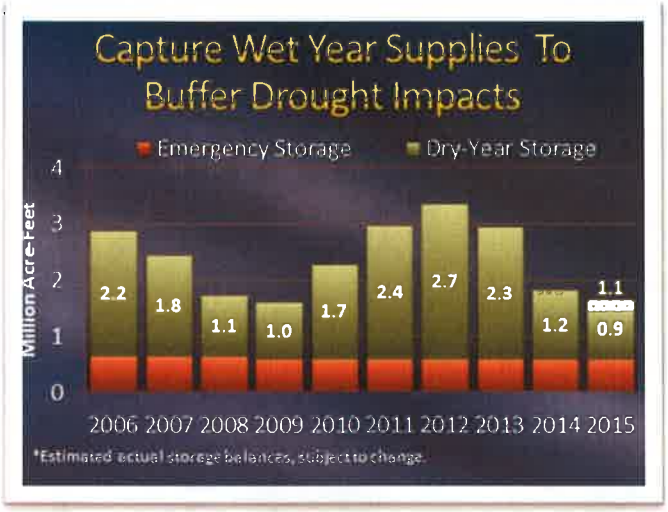
A generation after Metropolitan was formed, the district in 1960 became the cornerstone of the effort to build the California State Water Project. That same year, the state's voters approved bonds to finance the construction of the project. The SWP was the most expensive water project ever constructed and Metropolitan agreed to finance 50 percent of the project with a 75-year financing commitment. This water system, a modern engineering marvel, provided an additional water supply to the region from Northern California via the Feather River in the northern Sierra Nevada Mountains, down into the Sacramento River, then across the Delta. From there, pumps lift the water into aqueducts that eventually lead to the San Francisco Bay Area, Central Valley, and Southern California. This project now provides about 30 percent of Southern California's water supply. Some of the issues before us today pertain to how to best operate and manage this project amid new challenges of declining fish species, various stressors that threaten the health of the Delta estuary and climate change.

Drought: Lessons and Responses Past and Present

The weather of the West is marked by dramatic shifts in hydrology ranging from deluges to droughts. Yet, our economy depends on a steady and reliable water supply. Drought cycles in particular have played an important role in re-examining water policies to better prepare for the future.

A generation after the historic investment in the State Water Project came the drought of the late 1980s and early 1990s. This led to significant water shortages in the Southland and a complete rethinking of Metropolitan's water management programs, investments and planning objectives. Since that time, the region has spent billions of dollars to develop new and improved infrastructure that can transport and store imported water supplies in wet years in order to have sufficient supplies in reserve for drought and emergencies. Overall, Metropolitan has increased its network of local storage assets more

than 13-fold since the early 1990s. Metropolitan currently has capacity to store more than 5.5 million acre-feet of water above and below-ground. Thanks to these investments, we entered the current drought cycle with more water in storage than at any time in our history.



Investing in storage was one important lesson learned from previous droughts. Diversification of supply was another. Soon after managing through the drought of 1991, Metropolitan turned its attention to developing its first long-term water vision, our Integrated Water Resources Plan (IRP). That plan was adopted in 1996. It provided a road map for the coming generation to expand conservation through plumbing code reforms and device subsidies to make homes and businesses more water efficient. Metropolitan also began to provide direct financial assistance to local agencies that sought to develop their own supplies including recycled water, groundwater cleanup and storage projects. While Southern California has five million more people than it did in 1985, total water use has not increased. Thanks to this lowering of per-capita water use, the region has conserved and stored more water rather than consuming it wastefully. The bottom line is this: Had we not reacted to the previous drought with sound improvements to our water management strategy, Southern California and all of the state would be in the throes of a water crisis far greater than what we are facing today.

Lake Oroville

And now, a generation after the drought of 1991, a much more severe drought is gripping California. It comes at a time when monumental water policy issues are before this Committee, Metropolitan, California and the West.

Historic Drought Conditions Require Unprecedented Actions

This drought is straining California and the Metropolitan system unlike any before. The northern portion of our distribution system depends on supplies arriving from Northern California via the State Water Project, yet the lack of a Sierra snowpack has significantly curtailed these deliveries. Our local supplies from Southern California's groundwater basins have been greatly reduced by the absence of rain. The physical ability to move water from our

Colorado River system to these basins had been limited or non-existent, requiring changes to this distribution system.

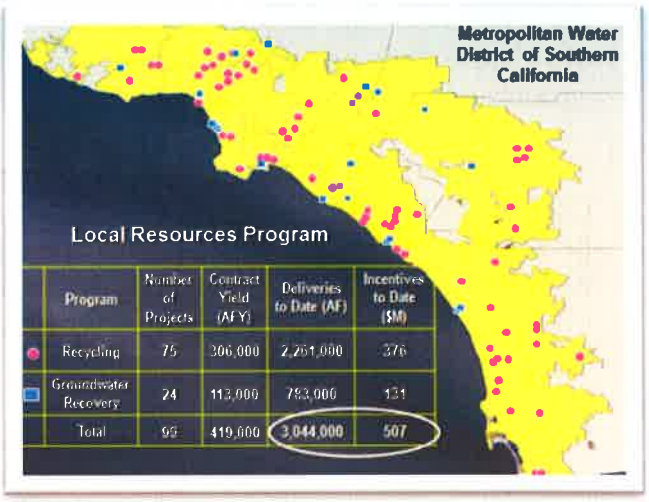
Turf Removal: Before and After

In response to the current drought, Metropolitan has invested in the largest conservation program not only in its history and California's, but the largest seen anywhere in the nation. Earlier this year, our Board directed $450 million into a series of durable permanent conservation efforts such as rebates for turf removal, low-flow showerheads and toilets, and high-efficiency dishwashers and washing machines. We estimate that more than 170 million square-feet of turf will be removed as a result of this effort, which is more than three times the statewide goal set by Governor Jerry Brown in an executive order last April. The total conservation program is projected to save more than 70 million gallons of water a day for Southern California, or enough water for 160,000 households. The district is also conducting a $5.5 million public education and outreach campaign in five languages to help all Southern Californians make lasting and permanent reductions in the water they use. The campaign is getting the word out and Southland communities are meeting the goal set by Governor Brown for a 25 percent reduction in residential urban water use during this drought.

A New Metropolitan Vision Amid New Circumstances: Groundwater

To build on these past successes and prepare for future growth, climate change and other challenges to water supply, Metropolitan is currently updating its IRP, to provide an even more robust long-term water resources strategy to meet our mission of providing a high quality, reliable water supply for its service area. While the work is not complete and our Board has yet to make final decisions, the analysis to date is providing new and valuable insights.

Some of the most compelling findings relate to groundwater. Southern California is fortunate to have large and productive groundwater basins in parts of our service area. All have been carefully managed and operated for decades. Yet because of this drought, these groundwater basins have been tapped to nearly the full extent of their sustainable management ranges. The basin managers are telling us to expect lower yields in the future. Collectively, the loss in groundwater production is roughly equivalent to the amount of water necessary to serve a city the size of San Diego for a year.



Program	Number of Projects	Contract Yield (AFY)	Deliveries to Date (AF)	Incentives to Date ($M)
Recycling	75	300,000	2,251,000	376
Groundwater Recovery	24	113,000	793,000	131
Total	99	419,000	3,044,000	507

While these groundwater basins are partially recharged by local rainfall, imported water provided by Metropolitan is absolutely essential to replenishing the basins. Metropolitan has provided financial assistance to develop recycled water for years, but we are now exploring a maiden effort with the Sanitation Districts of Los Angeles County to develop the largest single water recycling project in the nation. Currently, the Sanitation Districts operate a facility near the Los Angeles International Airport that treats wastewater and discharges it to the Pacific Ocean. We are exploring large-scale recycling to purify this water to drinking water standards and use it to replenish groundwater basins in at least three counties. This project will take decades for full build-out and will be an important new source of water. Yet even at full capacity, it will not make up for all of the expected decrease in yield from the region's groundwater basins.

The Colorado River

Southern California depends on the Colorado River for about 25 percent of our supply. But the River has been experiencing drought conditions since the turn of the century. The long-term studies point to an imbalance between supply and demand. Overall, California has the largest share of the River among the seven western states, with 4.4 million acre-feet of an allocated supply. Yet Metropolitan's share of the state's supply is only 550,000 acre-feet. Our Colorado River aqueduct has a capacity of more than twice that, at 1.2 million acre-feet. The aqueduct historically ran at full capacity when that water was needed because of surplus conditions on the River and unused

Lake Mead behind Hoover Dam

allocations by other states. But that chapter in our water history is now behind us. Ahead of us is the challenge to work cooperatively among the Basin states and with our intra-state agriculture partners.

A leading example in our partnership with agriculture is the one we have forged in California's Palo Verde Valley in the Sonoran Desert south of the Mojave Desert and within Riverside and Imperial counties. Palo Verde has some of the most senior water rights on the River. We have a voluntary program with farmers in that valley to fallow a portion of their land in drought cycles, when we at Metropolitan are looking for additional water supplies for a full aqueduct. We paid farmers to enter this program and provide additional compensation every year in which we fallow lands for supply. In so doing, we have provided the community with funds for local economic development projects while supporting agriculture. Metropolitan also owns farmland in this valley. Recently our Board of Directors approved the purchase of additional lands in the valley, providing even greater opportunities to both maintain agriculture activities and provide water supplies to Metropolitan when needed. This project alone does not solve our challenge of stabilizing our overall supply of water from the Colorado River. But it does exemplify the kind of partnership that is possible and needed in the years ahead. All of us who depend on the Colorado River must work towards closing the gap between supply and demand in each state.

Federal Government Can Help California Meet Drought Challenges

These various examples of what is happening inside Metropolitan point to the fact that there is no single solution to Southern California's water challenge. We need to embrace an "all of the above" strategy to provide reliable water supplies in the future. This begins with local actions such as Southern California's longstanding commitment to conservation, more storage and sound groundwater management. While we have invested in many of these actions through local water rates, outside financial assistance can greatly accelerate progress. That is why partnering with the federal government is so important to meet the challenges ahead.

We support the efforts of S. 1894 to provide additional funding and foster regulatory incentives to ensure greater water supply reliability and reduce water use throughout our region. S. 1894 includes funding for the WaterSense labeling and certification program, and supports innovative water supply and conservation technologies. The federal government can also help us prepare for future droughts with long-term planning and projects that will expand our water supplies. S. 1894 includes a competitive grant program through Title XVI to authorize $200 million in recycled water funding through 2020. Partnering in these investments can help diversify water portfolios throughout the West.

S. 1894: Fostering Progress in the Delta

An "all of the above" strategy also means that, while we will need more local supplies and conservation, imported supplies will remain the foundation on which we build. That is why hearings like this are so important to help us work together to solve the ongoing challenges in the Delta.

In California, every storm is precious. Every opportunity to safely capture supply is important. Wet periods can provide California the water to keep in storage to survive future droughts if there is sufficient storage to capture and adequate plumbing to move the supply. S.1894 has provisions that will allow us to manage storm flows better in the short-term and helps to develop long-term storage.

Both California's State Water Project and the U.S. Bureau of Reclamation's Central Valley Project face operational restrictions that threaten our ability to capture peak storm flows when they pass through the Delta. A few winters ago, as an example, the first major storm of the season in December brought a sub population of adult delta smelt, a state and federally listed species, southward toward the project pumps in a plume of turbid water. A small number of these fish were detected at the pumping facilities of the two projects. Within days the facilities were forced to the lowest levels of pumping for the year in an effort to protect the smelt. Meanwhile the water supplies flowing through the Delta were at the highest level of the year. A precious opportunity to capture water supplies was lost. As a result in the following weeks, the systems failed to capture a quantity of water that would have been sufficient to supply the entire city of Los Angeles for more than a year. And this lost opportunity occurred in the midst of a four-year drought when every drop was sorely needed. Moments like this have reinforced for Metropolitan the need to modernize the state's water system's infrastructure and to improve real-time monitoring and operations in the Delta so that sensitive species and public water supplies are both protected. S. 1894 is a prudent, positive and rational response to challenges such as this.

Regarding S. 1894, this testimony includes three attachments that help guide Metropolitan's positions on this specific legislation and the Delta overall. In 2007, our Board set specific benchmarks to assess any potential solution to the Delta water system and ecosystems. Some proposals satisfy some of the benchmarks. Very few work to meet all the needs of the environment, reliable water supply, seismic risk, water quality and other challenges. Those benchmarks are attached. So are principles that the Board recently adopted to analyze federal proposals such as S. 1894. Lastly, Metropolitan's Board approved a detailed position supporting S. 1894 while advancing a series of specific amendments. At the present time, our Board does not have a position on H.R. 2898, but we note that many provisions in the bill are similar to concepts set forth in S. 1894.

An important feature of S. 1894 is its emphasis on better monitoring on a real-time basis to understand the abundance and location of important fish species such as salmon and smelt in the Delta. While Metropolitan supports water supply restrictions when they are scientifically demonstrated to be necessary to protect endangered species, we firmly believe there are missed opportunities to safely capture water supplies within the confines

of the existing biological opinions that could be regained if the agencies had better information. Good monitoring and good measurement, using sound science, will lead to better management. We lost a number of opportunities to safely capture water back in 2013 and 2014. In 2015, with help from the federal agencies, California made great strides in effectively managing the system, learning from past mistakes. We will need more of this cooperative effort as we move forward. With even better monitoring and information, the agencies could do better tomorrow.

Working within the Endangered Species Act, we support actions to address ongoing conflicts between water supply operations and native fisheries through enhanced scientific modeling and real-time monitoring for the benefit of people and fish. Every effort to protect migrating fish species on the San Joaquin River system should be taken, including pilot efforts such as transporting some of these fish via barges. Sacrificing public water supplies as the solution has not worked and will not work, but there are significant opportunities to address ecosystem and fisheries issues that should be pursued.

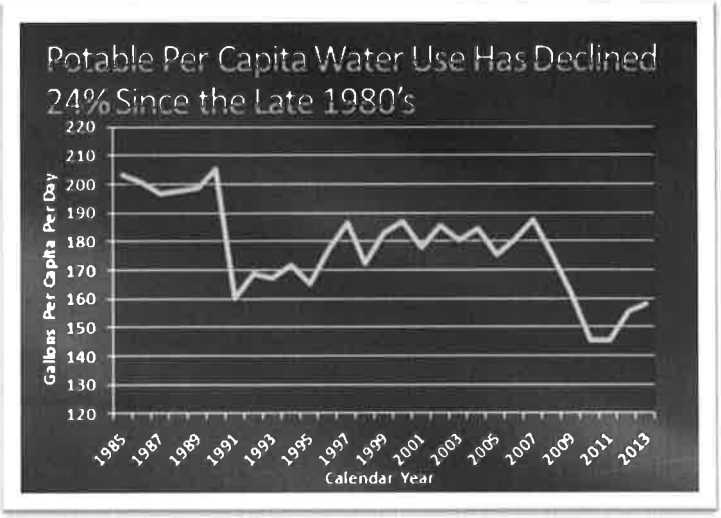
Among our drought legislation priorities is the need for legislative solutions that have strong bipartisan support. Southern California is an extraordinarily diverse region. Metropolitan could not function as the leading water planner for Southern California if our board members did not work jointly to embrace the common challenge and find that common ground. This same spirit of cooperation and collaboration must guide efforts to successfully address water issues today and in the future. Water is not a partisan issue. It's a health and safety issue. Fish, farms and families all need water to survive and our economy depends on it. We need everyone working together to address the drought impacting California and help us prepare for a reliable water future in the West.

California's Water Action Plan: A State-Federal Partnership

At this moment in California's fast-evolving water history, we find ourselves at more than a single crossroad. S.1894 attempts to address the immediate crisis of drought and provide important direction to better manage existing water systems to endure future droughts. The California WaterFix process, supported by the state and federal administrations, is advancing a historic set of long-term improvements to the water system. These plans seek to address existing conflicts with sensitive fish species and protect public water supplies for generations to come from seismic events, floods, climate change and other challenges. The state and federal agencies are on track to have a final plan next year and that will be the time when Metropolitan and other participating public water agencies decide whether to invest in the improvements and water operations as advanced by this plan.

The tandem California EcoRestore program seeks to accelerate restoration of tidal marsh and floodplain habitat, most of which has been lost over the past century and a half due to reclamation activities. Additionally, the State Water Resources Control Board is embarking on proceedings to identify water flow objectives and responsibilities in both the San Joaquin and Sacramento river watersheds.

The challenges are many and they are outlined in Governor Brown's Water Action Plan, which Metropolitan fully embraces. The plan advances the much-needed "all of the above" strategy. As an example, conservation is happening at record levels throughout California during this drought, but it must become a permanent and lasting change in our lifestyle. Lowering water demand has been part of Metropolitan's portfolio approach since the 1990s and will continue to be. Yet one worthy water management effort does not negate the need for another. In fact, one effort builds upon another. We also need modernized systems to safely and efficiently move water supplies from one part of the state to other regions. We need additional storage above- and below-ground to store these conveyed supplies. We need action at a local, regional, and state level to plan, invest, and innovate to provide safe reliable water supplies in ways that also protect the environment. This action plan, and the steps underway at Metropolitan, embrace every tool in the toolbox to make progress in the months and years ahead.



The Delta: A Key to Statewide Progress

Because of its strategic position in California water supply, the Delta is inevitably a center of political and policy discourse on water for the state and the West. John Muir explored the Sierra and coined it our Range of Light. In an average year, the Sierra Nevada is our largest supply of water, whether it be rain or snow. The 700,000 acre Delta is where the rivers of the western Sierra merge before heading to San Francisco Bay. It is the largest estuary on the West Coast of the Americas, home to 750 species of plants and animals, and supplies freshwater to more than 27 million Californians and three million acres of farmland. It is at the center of any reasoned and rational discussion on the future of water management in our state.

Our state has many regions, many views and many perspectives. Yet there is no getting around the need to properly manage the Delta and the water supply that flows through it for the good of the California economy and environment. With a sense of common purpose, we recognized that the consequences of inaction are simply unacceptable. There is no viable status quo. And we are confident that there is sufficient common ground that can be found via S.1894 and other proposals now before Congress.

We thank you for your efforts and leadership on these issues. We hope that you will look to Metropolitan to continue to be a constructive participant in addressing the many

water challenges that we all face today and in the future. Thank you again for the opportunity to testify today.

MWD
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

BOARD ACTION

- **Board of Directors**
  Water Planning and Stewardship Committee

September 11, 2007 Board Meeting

Revised 8-4

Subject

Adopt criteria for conveyance options in implementation of Long Term Delta Plan

Description

Overview In June 2007, Metropolitan's Board approved a Delta Action Plan that provides a framework for actions to build a sustainable Delta and reduce conflicts between water supply conveyance and the environment (**Attachment 1**). Additional detailed information on potential near-, mid-, and long-term actions, and their water supply planning implications, were provided in written and oral reports to the Board in July and August 2007.

The approved Delta Action Plan also established a process where staff would provide monthly updates to the Board on Delta-related processes and would seek board direction on key issues including: Bay-Delta legislation; administrative decision processes; and legal and regulatory decisions.

This board letter requests further board direction on key conveyance components being discussed in the Governor's Delta Vision Process and the Bay-Delta Conservation Plan. Other near-term actions previously brought before the Board are summarized below.

Near-Term Actions. Recent action by the California Department of Water Resources and U.S. Bureau of Reclamation to curtail pumping of the State Water Project and Central Valley Project from the Delta to protect Delta smelt underscores the incompatibility of how water is conveyed to California's economy and protection of in-Delta native fisheries. While the shutdown was temporary, the underlying need to protect Delta smelt and other fisheries is likely to challenge Metropolitan and other Delta export users with more prolonged water supply curtailments and potentially serious economic consequences throughout the state prior to the implementation of a long-term solution. The following is a set of near-term actions previously brought before the Board that staff is moving forward on:

- Post-Event Emergency Response Plan. Analyses from the Delta Risk Management Study state there is a significant risk of levee collapse from an earthquake or flood in the Delta. Consistent with April 2007 board direction regarding implementing a Post-Event Strategy, efforts are being made to secure state approval and funding for a Delta Levees Emergency Preparedness and Response Plan, including pre-placement of rock and material in key locations throughout the Delta.
- Real-Time Operations and Monitoring. Current operations of the state and federal pumping plants in the Delta rely heavily on prescriptive flows and water quality standards to assist in maintaining a viable ecosystem for fisheries. However, these standards do not take into account the natural variability of runoff patterns, tidal cycles, temperature and other factors that significantly affect fish migration and consequently salvage of fish at the state and federal pumping plants. In an effort to minimize fish salvage, efforts are being made to fund and implement real-time fish monitoring/tracking along with integrated, real-time operations of the Delta Cross Channel and Sacramento and San Joaquin River flows.
- Temporary & Reversible Eco-Crescent/Middle River Corridor. In addition to the real-time operations and monitoring, additional near-term, stop-gap efforts are being further analyzed to turn a portion of the estuary from a habitat area with conflict for smelt into a safe haven, away from the north-to-south movement of water supplies to the Bay Area, Central Valley and Southern California. This effort would include a series of temporary and removable rock barriers with tidal-gates, located strategically on four waterways in the

southern Delta, to create a physical separation between the flows for water supply and the nearby rearing habitat for smelt. These temporary structures would only be in place and operated from February through June when Delta smelt enter the Delta to spawn and rear. This project would include funding for real-time monitoring and operation of these gates, and assessments would be made to ascertain whether a more permanent structure should be constructed later as part of a more comprehensive Delta Vision.

Long-Term Delta Vision Alternatives. In addition to the ongoing effort to resolve near-term issues, two efforts are in progress to develop long-term solutions to resource management conflicts within the Sacramento-San Joaquin Bay Delta system: the Bay-Delta Conservation Plan (BDCP) and the Governor's Delta Vision process. The BDCP is a voluntary effort initiated by water user representatives and state/federal fishery regulatory agencies to develop a conservation plan that will serve as the basis for long-term federal and state endangered species act operational permits for the SWP and CVP. The Governor's Delta Vision process is an effort to develop a specific long-term alternative for addressing Delta resource conflicts and a strategic plan for implementation.

As initially reported to the Board at its workshop in July 2007, four alternatives are under discussion by the Governor's Delta Vision Stakeholder Coordination Group, which advises the Blue Ribbon Task Force. These alternatives include:

1. Existing Delta (with fortified levees)
2. Eco-Crescent/Middle River Corridor Conveyance
3. Dual-Intake Facility (Eco-Crescent + Isolated Conveyance Facility)
4. Fully Isolated Facility

On August 4, 2007, the Delta Vision Stakeholder Coordination Group submitted a report to the Blue Ribbon Committee that narrowed the list of recommended alternatives for further analysis to the Eco-Crescent/Middle River Corridor Conveyance and the Dual-Intake Facility. In addition to these alternatives, the Governor's Blue Ribbon Task Force has received a number of other alternatives from various groups and individuals. The Task Force has begun narrowing down the alternatives and intends to select a Delta Vision to move forward in its Phase I Report to the Governor's cabinet-level Delta Vision Committee. The Phase I Report is due on January 1, 2008,[1] and will include a vision for sustainable management of the Delta's multiple uses, resources and ecosystem.

Phase II of the Governor's Delta Vision effort includes development of a Strategic Plan to drive implementation of a Vision, addressing related governance, funding and system management issues relative to that Vision.

Proposed Direction on Delta Vision Alternatives. In August, the four alternatives listed above were reviewed with the Board. Each alternative was evaluated with feasibility-level modeling of water supply and water quality impacts, and quantitative information regarding environmental enhancement and costs. The alternatives were also compared to the Metropolitan Board principles (April 2006) relating to development of a long-term Delta Vision.

Although Metropolitan staff is continuing to participate in the collaborative BDCP and Delta Vision efforts to further analyze the pros and cons of these alternatives, after a review of existing analyses and board policies, staff proposes the Board adopt the following criteria to further clarify Metropolitan's position on the water supply conveyance element of the long-term solution:

1. Provide water supply reliability. Conveyance options need to provide water supply reliability consistent with DWR's most recent State Water Project Reliability Report (2005).
2. Improve Export Water Quality. Conveyance options should reduce bromide and dissolved organic carbon concentrations. Existing in-Delta intakes cause direct conflict between the need to reduce organic carbon to meet stricter urban drinking water standards, and the need to increase carbon to promote a healthy food web for fish.

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[1] The Delta Vision Committee is comprised of the Secretary of Resources as Chair, and the Secretaries of Business, Transportation & Housing, Food & Agriculture, and Cal-EPA; and the President of the California Public Utilities Commission.

3. Allow Flexible Pumping Operations in a Dynamic Fishery Environment. Water supply conveyance options should allow the greatest flexibility in meeting water demands by taking water where and when it is least harmful to migrating salmon and in-Delta fish species. All options should reduce the inherent conflict between fisheries and water conveyance.
4. Enhance Delta Ecosystem~~Fishery Habitat Throughout Delta~~. Conveyance options should provide the ability to restore fishery habitat throughout the entire Delta ~~(not just in partial areas)~~ and minimize disruption to tidal food web processes, and provide for fluctuating salinity levels.
5. Reduce Seismic Risks. Conveyance options should provide significant reductions in risks to export water supplies from seismic-induced levee failure and flooding.
6. Reduce Climate Change Risks. Conveyance options should reduce long-term risks from salinity intrusion associated with rising sea levels. Intake locations should be able to withstand an estimated 1- to 3-foot sea-level rise in the next 100 years.

Future Recommendations. As outlined in Metropolitan's Delta Action Plan, staff will seek board direction on other key issues including funding for environmental restoration, governance and financing issues, levee improvements, potential infrastructure or floodway corridors, sizing and location of an isolated facility component, potential legislation, and other key components of the Governor's overall Delta Vision.

Policy

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.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because the proposed action 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). For future, and not yet known, proposed projects, the appropriate lead agencies will be responsible for complying with all applicable federal and state environmental laws and regulations.

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

CEQA detrmination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination and conveyance criteria, as described in this board letter, for water supply conveyance options in a long-term Delta Vision.

Fiscal Impact: None

Business Analysis: The recommended conveyance criteria would be beneficial in reducing conflict while enhancing the Delta ecosystem, water quality, and water supply reliability. It would also reduce longer-term risks associated with seismic-induced flooding and sea-level rise.

Option #2

Do not adopt conveyance criteria.

Fiscal Impact: None

Business Analysis: Metropolitan's ability to influence conveyance criteria will be significantly reduced. Criteria established by others may not meet Metropolitan's water supply and financial interests.

Staff Recommendation

Option #1

Stephen N. Arakawa — 9/7/2007

Stephen N. Arakawa — *Date*

Manager, Water Resource Management

Debra C. Man — 9/7/2007

for Jeffrey Kightlinger — *Date*

General Manager

Attachment 1 – Metropolitan Water District Delta Action Plan

BLA #5548

METROPOLITAN WATER DISTRICT

DELTA ACTION PLAN

I. Overview

The Delta is the hub of California's water supply and is critically important to the entire state. The Delta is in a state of ecological crisis and is not sustainable unless action is taken. Building a sustainable Delta will require significant investment and will take decades. The Delta Action Plan must prioritize immediate short-term actions to stabilize the Delta while an ultimate solution is selected, and mid-term steps to maintain the Delta while the long-term solution is implemented. By 2020, California should have a long-term solution for the Delta in place that can be adjusted and adaptively managed to deal with the coming changes from climate change and California's continued population growth.

II. Short-Term Action Plan

The Governor's Delta Vision Process calls for a recommendation from the Delta Vision Blue Ribbon Task Force to be made by January 2008. SB 27 (Simitian, et al.) urges the Task Force to make its recommendation based on the findings of the Public Policy Institute of California Delta Report for legislation to be enacted in 2008. While 2008 will be the year for selecting a course of action on the Delta, actions must be taken over the next 18 months to stabilize the current situation. These actions include the following: securing state and federal Endangered Species Acts take authorization; emergency preparedness steps to prepare for possibility of catastrophic failure in the event of earthquake or flood; actions to enhance habitat for Delta smelt and other pelagic species; completion of the Bay-Delta Conservation Plan (BDCP); and actions to begin work on ecosystem restoration projects that will help species regardless of which ultimate solution is selected (e.g., marsh restoration, island rebuilding.)

III. Mid-Term Action Plan

Upon selection and enactment of an ultimate Delta solution, it will likely take ten years or more to complete environmental documentation and construct new facilities. During this period, it will be necessary to maintain the stabilization process of the Delta through the following actions: continue implementation of the BDCP projects; continue with selected habitat and fishery improvements to improve Delta native species; begin implementing flood control protections, including bypasses and levee improvements; finalize site selection and environmental documentation for new storage projects; implement new governance structures for managing the Delta; and undertake implementation of the long-term Delta solution.

IV. Long-Term Action Plan

The Long-Term Action Plan must take a global, comprehensive approach to the fundamental issues and conflicts in the Delta to result in a truly sustainable Delta. A piecemeal approach cannot satisfy the many stakeholders that have an interest in the Delta and will fail; there must be a holistic approach that deals with all issues simultaneously. In dealing with the basic issues of the Delta, solutions must address the physical changes required, as well as the financing and governance. There are three basic elements that must be addressed: Delta ecosystem restoration; water supply conveyance; and flood control protection and storage development.

A. Delta Ecosystem Restoration – A complete Delta restoration plan must address land use, growth, agriculture, water usage and conveyance, and the aquatic and land habitat of the Delta through the following elements:

- **Bay-Delta Conservation Plan** – The BDCP is a subset of Delta restoration primarily focused on the aquatic environment of the Delta and will address fishery issues.

- **Habitat Land Acquisition and Restoration** – A portion of the Delta will need to be restored to native marsh habitat for protection of aquatic and terrestrial species.
- **Sustainable Agriculture** – Programs will be needed to maintain sustainable agriculture within the Delta in ways that limit oxidization of soils, rebuild Delta islands, limit carbon production, improve water quality and provide habitat opportunities.
- **Governance** – Management of Delta restoration will require a governance structure such as a conservancy or special district that has financing and land use powers and can manage a program within multiple counties.
- **Financing** – Costs of restoration must be shared by multiple parties with water exporters and other utilities helping finance the BDCP, the state paying for broad public benefits, developers within the Delta area paying for development rights, etc.

B. **Water Supply Infrastructure** – The current practice of using Delta channels and levees for water conveyance is not sustainable. Delta species require fluctuating salinity levels that will be harmful to drinking water quality. The levees are unstable and pose a constant threat of collapse. In addition, global warming threatens water supply with rising sea levels and increased flooding. Either new Delta conveyance infrastructure must be constructed or there will be significant reductions in Delta exports requiring new water facility development elsewhere to replace lost water supplies. Important elements of this needed infrastructure include:

- **Isolated Facility** – If water supply is to be maintained, that water must be separated from Delta water supplies through construction of an isolated facility either in or around the Delta. The three isolated facility alternatives in the PPIC Report must be analyzed to determine which performs best for water supply reliability, is cost-effective, protects against earthquakes and floods, provides water quality, deals with rising sea levels and allows for Delta salinity fluctuation for native species protection.
- **Eco-Delta/Reduced Exports** – If an isolated facility is not constructed, the PPIC Report recommends that a fluctuating salinity Delta be achieved primarily through a reduction in water exports. This approach must be thoroughly analyzed to determine the economic consequences of loss in water supply, whether reduced exports will actually protect species, and identify additional water supply facilities that would be required.
- **Governance** – Management of the State Water Project should be given to a separate agency tasked with the single mission of managing and operating the Project. This would separate the utility function from the Department of Water Resources thereby removing conflicts within DWR in its role of operating a utility for certain contractors while providing state-wide water planning. Appropriate forms of such an independent agency include a special district or a joint powers authority. This new entity would continue to be regulated by state and federal agencies and all applicable laws.
- **Financing** – State and federal water contractors should pay for the operation and management of the water supply projects, including construction of new water infrastructure such as an isolated facility. A state decision to reduce exports should be financed by the state including payment for lost agriculture lands and financing for replacement of water supplies.

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

BOARD ACTION

- **Board of Directors**
  Communications and Legislation Committee

8/18/2015 Board Meeting

Revised 8-4

Subject

Adopt legislative priorities for federal drought legislation

Executive Summary

Multiple federal bills have been introduced in Congress to respond to drought conditions in the western United States, particularly in California. The proposed bills vary widely in approach and have been the subject of considerable debate and media attention. To ensure a consistent response to these proposals, staff recommends the Board adopt specific legislative priorities that articulate Metropolitan's policy goals to help California respond to current drought conditions and prepare for long-term future droughts.

Details

In response to historic drought conditions in the West, California's Congressional delegation introduced several bills in 2014 to provide financial, regulatory or policy-based assistance to California. Despite the broad concern over increasingly severe reports of drought conditions, however, none of those bills received approval from both the House of Representatives and the Senate.

This year, drought conditions have worsened, and several members of the California delegation are again attempting to bring California relief through federal legislation. Earlier this year, Senator Boxer and Representative Napolitano reintroduced S. 176 and H.R. 291, companion legislation entitled the Water in the 21st Century Act, for which Metropolitan has adopted support positions (based on identical legislation introduced and supported in the 113th Congress). On June 25, Representative Valadao introduced H.R. 2898, the Western Water and American Food Security Act of 2015, cosponsored by Representatives Calvert, Costa, and 23 other members of Congress. On July 8, Representative Huffman introduced H.R. 2983, the Drought Recovery and Resilience Act of 2015 with Senator Boxer introducing companion legislation S. 1837 on July 22. Additionally, on July 29, Senator Feinstein introduced S. 1894, the California Emergency Drought Act of 2015. Members from other western states are also expected to introduce legislation related to the drought, in addition to several other single subject bills that have been introduced related to water supply and system improvements.

To date, the introduced bills vary widely in their approaches. Some are aimed at funding long-term water supplies, such as recycling. Others attempt to streamline regulations, expand operational flexibility, fund conservation or expedite current water supply projects. There has been strong partisan difference in the approaches that has made consensus difficult to achieve. Given the severity of the current drought and the likelihood of future water shortages, legislation that provides federal funding and regulatory assistance, and recognizes scientific advancements, would offer the most comprehensive solution for regions impacted by drought. Also, a successful measure will require bipartisan support in order to pass both the House of Representatives and the Senate and ultimately secure the President's signature. Currently, the only bill to successfully secure passage in either house is H.R. 2898 (Valadao), which passed the House of Representatives on July 16, 2015. Other bills have yet to be scheduled for mark-up.

In December 2014, the Board adopted a set of legislative priorities (**Attachment 1** and **Attachment 2**), including a priority related to the drought, which reads as follows: "Support administrative or legislative actions to respond

to drought, including funding for immediate water supply improvements, while maintaining environmental protections." In order to encourage the development of a successful, comprehensive drought relief package, staff recommends the Board augment its current 2015/16 Legislative Priorities with the following additional drought priorities:

Federal drought legislation should specifically:

1. ***Reflect broad, bipartisan agreement***: Metropolitan urges federal leaders to identify and adopt legislation that can pass Congress and secure a signature from the President. This priority is not born of policy, but of the reality that divided federal leadership requires all stakeholders to identify policy that can win bipartisan agreement broad enough for legislation to have any chance of success.
2. ***Provide funding and regulatory assistance for regions affected by the drought for both immediate and long-term water projects that aid in the development, storage, treatment and delivery of water***: Immediate attention should be given to projects that can help communities respond to the current drought crisis, but only long-term planning and projects that make our water supply more resilient and reliable will prepare California for climate change and future droughts.
3. ***Provide funding and regulatory incentives for conservation and water use efficiency measures***: Consistent with 2003 board-adopted principles on Water Conservation, this legislative priority urges passage of legislation that could provide direct funding and regulatory incentives to support urban retrofit actions and efficiency programs that reduce water use. Other than water transfers, conservation and water use efficiency are the most immediate actions water agencies can take to balance reduced water supplies with demands. By investing in demand reductions, agencies like Metropolitan can further improve its ability to maintain limited water reserves in storage, extending the region's ability to withstand prolonged drought. The increased media attention and public awareness of the need to conserve during a drought also provides agencies with the opportunity to successfully change behaviors and encourage conservation as a way of life. This helps Metropolitan attain its goal of reduced per capita water use and attain compliance with state mandated reductions of 20% by 2020.
4. ***Protect State Water Project (SWP) and local water supplies and ensure SWP and local water supply reliability.*** On average, the SWP supplies more than 50 percent of the water that Metropolitan provides to its customers in Southern California, and makes up fully one-third of the water supply for the entire region. In recent years, both the quality and the quantity of SWP supplies have eroded due to various conflicts and conditions in the Sacramento-San Joaquin Delta. Federal Central Valley Project water supplies have been similarly impacted. California is suffering statewide impacts from the drought; therefore, any legislation that could yield additional supplies merits consideration. However, as agencies seek to improve their water supplies, Metropolitan should guard against legislative policies that shift impacts or liabilities to the SWP. While Metropolitan plans to meet all future growth in water demands through investments in conservation and local supply development rather than increase imported supplies, protecting SWP and local supplies and reliability continue to be critical priorities for the region.
5. ***Provide funding and regulatory incentives for conservation projects that increase the reliability of Colorado River water supplies to all users***. With the Colorado River currently in its 15th year of drought and Lake Mead at record low levels, Metropolitan has been working with other urban entities in the Colorado River basin and the Bureau of Reclamation to implement conservation measures to increase water levels in Colorado River reservoirs. Additional funding and incentives to help this program and others like it are needed to help ensure long-term sustainable supplies in the Colorado River basin.
6. ***Work within the current federal and state Endangered Species Acts to increase operational flexibility while not weakening protections for listed species***: Metropolitan urges adoption of legislation that will help facilitate water transfers and maximize SWP deliveries without weakening measures adopted under federal and state environmental laws like the ESA that protect listed species and their critical habitat. Metropolitan believes that by using an adaptive and collaborative science-based approach, under current existing laws, improvements can be made to water supply operations and existing biological restrictions that would not only enhance conditions for species but would also provide water supply benefits.

7. ***Provide direction and funding to improve information about listed fish and wildlife species and water project operations in the Delta, including data collection, scientific understanding, and real-time monitoring of listed Delta species***: Metropolitan supports increased funding for unbiased, sound science and research to improve species recovery efforts and further California's co-equal goals of improved ecosystem heath and improved water supply reliability as authorized by California's Sacramento-San Joaquin Delta Reform Act of 2009. Metropolitan urges adoption of legislation that would enhance the knowledge base on listed Delta species. Improved understanding of listed species would allow regulatory protections to be maintained or enhanced and could improve water supplies or supply reliability. For instance, real-time monitoring could allow for more flexible SWP operations that improve water supplies while meeting ESA regulatory standards. Improved understanding of listed Delta species and water project operations can reveal opportunities for improved implementation of existing regulatory standards, or new alternatives to achieve the same or better protections while improving water supplies. Should California experience heavy rainfall early this winter, enhanced monitoring and operations may enable the SWP to capture water that would otherwise be lost, helping offset future dry months. Additionally, better data may also allow project operators to temporarily suspend pumping for greater protection of Delta species to avoid "take" issues.
8. ***Encourage use of the most current scientific data and analysis to provide enhanced flexibility for water project operations***: Water project operations are too important, especially during a drought, to not be based on the most up-to-date scientific understanding of climate change, hydrology, and fish behavior and the effect of project operations on species survival and abundance. This principle bridges the potential gap between improved scientific understanding, policy, and implementation of operational measures that are at least as protective as existing regulations while improving water supplies.

Staff recommends that the Board adopt these additional drought priorities, which, in their breadth and the urgency of the situation, demonstrate the need for comprehensive drought legislation rather than piecemeal, single-issue bills. As multiple federal bills related to the drought advance, these additional priorities will help Metropolitan articulate its policy goals and offer both support and guidance to Congress and the Obama Administration as they negotiate solutions to California's water supply challenges.

Staff will return to the Board for discussion and formal action on drought legislation.

Policy

Supports Metropolitan's mission and reflects its overall water supply reliability and Bay-Delta objectives

Legislative Priorities for 2015/16, Minute Item 49980, dated December 9, 2014

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

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 defined as a project under CEQA and is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination that the proposed action is not defined as a project under CEQA and is not subject to CEQA, and

Adopt the proposed federal drought legislative priorities.

Fiscal Impact: Unknown
Business Analysis: If successful, new federal drought legislation could potentially provide short-term and long-term benefits to operations for current and future drought.

Option #2

Do not adopt additional federal drought legislative priorities.
Fiscal Impact: Unknown
Business Analysis: Not applicable

Staff Recommendation

Option #1

8/18/2015
Dee Zinke *Date*
Deputy General Manager, External Affairs

8/18/2015
Jeffrey Kightlinger *Date*
General Manager

Attachment 1 – Board Letter on Legislative Priorities for 2015/16, Item 8-3, dated December 9, 2014

Attachment 2 – Amendment to Legislative Priorities for 2015/16, Item 8-3, dated December 9, 2014

Ref# ea12638666

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

BOARD ACTION

- **Board of Directors**
  Communications and Legislation Committee

12/9/2014 Board Meeting

8-3

Subject

Adopt Legislative Priorities for 2015/16

Executive Summary

This board letter outlines the state and federal 2015/16 legislative priorities recommended by staff for the Board's consideration and adoption.

Details

After consulting with Metropolitan member agencies in October 2014 and the Board Communications and Legislation Committee in November 2014, the following federal and state legislative priorities are submitted for your consideration and approval. The priorities for 2015/16 support Metropolitan's mission and incorporate its overall water supply reliability and water quality objectives.

Federal Legislative Priorities

Bay-Delta and State Water Project Improvements

- Support administrative or legislative action and funding to keep the Bay Delta Conservation Plan (BDCP) on schedule to advance conveyance and ecosystem improvements to meet the coequal goals of water supply reliability and Delta ecosystem restoration.
- Support administrative or legislative action and funding to advance emergency response and near-term Delta improvements, consistent with coequal goals.

Colorado River Initiatives

- Support continued funding authorization and coordination between states for continued implementation of the Lower Colorado River Multi-Species Conservation Plan.
- Encourage coordination between federal and state agencies to implement the Quantification Settlement Agreement.
- Promote continued funding and coordination between states for the Colorado River Basin Salinity Control Program under the Departments of Agriculture and Interior.
- Protect and preserve Metropolitan's interest in water conservation programs enabled by the Water Treaty between the United States and Mexico.

Drought Related Legislation

- Support administrative or legislative actions to respond to drought, including funding for immediate water supply improvements, while maintaining environmental protections.

Regional Water Resource Management

- Support legislation authorizing the U.S. Environmental Protection Agency (EPA) to provide grant funding for programs such as the Water Research Foundation to conduct research enabling water agencies to adapt to hydrologic changes.
- Support legislation authorizing EPA's *WaterSense* program and other federal incentive programs that promote water use efficiency and energy efficiency.

Water Quality

- Support local jurisdictions' continued use and storage of chlorine gas as treatment disinfectant. Support authorizing EPA oversight of water system security through updated vulnerability assessments and site security plans.
- Support legislation, initiatives and funding to protect and improve water quality from various constituents, including but not limited to chromium 6, nitrate, perchlorate, salinity, uranium, various fuels and their additives, pharmaceuticals/personal care products, and other constituents of emerging concern.
- Support policies and administrative or legislative actions that protect surface water and groundwater supplies from energy development activities that may impair water resources. Covered energy development activities include, but are not limited to, enhanced oil and gas recovery techniques such as hydraulic fracturing.

Cybersecurity

- Support national associations' and coalitions' efforts to develop standard guidance and best management practices for consistent and ongoing actions to reduce vulnerabilities in process control systems for major water system providers.

Environmental Planning and Environmental Compliance

- Support administrative or legislative actions to improve clarity and workability of the National Environmental Policy Act (NEPA), and eliminate duplicative NEPA and state California Environmental Quality Act (CEQA) processes.
- Support administrative or legislative actions for environmental compliance (e.g., air, water, hazardous materials and waste) that provide for regulatory compliance flexibility, promote consistency and reduce regulatory duplication.
- Support administrative or legislative actions, including those related to the California Desert Wilderness Protection Act, to ensure the reliability and continuity of Metropolitan's system operations and real estate assets, including rights of way necessary to access Metropolitan's facilities.
- Support administrative or legislative actions, including those that address EPA's proposals related to the Clean Water Act definition of "waters of the United States," to ensure reliability and continuity of Metropolitan's water transfers, and water supply facilities and infrastructure.
- Support administrative or legislative actions to consolidate the review and oversight of anadromous species protection under the Department of Interior to eliminate duplication and increase efficiencies

Invasive Species

- Support administrative or legislative actions and funding for biological controls, mitigation management, and elimination of invasive species, including, but not limited to, quagga mussels and striped bass.
- Support administrative or legislative actions pertaining to invasive species that are consistent with, and in no way interfere with, existing interstate water transfers.

Energy Sustainability

- Encourage coordination to implement federal law that is consistent with Metropolitan's long-term contract for hydropower generated at Hoover Dam for the benefit of Arizona, Southern California and Nevada water users that rely on Hoover power to minimize costs to consumers.
- Support authorization for grant funding for energy efficiency, including programs to reduce greenhouse gases and develop renewable resources.
- Promote water/energy nexus legislative or regulatory activities that preserve Metropolitan's ability to pursue a wide variety of supply options and oppose constraints on supply development such as water resource loading orders based on energy intensity. Support legislation that provides renewable energy credits for both small and large hydroelectric facilities, irrespective of the facility's nameplate generating capacity.

Infrastructure and Public Finance

- Support measures to reduce the cost of financing water infrastructure planning and construction, such as tax-credit financing, tax-exempt municipal bonds, an expanded Water Infrastructure Finance Innovation

Act, or similar financing mechanism that funds new water supply infrastructure, including water conduits, pipelines, canals, pumping, power and associated facilities, the Environmental Infrastructure Accounts and other funding mechanisms.
- Support Bureau of Reclamation's Title XVI and WaterSMART programs.
- Monitor pension reform and Other Post-Employment Benefit proposals.

Appropriations Priorities
- BDCP planning and implementation funding for near-term projects, including near-term and emergency response projects.
- Farm Bill/USDA programs to support habitat projects in the Delta and agricultural water use efficiency projects in the Delta or in the Colorado River basin.
- Colorado River Basin Salinity Control Program.
- Colorado River drought resiliency projects.
- Water quality protection initiatives (e.g., chromium 6, nitrate, perchlorate, salinity, uranium, pharmaceuticals, personal care products, etc.).
- Biological controls, mitigation management and elimination of invasive species.
- Solar retrofits and other renewable energy and conservation projects.
- Water conservation and water use efficiency programs and water resource projects.
- Desalination and salinity management research, including funding for the Brackish Groundwater National Desalination Research Facility through the Desalination Reauthorization Act of 1996.
- Lower Colorado River Multi-Species Conservation Plan.
- Bureau of Reclamation Title XVI program.
- Climate change adaptation and mitigation research.

State Legislative Priorities

Bay-Delta and State Water Project Improvements
- Support administrative or legislative action and funding to keep the BDCP on schedule to advance conveyance and ecosystem improvements to meet the coequal goals of water supply reliability and Delta ecosystem restoration.
- Support administrative or legislative action and funding to advance emergency response, near-term Delta improvements and expenditures to support fish monitoring activities in the Delta consistent with coequal goals.
- Continue support for implementation of state policies adopted as part of the 2009 Delta Reform Act and water management package, including clarification of the monitoring and enforcement provisions related to in-Delta diversions.
- Support state funding for public share of Delta ecosystem restoration costs.
- Support administrative or legislative action to add storage statewide and to remove existing prohibition for state funding to raise Shasta Dam.
- Oppose administrative or legislative action that would unfairly shift procurement of renewable resources to the State Water Project, irrespective of transmission limitations, cost and portfolio availability.

California Water Action Plan
- Support implementation of the Brown Administration's comprehensive water strategy, consistent with Metropolitan's goals and objectives, to ensure effective drought management and near-term actions to guide development of programs and investments to meet the state's long-term water infrastructure needs.

Colorado River Initiatives
- Encourage coordination between federal and state agencies to implement the Quantification Settlement Agreement.

Regional Water Resources Management/Foundational Actions

- Support effective administrative solutions to improve the permitting process for proposed seawater desalination projects in California while complying with all existing environmental regulations, as initiated by AB 2595 (Hall, 2012).
- Support administrative or legislative action to promote recycled water as a water resource, without compromising the operational, financial, water quality, regulatory and customer interests of Metropolitan and other drinking water agencies.

Groundwater Management

- Monitor implementation of the 2014 Sustainable Groundwater Management Act, including subsequent legislation to address expedited adjudications and designation of groundwater recharge as a beneficial use.

Environmental Planning

- Support administrative or legislative action to improve clarity and workability of CEQA.
- Support administrative or legislative action for environmental compliance (e.g., air, water, hazardous materials and waste) that provide for regulatory compliance flexibility, promote consistency and reduce regulatory duplication.

Invasive Species

- Support administrative or legislative actions and funding for biological control, mitigation management and elimination of invasive species, including, but not limited to, quagga mussels and striped bass.

Energy Sustainability

- Support expanding definition to qualify state and local hydropower generation as renewable resource.
- Pursue allocation of Cap-and-Trade auction revenues or free allowances from the California Air Resources Board or other administering agencies for Metropolitan and Department of Water Resources/State Water Project, to be used for greenhouse gas reduction measures and related projects.
- Promote water/energy nexus legislative or regulatory activities that preserve the Metropolitan's ability to pursue a wide variety of supply options and oppose constraints on supply development such as water resource loading orders based on energy intensity.
- Continue to support and promote integrated water resources portfolio planning.

Water Quality

- Support local jurisdictions' continued use and storage of chlorine gas as a treatment disinfectant.
- Support legislation, initiatives and funding to protect and improve water quality from various constituents, including, but not limited to, chromium 6, nitrate, perchlorate, salinity, uranium, various fuels and their additives, pharmaceuticals/personal care products, and other constituents of emerging concern.
- Support policies and regulations or legislation to protect surface water and groundwater supplies from energy development and other activities that may impair water resources. Covered energy development activities include, but are not limited to, enhanced oil and gas recovery techniques such as hydraulic fracturing.

Infrastructure and Public Finance

- Support "beneficiaries pay" approach as financing mechanism for statewide projects and programs.
- Oppose de facto taxes levied solely on water agencies for funding broader public benefits.
- Monitor implementation of 2012 pension reform legislation and Other Post-Employment Benefits reform initiatives for potential impacts on Metropolitan's long-term liability.
- Support legislation or administrative action that deters metal theft and protects critical public water infrastructure.
- Monitor implementation of the 2014 water bond, Proposition 1, and influence how water bond dollars are spent, both through program development — including regulations and guidelines at the agency and department level — and through the appropriation of bond funds through the state budget process.

Policy

Supports Metropolitan's mission and incorporates its overall water quality and supply reliability objectives.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

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.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination that the proposed action is not subject to CEQA and is categorically exempt, and adopt the Legislative Strategy for 2015/16.

Fiscal Impact: None

Option #2

Take no action.

Fiscal Impact: None

Staff Recommendation

Option #1

12/1/2014
Dee Zinke *Date*
Deputy General Manager, External Affairs

12/1/2014
Jeffrey Kightlinger *Date*
General Manager

Ref# ea12634028

From Communications and Legislation Committee

OTHER BOARD ITEMS - ACTION

8-3 At the Communications and Legislation Committee meeting on December 8, 2014, the Communications and Legislation Committee voted to adopt the CEQA determination that the proposed action is not subject to CEQA and is categorically exempt, and to adopt the Legislative Strategy for 2015/16 as amended in committee pursuant to a request by Director McKenney to add the phrase "from unacceptable risks" to the second bullet item in the Water Quality section for both federal and state legislative priorities, so that it reads: Support legislation, initiatives and funding to protect and improve water quality from unacceptable risks from various constituents, including but not limited to chromium 6, nitrate, perchlorate, salinity, uranium, various fuels and their additives, pharmaceuticals/personal care products, and other constituents of emerging concern.

With this amended language, the Board approved Option #1, to adopt the CEQA determination that the proposed action is not subject to CEQA and is categorically exempt, and adopt the Legislative Strategy for 2015/16.

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

BOARD ACTION

- **Board of Directors**
  Communications and Legislation Committee

9/22/2015 Board Meeting

8-5

Subject

Express support and seek amendments to S. 1894 (Feinstein, D-CA) – California Emergency Drought Relief Act of 2015

Executive Summary

S. 1894, the "California Emergency Drought Relief Act of 2015" was introduced on July 29, 2015 (**Attachment 1**) by Senator Feinstein and cosponsored by Senator Boxer. S. 1894 seeks to alleviate the impacts of the drought in California by: (1) directing federal agencies to use their authority and discretion under existing laws and regulations to improve water supply conditions through operational flexibility measures; (2) providing direction and funding for actions to benefit fish and refuges; (3) providing financial assistance for water supply, water conservation, and drought-alleviation projects; and (4) authorizing new programs and creating new financing and funding programs. Altogether, S. 1894 authorizes over $1.2 billion in appropriations over the next 10 years and directs spending of three times that amount between 2026 and 2050.

Details

Background

S. 1894 utilizes language from legislation introduced by Senator Feinstein in 2014 (S. 2016 and S. 2198), but has an expanded scope with provisions similar to other legislation introduced by other members of the California delegation in 2015. The author states that the goals of the legislation are "moving and creating water long-term to help those communities suffering the worst effects of the drought, while remaining completely compliant with environmental laws such as the *Endangered Species Act* and *Clean Water Act* as well as all biological opinions." Senate Energy and Natural Resources Committee Chairwoman Lisa Murkowski has announced that S. 1894 and other drought-related legislation will be heard at an October meeting of that committee.

Measures to Take Advantage of Operational Flexibility under Existing Law

Title 1 contains a number of actions that the Secretaries of Interior and Commerce are directed to take during the drought emergency or until September 30, 2017, whichever is later. Many provisions are similar to S. 2198 introduced by Senator Feinstein last year. For example, the Secretaries of Interior and Commerce are directed to "provide the maximum quantity of water supplies possible" to the water projects and "any other locality or municipality in the state." Title 1 contains provisions directing the Secretaries to act, including that the Secretaries ensure the Delta Cross Channel Gates remain open to the greatest extent possible; that they manage reverse flow in Old and Middle Rivers (OMR) to minimize water supply reductions to the projects (but as prescribed by the biological opinions); adopt a 1:1 inflow to export ratio for new transfer water during the spring; issue permits within the shortest practicable time period for temporary barriers or operable gates and for decisions on water transfers; have the National Academy of Sciences conduct a study on the effectiveness of saltcedar biological control efforts; and "use all available scientific tools to identify any changes to real-time operations" of water projects that could result in the availability of additional water supplies.

Actions to Benefit Fish and Refuges

S. 1894 authorizes nearly $60 million over five years to benefit listed fish species. The bill contains direction and authorizes appropriations for various actions to benefit listed fish species. In general, the authorizations are through 2020. It begins by authorizing funding for projects to recover listed salmonids, along with direction for federal agencies to expedite federal reviews and approvals of individual projects. Other projects include reports on the use of non-physical barriers; reports on adding gravel and other ways to restore additional salmonid rearing areas along with direction to implement restoration if it is feasible; a pilot program to test alternative hatchery release strategies; a pilot program to identify habitat that favors predatory fish to the detriment of sensitive native species and make recommendations (without implementation) of how to modify that habitat to reduce predation; and an assessment of whether reduced lighting at artificial structures would reduce predation and direction to implement recommendations. Other projects include evaluating and improving delta pump salvage systems; creating a pilot program to increase salmonid survival through the Delta using a trap and barge program for San Joaquin origin fish; and improved temperature modeling.

Financial Assistance for Water Supply and Demand-Management Projects

The bill also authorizes substantial financial assistance through a variety of federal programs for water supply, water conservation and water use efficiency projects, including desalination, storage, and recycling projects; emergency projects to provide drinking water to areas where water shortages pose a risk to public health and safety; on-farm water conservation actions; combating water theft for illegal marijuana cultivation; innovative water supply and conservation technologies; and establishing an open water data system within the United States Geological Survey to improve access to and exchange of water data and information for water management, education, research, assessment, and monitoring purposes.

New Programs and Authorizations

S. 1894 provides direction to existing programs to expedite drought relief and authorizes a number of new programs. Most notably, the bill authorizes the U.S. Bureau of Reclamation (Reclamation), without further Congressional approval, to partner in both federally owned and non-federal storage projects. This sea-change in federal policy would allow Reclamation's expertise to be shared more widely and could give more local control for projects, such as Sites Reservoir. The bill also calls for feasibility studies authorized under CalFed to be completed. In addition S. 1894 makes amendments to the Safety of Dams Act to allow increased reservoir capacity as part of a dam safety project. The bill also directs the Army Corps to identify and carry out five pilot projects to update operation manuals at federal and non-federal dams in states with a drought declaration.

Also of note, S. 1894 creates the Reclamation Infrastructure Finance and Innovation (RIFIA) Act. Similar to Transportation Infrastructure Financing and Innovation Act for transportation projects and Water Infrastructure Financing and Innovation Act (WIFIA) (authorized by WRDA) for certain water projects, RIFIA is a program to provide secured loans or loan guarantees for various infrastructure projects, but would be limited to water-related projects in the Reclamation states. Other provisions include authorizing the Secretary to designate, subject to certain conditions, the state as lead agency for the purposes of National Environmental Policy Act (NEPA), which could expedite environmental review for state drought projects that also trigger NEPA review. Similar to WIFIA, projects that use tax-free municipal financing may not be eligible for RIFIA funding.

Among other changes, S. 1894 would also amend the Reclamation Wastewater and Groundwater Study and Facilities Act (43 USC 390h), known as Title XVI, by adding a competitive grant program and authorizing $200 million through 2020.

Impacts of the Legislation upon Metropolitan

Assuming that federal regulatory officials diligently exercise their discretion under existing law to use the flexibility inherent in the biological opinions, the operational flexibility measures in the bill, particularly the 1:1 San Joaquin River Inflow to Export ratio for water transfers and exchanges, the use of turbidity triggers, application of the OMR criteria to minimize water supply impacts, revised Delta Cross Channel operations, and use of temporary barriers and operable gates in the Delta could provide both water supply and water quality benefits to Metropolitan. The actions to benefit species in the bill are unlikely to create short-term water supply

relief, but in the long run will improve information about listed species. Substantial funding for water supply and demand-management projects will facilitate Southern California's ability to respond to the next drought and may provide some short-term relief to areas of the state at risk of facing an inadequate supply of water. Moreover, S. 1894 could assist or accelerate additional new storage, which could make Central Valley Project-State Water Project (SWP) coordinated operations more flexible in the future, increasing water yields of both projects relative to the current system and regulatory constraints.

Suggested Metropolitan Position and Response

Metropolitan adopted priorities for federal drought legislation in August 2015. S. 1894 represents legislative progress on many of those priorities. S. 1894 is an expansive bill that provides funding and regulatory assistance for regions affected by drought for both immediate and long-term water projects that aid in the development, storage, treatment and delivery of water. The bill provides funding and regulatory incentives for conservation and water use efficiency measures. S. 1894 could help protect reliability for the SWP, Colorado River and local water supplies. The bill also works within the current federal and state Endangered Species Acts to increase operational flexibility while not weakening protections for listed species. The bill additionally provides direction and funding to improve information about listed fish and wildlife species and water project operations in the Delta, while also encouraging the most current scientific data and analysis to provide enhanced flexibility for water project operations. It is unclear the degree the bill will secure broad, bipartisan support, but it has been set for a hearing by the Republican Chair of the Senate Energy and Natural Resources Committee, and could potentially win broad support there.

Staff recommends that the Board authorize the General Manager to express a support and seek amendment position for S. 1894. If the Board approves, the General Manager would send a letter stating the Board's positon on S. 1894, listing the Board's federal drought legislative priorities as adopted August 18, 2015 and urging that the final drought bill be amended to represent those priorities

Suggested Amendments

In addition to technical amendments, staff would seek a number of amendments to S. 1894 that relate to four important Metropolitan interests.

- First, the bill contains protections for SWP contractors against redirected impacts of federal actions, but also contains a loophole from those protections. Staff recommends providing language to close that loophole.
- Second, S. 1894 amends the Reclamation Safety of Dams Act of 1978 to allow additional project benefits (such as increasing storage) to be approved concurrent with Safety of Dams projects. While this language is much better at protecting SWP water supplies than other language we have seen in House of Representative bills, staff recommends that to protect SWP interests in San Luis Reservoir provisions be added to retain cost allocations under existing law.
- Third, S. 1894 amends the Water Desalination Act of 1996 to prioritize projects that "reduce reliance on imported water supplies that have an impact" on listed species. The term "reduced reliance," is not defined in federal or state law, and is the source of diametrically opposed state law interpretations that are the basis of claims in the *Delta Stewardship Council Cases*. Staff recommends the term and associated language addressing limitations on imports be removed to reduce litigation risks.
- Finally, the Collaborative Science and Adaptive Management Program (CSAMP) was started in 2013 by the federal, state, local, and Non-Governmental Organization parties to the biological opinions litigation as a means to seek improved scientific understanding of species in a way that would reduce the chance of litigation in the future. This program is working well with the exception that funding has been difficult to obtain and Reclamation has experienced serious difficulties and delays in contracting. Staff recommends that a provision be added to Title II to fix contracting issues, authorize Reclamation to contribute directly to CSAMP, and authorize $5 million in appropriations.

Policy

Minute Item 46637, dated April 11, 2006, adopting a set of Delta policy principles ensuring a foundation for development of future positions and provide guidance to staff

Minute Item 47135, dated June 12, 2007, adopting Metropolitan's Delta Action Plan

Draft Minute Item 50217, dated August 18, 2015, adopting additional Metropolitan 2015/2016 Legislative Priorities

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because the proposed action involves organizational and administrative activities that will not result in physical changes in the environment (Section 15378(b)(5) 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 Guide lines).

The CEQA determination is: Determine that the proposed action is not subject to the provisions of CEQA pursuant to Sections 15378(b)(5) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination that the proposed action is not defined as a project under CEQA and is not subject to CEQA, and

Authorize the General Manager to express a support position for, and seek amendments to S. 1894.

Fiscal Impact: Unknown
Business Analysis: If passed, S. 1894 could potentially provide short-term benefits to SWP operations during the drought. If authorized funding is appropriated, it could also provide a significant amount of funding for water supply and demand-management projects that benefit Southern California.

Option #2

Adopt the CEQA determination that the proposed action is not defined as a project under CEQA and is not subject to CEQA, and

Take no position on S. 1894.

Fiscal Impact: Unknown
Business Analysis: If passed, S. 1894 could potentially provide short-term benefits to SWP operations during the drought. If authorized funding is appropriated, it could also provide a significant amount of funding for water supply and demand-management projects that benefit Southern California.

Staff Recommendation

Option #1

9/16/2015
Dee Zinke Date
Deputy General Manager, External Affairs

9/16/2015
Jeffrey Kightlinger Date
General Manager

Attachment 1 – S. 1894 introduced July 29, 2015

Ref# ea2639178

Note: Attachment filed with Electronic Copy