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METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

October 20, 1993

(Water Problems Committee--Action)

To: Board of Directors (Executive Committee--Action)

From: General Manager

Subject: Proposed Option Agreement to Transfer Central Valley Project Water

Report

Staff has been actively pursuing several water transfer proposals including transfers authorized by the Central Valley Project (CVP) Improvement Act (Title XXXIV of P.L. 102-575)(CVPIA). As approved by your Board last month, negotiations continued and have now been finalized with a CVP water user, Areias Dairy Farms (ADF) for such a transfer. The transfer would be accomplished under two agreements, hereafter referred to as "initial agreement" and "final agreement." The initial agreement would provide for a refundable (with interest) "earnest money" payment to ADF. The proposed final agreement would provide for the transfer of highly reliable CVP San Joaquin River Exchange Water during years when Metropolitan would desire this supply. The proposed final agreement would provide for a 15-year transfer period, during which Metropolitan would purchase in any seven years of its choice, about 4,600 acre-feet (AF) of ADF's CVP water supply for a total purchase during the 15-year period of about 32,200 AF.

There are no major changes in the basic transfer concept included in the principles submitted to your Board at its meeting last month. However, during negotiations, two uncertainties that had to be resolved were identified. The uncertainties were: (1) that the U.S. Bureau of Reclamation (Reclamation) could reduce the amount of water that could be transferred; and (2) the transfer water would be subject to the "M&I Cost of Service" rate as is currently proposed by Reclamation. To deal with these uncertainties, the principles submitted to your Board for the transfer were modified in two ways.

First, it is possible that Reclamation, during its review and approval process, may reduce the amount of water estimated to be available for transfer to Metropolitan. Should Reclamation reduce the amount of water to be transferred, the contract terms would be extended so that Metropolitan would purchase water from ADF, a maximum of nine years out of 20 years. This would assure that the total amount of water purchased by Metropolitan would remain as close as possible to the amount included in the principles previously submitted to your Board. This change would retain the overall value of the proposed agreement to Metropolitan and ADF.

Second, Reclamation has stated that it plans to charge the M&I Cost of Service Rate on water transferred outside the CVP service area for municipal and industrial uses. This cost is estimated by Reclamation to be $42 per acre-foot. Metropolitan and ADF have agreed to split this charge, each paying $21 per acre-foot to Reclamation. However, there are a number of reasons why Metropolitan's staff and others believe this charge should not be assessed against Exchange Water. Should Metropolitan not be successful in arguing against imposition of this change, ADF has agreed to act as plaintiff in bringing suit against Reclamation's imposition of the charge. In the negotiation, staff has agreed to pay the legal expenses of this suit. If imposition of this charge is not overturned, Metropolitan would agree to purchase water from ADF in eight out of 17 years, again to retain the overall value of the proposed agreement to Metropolitan and ADF. Under no circumstances would Metropolitan be obligated to purchase water more than nine out of 20 years.

Assuming that Reclamation does not impose the M&I Cost of Service, the estimated unit cost of acquiring this supply is $200 per acre-foot (1993 dollars). Components of this cost include payments of $175 per acre-foot to ADF for the water supply, and $25 per acre-foot to Reclamation for the Environmental Restoration Fund (Restoration Fund) created by the CVPIA.

Based upon a total purchase of 32,200 AF of water payments to ADF for this supply would total approximately $5.635 million (1993 dollars). The potential additional cost would be about $1.693 million, including payment of $25 per acre-foot to the Restoration Fund and the potential $21 per acre-foot for the M&I cost of service.

Payments to ADF would be made in the following three components. First, an initial payment of $563,500 would be due upon execution of the initial agreement which would provide the terms for the final agreement to be executed when necessary regulatory and environmental approvals are accomplished. This payment is within the $12 million in the 1993-94 fiscal year budget for exchanges and transfers. ADF would provide financial protection for this payment in a form acceptable to

Metropolitan and agree to return this payment with interest should the final agreement not be executed.

Second, a payment estimated to be $2,254,000 would be made after approvals are accomplished, including approval by your Board, and upon execution of the final agreement. To provide Metropolitan with financial protection, ADF would agree to provide security acceptable to Metropolitan equal to this payment.

Third, the remaining purchase price would be paid in the years when the water is delivered at a rate of $87.50 per acre-foot with adjustments for inflation.

The Agreement provides for an increase in transfer water up to a total of 5,500 AF per year because ADF may include additional lands in the transfer. Although the CVPIA provided a right of first refusal to CVP contractors for CVP water to be transferred outside the CVP service area, Metropolitan would have a right of first refusal above all others to purchase water during additional years if ADF decided to sell such water. Therefore, the actual amounts paid to ADF discussed in this letter may change based upon the actual amount of water transferred. Early discussions regarding the transfer included the possibility of substituting groundwater. However, under the terms of the final agreement no groundwater will be substituted for the transfer water.

There are a number of approvals which must be obtained before this water can be transferred including; approvals by your Board, the Secretary of the Interior, the Department of Water Resources and the State Water Resources Control Board. Staff also intends to seek the concurrence of the Central California Irrigation District, the District that serves ADF, regarding the quantity of water to be transferred and other issues. Compliance with the National Environmental Policy Act and the California Environmental Quality Act (CEQA) is also required prior to implementing the transfer. It should be possible to expeditiously obtain the necessary approvals as this transfer would be accomplished under the CVP Improvement Act and the water involved in this transfer is currently being exported from the Delta.

As the initial agreement does not constitute a project as defined under CEQA, consideration by your Board of CEQA requirements is not required at this time. Prior to authorizing the General Manager to execute any agreement transferring water, appropriate environmental documentation will be prepared for your Board to review and certify.

Board Committee Assignments

This letter is referred for action to:

The Executive Committee because of its authority to study, advise, and make recommendations with regard to policies and procedures to be considered by the Board, pursuant to Administrative Code Section 2917(e); and

The Water Problems Committee because of its authority to study, advise, and make recommendations with regard to policies, sources, and means of importing water required by the District, pursuant to Administrative Code Section 2481(a).

Recommendations

EXECUTIVE AND WATER PROBLEMS COMMITTEES FOR ACTION.

It is recommended that your Board authorize the General Manager to: (1) execute an initial agreement with Areias Dairy Farms, in a form acceptable to the General Council, which would provide for execution of the final agreement consistent with this letter; and (2) make a payment of $563,500 to Areias Dairy Farms consistent with this letter.

JR Wodraska

John R. Wodraska

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