



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Manager

November 29, 2016

Mr. Kurt Berchtold, Executive Officer
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

Ms. Felipa Carrillo, Executive Assistant
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

RE: Comment Letter – Amendments to the Water Quality Control Plan for the Santa Ana River Basin Plan

The Metropolitan Water District of Southern California (Metropolitan) appreciates the opportunity to comment on the Santa Ana Regional Water Quality Control Board's (Regional Board's) proposed amendments to the Water Quality Control Plan for the Santa Ana River Basin Plan (hereafter referred to as the Basin Plan). Metropolitan offers the following comments opposing the proposed Commercial and Sport Fishing "COMM" beneficial use designation in Table 3-1 for Lake Mathews in Riverside County (see Attachment 1). Metropolitan is concerned that any effort to open Lake Mathews to the public is contrary to the California Code of Regulations and Metropolitan's Administrative Code, and may jeopardize long-standing environmental protections for the area and compromise critical water supply infrastructure operational flexibility.

Background

Metropolitan is a regional water wholesaler that delivers approximately two million acre-feet per year to 26 member public agencies, who in turn provide water to nearly 19 million people in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura counties. To supply the more than 300 cities and unincorporated areas in Southern California with safe and reliable water, Metropolitan owns and operates an extensive water system including the Colorado River Aqueduct, 16 hydroelectric facilities, nine reservoirs, 830 miles of large-diameter pipes, and five water treatment plants. Lake Mathews is the western terminus of Metropolitan's Colorado River Aqueduct system and is a vital component of southern California's imported water supply system.

Maintaining a high level of water quality in Lake Mathews is of utmost importance to Metropolitan. As such, Metropolitan has made significant investments to protect this critical water source. First and foremost, Metropolitan jointly maintains the 5,110-acre multiple

species reserve around Lake Mathews to prevent both illegal access to the lake and development-related pollution sources. Furthermore, Metropolitan constructed several watershed protection facilities, such as the Cajalco Creek Dam and Detention Basin, to protect Lake Mathews from runoff impacts and hazardous spills.

Comments

Metropolitan opposes the Regional Board adding the COMM beneficial use designation to Lake Mathews. Metropolitan offers the following comments on the proposed amendments to Table 3-1 of the Basin Plan for the Regional Board's consideration:

1. Adding the Commercial and Sport Fishing "COMM" beneficial use for Lake Mathews would conflict with federal and state law and Metropolitan's Administrative Code.

Comment 1

Table 3-1 of the Basin Plan seeks to add COMM to the list of beneficial uses for Lake Mathews. However, this designation conflicts with existing legal requirements for Lake Mathews as both an ecological reserve and terminal reservoir. The land surrounding Lake Mathews is an ecological reserve, as defined by the California Code of Regulations. As such, Lake Mathews is "closed to all visitor use/access" (Title 14 Cal. Code Regs. § 630(b)(67) and (h)(20)). In addition, Metropolitan is legally obligated under the California and federal Endangered Species Acts to maintain Lake Mathews and its surrounding lands in their natural state pursuant to the Lake Mathews Multiple Species Habitat Conservation Plan and Natural Community Conservation Plan (MSHCP/NCCP, 1995) and Cooperative Management Agreement (CMA, 1995). These agreements significantly restrict recreational activities on and around the lake.

As a "terminal reservoir" per the California Health & Safety Code § 117050, "Public fishing shall not be conducted" at Lake Mathews from either the water or land. It is further worth noting that based on its terminal reservoir status, Lake Mathews currently has a Municipal and Domestic Supply "MUN" beneficial use designation. Per the MUN designation, "[a] public agency may establish and enforce all rules and regulations necessary or convenient to the conducting of public fishing on the reservoir and its surrounding land and for the control, operation and protection of the reservoir, its surrounding land and all structures, facilities and equipment in connection with the reservoir" (Cal. Health & Safety Code § 117060). Metropolitan's Administrative Code has reaffirmed that Lake Mathews not be used for recreational purposes (Metropolitan's Admin. Code § 4208). Therefore, the COMM beneficial use designation would be erroneous as fishing is not legally available on Lake Mathews.

2. The COMM beneficial use designation could be cited as precedent for efforts to open Lake Mathews for fishing

Comment 2

While Metropolitan understands that the COMM beneficial use designation does not obligate Metropolitan to open Lake Mathews to fishing, the new designation could be cited as a reason to do so. For example, in 2013, Assembly member Kevin Jeffries (R-Riverside) introduced Assembly Bill (AB) 1686 that proposed to open Lake Mathews to recreational activities, including fishing. A copy of Metropolitan’s Board Letter directing staff to oppose AB 1686 is attached (Attachment 2). The bill’s author dropped AB 1686 based on Metropolitan’s opposition for the same reasons stated above. By adding the COMM beneficial use to Lake Mathews, it could be more difficult for Metropolitan to deter external interests seeking to open the lake to recreation, despite the legal protections against any such action.

3. Metropolitan recommends the footnote for REC1 be moved to encompass all beneficial uses for Lake Mathews

Comment 3

Footnote number 4 under Table 3-1 of the amended Basin Plan refers to the REC1 beneficial use designation for Lake Mathews and says “Access prohibited per agency/company with jurisdiction.” Metropolitan recommends that the numeric marker for footnote number 4 be moved from the REC1 column (i.e., X⁴) to the first column such that it reads “Lake Mathews⁴” (see excerpt from Table 3-1 below). In this fashion, it is clear that Lake Mathews is closed to the public not just for REC1, but for all public access related beneficial uses.

Table 3-1 BENEFICIAL USES – Continued (Table modified for display purposes)

LAKES AND RESERVOIRS	BENEFICIAL USE									
	MUN	AGR	IND	PROC	GWR	...	REC1	REC2	COMM	...
UPPER SANTA ANA RIVER BASIN										
...										
Lake Mathews ⁴	X	X	X	X	X	...	X ⁴	X		...
...										

⁴ Access prohibited per agency/company with jurisdiction

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Conclusion

Metropolitan thanks the Regional Board for the opportunity to comment on the draft Basin Plan amendments. Based on the comments provided above, Metropolitan respectfully requests that the Regional Board not add the COMM beneficial use designation to Lake Mathews in Table 3-1.

If you have any questions regarding this matter, please feel free to contact Bart Koch at bkoch@mwdh2o.com or (213) 217-5646.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Green", with a long horizontal flourish extending to the right.

Jim Green
Group Manager, Water System Operations

CG:reg

(O:\Oopsexec\Admsupport\Correspondence\Final-MWD Comment Ltr. On Santa Ana.doc)

Table 3-1 BENEFICIAL USES - Continued

LAKES AND RESERVOIRS	BENEFICIAL USE																	Hydrologic Unit		
	MUN	AGR	IND	PROC	GWR	NAV	POW	REC1	REC2	COMM	WARM	LWRM	COLD	BIOL	WILD	RARE	SPWN	EST	Primary	Secondary
UPPER SANTA ANA RIVER BASIN																				
Baldwin Lake	+							I	I		I		I	I	I	I			801.73	
Big Bear Lake	X	X			X			X	X	X	X		X		X	X			801.71	
Erwin Lake	X							X	X				X	X	X	X			801.73	
Evans, Lake	+							X	X		X		X		X				801.27	
Jenks Lake	X	X			X			X	X	X			X		X				801.72	
Lee Lake	+	X	X		X			X	X		X				X				802.34	
Mathews, Lake	X	X	X	X	X			X ⁴	X	X	X				X	X			802.33	
Mockingbird Reservoir	+	X						X ⁴	X		X				X				802.26	
Norconian, Lake	+							X	X		X				X				802.25	
Prado Park Lake	+							X	X	X	X				X				801.21	
LOWER SANTA ANA RIVER BASIN																				
Anaheim Lake	+				X			X	X	X	X				X				801.11	
Irvine Lake (Santiago Reservoir)	X	X						X	X	X	X		X		X				801.12	
Peters Canyon, Rattlesnake, Sand Canyon, and Siphon Reservoirs	+	X						X ⁴	X		X				X				801.11	

X Existing or Potential Beneficial Use
 I Intermittent Beneficial Use
 + Exempted from MUN (see text)

⁴ Access prohibited per agency/company with jurisdiction



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

3/13/2012 Board Meeting

8-15

Subject

Express opposition to AB 1686 (Jeffries, R-Riverside) - Waterways: Lake Mathews

Description

Assembly Member Kevin Jeffries (R-Murrieta) has introduced legislation that would open Lake Mathews and its surrounding lands to boating, fishing, and hiking. The bill (AB 1686) (Attachment 1) mandates that public access be allowed for hiking in the Lake Mathews Reserve and boating on the reservoir. Metropolitan is prohibited from taking "any action contrary to the authority granted" by the legislation, except that it may set a daily limit on the number of boats and hikers, set a speed limit on the lake, and collect a fee for access. There is no funding provided in the bill to establish either boat ramps or hiking trails. Instead, Metropolitan is allowed to work with other local agencies to develop funds for "any necessary infrastructure" to meet the legislative mandate. Nor is there any provision in the bill to replace the habitat located on the Lake Mathews Reserve that has been used as mitigation for other projects by Metropolitan and the State Water Project.

It has been Metropolitan's policy from the time Lake Mathews was first constructed that it not be used for recreation. That policy is set out in Section 4208 of the Administrative Code. Lake Mathews acts as the terminal reservoir for the Colorado River Aqueduct and has also served to provide wildlife protection and environmental mitigation for other Metropolitan water supply projects.

In 1979, Metropolitan executed an agreement with the Department of Water Resources (DWR) and Department of Fish and Game (DFG) to dedicate 2,565 acres at Lake Mathews to offset the environmental impacts of State Water Project facilities. In 1982, these lands received additional legal protection when they were designated a State Ecological Reserve by the Fish and Game Commission. Regulations governing the Lake Mathews Reserve prohibit public boating and fishing on the lake. AB 1686 does not address these regulations and would leave Metropolitan facing conflicting legal obligations.

In 1995, Metropolitan joined with the Riverside County Habitat Conservation Agency (RCHCA) to utilize additional lands around Lake Mathews to obtain permits allowing the incidental take of endangered species as a result of Metropolitan's water supply activities. The resulting Lake Mathews Multiple Species Habitat Conservation Plan and Natural Community Conservation Plan (Lake Mathews MSHCP/NCCP) was approved by the DFG and the U. S. Fish and Wildlife Service. The reserve lands set aside encompass 5,110 acres surrounding Lake Mathews, including the lands within the State Ecological Reserve. Public access was initially restricted to the prearranged tours conducted by Metropolitan. After a legal challenge of the Lake Mathews MSHCP/NCCP by the San Bernardino Valley Audubon Society, Metropolitan and DFG agreed to allow additional public access "only for environmental, scientific and/or educational purposes." Metropolitan has relied on the incidental take permits issued through the Lake Mathews MSHCP/NCCP for construction and operations impacts of projects in western Riverside County. Opening the reserve lands to public access for hiking and recreational uses would jeopardize the continued validity of the incidental take permits and potentially require Metropolitan to acquire and preserve replacement lands to maintain compliance with its legal obligations under the California and federal Endangered Species Acts.

AB 1686 is not the first effort to open Lake Mathews to recreational uses. In the 1980s the State Department of Parks and Recreation undertook a feasibility study of establishing a park unit at Lake Mathews. The proposal was strongly opposed by DFG and did not proceed. The Riverside County Chamber of Commerce then pursued opening the lake for recreation, but the county parks department declined to put up any funds for the effort. More recently, in 2007, the mayor of the city of Riverside made recreational use of Lake Mathews a goal of his administration. In light of the many state and federal legal restrictions on use of the reservoir, the city had no authority to proceed with the mayor's goal.

Metropolitan currently provides recreational uses at Lake Skinner and Diamond Valley Lake in Riverside County. In addition, recreation is allowed at Lake Perris, which is operated by DWR as part of the State Water Project. The availability of recreational opportunities for boating, fishing, and hiking at each of these reservoirs provides Riverside County with access to Metropolitan-funded facilities that were designed and constructed for recreational uses. Metropolitan has also contributed to the creation of other Riverside County reserves that provide hiking and recreation, including the Shipley Reserve and Santa Rosa Plateau Reserve.

AB 1686 does not recognize Metropolitan's considerable contributions to recreation in Riverside County. Nor does it address the existing state regulations and mitigation agreements that Metropolitan has put in place to utilize Lake Mathews and the Lake Mathews Reserve lands as the basis for mitigation of environmental impacts caused by its water supply facilities in the region. The bill's mandate that the lake be opened to public use comes without any means for Metropolitan to continue to comply with its existing legal obligations to protect these lands against disturbance. Nor does the legislation provide Metropolitan any funding for meeting the public access requirement. Boat launches and hiking trails would entail a significant capital cost to construct, with no assurances that access fees would cover even the costs required to operate and maintain those facilities.

The proposed legislation imposes a requirement on Metropolitan that violates its existing legal obligations and would require significant expenditures. Metropolitan has already contributed to the recreational opportunities in Riverside County through its other reservoirs and reserve lands that are open for public use. For these reasons, staff recommends that Metropolitan oppose AB 1686.

Policy

Metropolitan Water District Administrative Code Section 4208: No Recreational Use of Lake Mathews

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 and express opposition to AB 1686.

Fiscal Impact: Significant unquantifiable costs would be required to construct recreation facilities and potentially to replace the reserve lands with undisturbed habitat to remain in compliance with environmental permits.

Business Analysis: Continuation of Metropolitan’s policy to preclude recreational use of Lake Mathews will protect the existing investment in environmental mitigation and avoid costs of constructing new facilities that may not provide sufficient revenue to cover those costs.

Option #2


Take no action on AB 1686.

Fiscal Impact: Significant unquantifiable costs would be incurred to comply with the bill’s mandate to open Lake Mathews to boating and hiking if the bill is enacted into law.

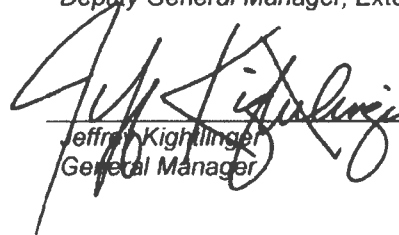
Business Analysis: It is unknown whether Metropolitan would recover the costs of constructing and operating recreational facilities at Lake Mathews, but experience at other reservoirs that would compete with Lake Mathews suggests that such costs would not be recovered.

Staff Recommendation

Option #1


Linda Waade
Deputy General Manager, External Affairs

3/6/2012
Date


Jeffrey Kightlinger
General Manager

3/6/2012
Date

Attachment 1 – Assembly Bill 1686

Ref# ea12617415

ASSEMBLY BILL

No. 1686

**Introduced by Assembly Member Jeffries
(Coauthors: Assembly Members Miller and Nestande)
(Coauthor: Senator Emmerson)**

February 14, 2012

An act to add Section 64.6 to the Harbors and Navigation Code, relating to waterways.

LEGISLATIVE COUNSEL'S DIGEST

AB 1686, as introduced, Jeffries. Waterways: Lake Mathews.

The Department of Boating and Waterways regulates the navigable waters in the state, including the operation of small craft harbors, boating facility planning and design, and beach erosion.

This bill would require the department to allow public access, as prescribed, to Lake Mathews, a reservoir in Riverside County, for the purposes of boating, fishing, and hiking, including access by nonmotorized bicycles. The bill would prohibit body contact with the lake, and limit the type of boats and fuel permitted on the lake. The bill also would allow the Metropolitan Water District of Southern California to develop, fund, and operate any necessary infrastructure; limit the number of boats on the water and persons accessing the recreational area of the lake; establish a fee for access to recreational, boating, and parking areas of the lake; and establish a speed limit for all boats on the water.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

AB 1686

— 2 —

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 64.6 is added to the Harbors and
- 2 Navigation Code, to read:
- 3 64.6. (a) It is the intent of the Legislature to allow for
- 4 recreational hiking and fishing at Lake Mathews.
- 5 (b) The department shall allow public access to Lake Mathews,
- 6 a reservoir in Riverside County, for the purposes of boating,
- 7 fishing, and hiking.
- 8 (c) Public hiking access shall be to the Lake Mathews-Estelle
- 9 Mountain Reserve, and public hiking access shall include access
- 10 by nonmotorized bicycles.
- 11 (d) Public access shall not include body contact with the lake.
- 12 (e) The department shall deny access to the lake for gas-powered
- 13 boats unless the boat meets both of the following conditions:
- 14 (1) The boat has a four-stroke engine or a direct fuel injection
- 15 two-stroke engine and complies with regulations of the State Air
- 16 Resources Board.
- 17 (2) The boat uses gasoline free of MTBE additive.
- 18 (f) The department shall grant access to the lake for
- 19 nonmotorized and electric boats.
- 20 (g) Access to the lake and habitat shall be consistent with habitat
- 21 preservation requirements.
- 22 (h) The department shall allow the Metropolitan Water District
- 23 of Southern California to do all of the following:
- 24 (1) Work with a city, county, nonprofit organization, or other
- 25 public agency to develop, fund, and operate any necessary
- 26 infrastructure.
- 27 (2) With any cooperating agency, set a daily limit on the number
- 28 of boats on the water and persons accessing the recreational area
- 29 of the lake.
- 30 (3) With any cooperating agency, establish a fee for public
- 31 access to the recreational, boating, or parking area of the lake.
- 32 (4) With any cooperating agency, establish a speed limit for all
- 33 boats on the water.
- 34 (i) A local agency shall not take any action contrary to the
- 35 authority granted to the department pursuant to this section.

O