

WEST BASIN MUNICIPAL WATER DISTRICT

DECEMBER 8, 2004 - Water Resources
Little, Kwan
DECEMBER 20, 2004 - Board Meeting
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Approved by: Richard Nagel

INFORMATION CALENDAR

METROPOLITAN WATER DISTRICT (MWD)
PROPOSED "RATE STRUCTURE INTEGRITY" LANGUAGE

SUMMARY:

For several months, MWD and its member agencies have discussed the merits of an MWD proposal that would add "rate structure integrity" language to all future Local Resources (LRP), Seawater Desalination, and Conservation Credits incentive contracts with member agencies. The intent of the new provisions is to discourage member agencies and sub-agencies that receive incentive payments from challenging MWD's rate structure outside of the MWD Board process. Such legislative or legal (courts) actions would trigger a contract termination process. Should mediation prove unsuccessful, MWD's CEO would recommend termination of the incentive contract, and ultimate approval of the termination would rest with the MWD Board. Several documents are included herewith to further provide background on the rate structure integrity provisions, including the first letter from MWD CEO Ron Gastelum on this topic, dated June 18, 2004 (see Exhibit "A"), a District staff information item to the Board from August 2004 (see Exhibit "B"), and the final draft of the language from MWD (Exhibit "C").

Since the time that the rate structure integrity language was introduced, several new LRP incentive agreements have been conditionally approved by the MWD Board, pending successful negotiation of the new provisions. Mr. Gastelum had targeted the end of this calendar year to bring the rate structure integrity proposal to conclusion in order to move forward with these pending agreements and many future agreements soon to come before the Board.

Current Status

Several member agencies participated in a separate discussion without MWD staff on November 15 to explore potential amendments or alternative concepts to the MWD proposal. In a letter to Mr. Gastelum dated November 18 (see Exhibit "D") and signed by a majority of the member agency general managers at the meeting, more time was requested to reach a new consensus-based alternative. The District was represented at the meeting by Co-Acting General Manager Rich Nagel, but was not a signatory to the letter along with Calleguas MWD, Los Angeles, and Central Basin.

In his response letter to all member agency general managers also dated November 18, 2004 (see Exhibit "E"), Mr. Gastelum reaffirmed his intent to bring the current rate structure integrity proposal to the MWD Board in December. Also included with Mr. Gastelum's letter is a response to issues raised by the San Diego County Water Authority regarding the proposed language.

Pending Metropolitan Board Action

Although the MWD Board report for the rate structure integrity proposal is not available as of the drafting of this memo, MWD staff has indicated that four options will be presented for the Board's consideration. The MWD Board letter will be available and distributed to the Board prior to the December Water Resources Committee meeting. Staff understands the four options as follows:

- **Option 1** - the final draft rate structure integrity language;
- **Option 2** - an amended version of the language that outlines a more lenient process whereby MWD Board deliberation and non-binding mediation steps must be exhausted prior to legislative or legal action by the member agency, but ultimately MWD does not act to terminate the incentive agreement;
- **Option 3** - Do nothing relative to the rate structure integrity language; or
- **Option 4** - Defer action until the alternative member agency proposal, as referenced in Exhibit "D", can be considered in April 2005.

The MWD Committee and Board meetings are scheduled for December 13 and 14, respectively.

FISCAL IMPACTS:

Approval of the rate structure integrity language by MWD's Board and its inclusion in all future MWD incentive agreements would not impact existing agreements the District has entered into with MWD, but could affect future incentive agreements such as Conservation Credits, in the event that the District were to challenge the MWD rate structure through legislative or legal means, as described in the current proposed language in Exhibit "C".

ENVIRONMENTAL COMPLIANCE:

Not applicable.

COMMITTEE STATUS:

This item was reviewed by the Water Resource Committee on December 8, 2004 and agendaized to the December 20, 2004 Board meeting as information for discussion.

RECOMMENDED MOTION:

This item is for information only.

LIST OF EXHIBITS:

- Exhibit "A" - June 18, 2004 Letter to Member Agency Managers from Ron Gastelum
- Exhibit "B" - MWD's Replenishment Water Policy Memorandum
- Exhibit "C" - Final Draft Rater Structure Integrity
- Exhibit "D" - November 18, 2004 Letter to Member Agency Managers from Ron Gastelum
- Exhibit "E" - Letter to Ron Gastelum