

- **Board of Directors**
Legal and Claims Committee

June 13, 2000 Board Meeting

9-2

Subject

Water Transfer Transaction with Western Water Company

Description

The Board is requested to authorize the General Manager to enter into an agreement that will facilitate the transfer of 1,995 acre-feet of water from Western Water Company (Western Water) for delivery to Santa Margarita Water District (Santa Margarita), a subagency of Municipal Water District of Orange County (MWDOC). On November 10, 1998, the Board approved delivery of 1,000 acre-feet of water. In this case, Western Water has an agreement with Natomas Central Mutual Water Company to transfer Sacramento River water that is available as a result of conservation measures. The proposed agreement for this transaction involves Western Water, MWDOC, Santa Margarita and Metropolitan. Approvals also are required from the Department of Water Resources (DWR) and Bureau of Reclamation.

Transfers of such conserved water are subject to approval by the State Water Resources Control Board. The Board has conditionally approved the transfer of up to 1,995 acre-feet. This transaction is a short-term one-time transfer of water, and is expected to occur when and as the water is available this year. DWR would, on behalf of Metropolitan, convey this supply, less specified losses, through the California Aqueduct as a non-project supply pursuant to the terms of the State Water Contract Monterey Amendment. The water would be transported through Metropolitan's conveyance system on an as-available basis, without interim storage, for delivery to Santa Margarita. Western Water would pay Metropolitan a fee equal to \$160 per acre-foot plus Metropolitan's standard treatment charge of \$82 per acre-foot, as well as power costs. Western Water Co. has also agreed to pay the incremental cost of power associated with moving the transfer water through the East Branch of the State Water Project. The rate of \$160 per acre-foot is for "as-available" service and is based on the recovery of fiscal year 1999-2000 allocable costs associated with Metropolitan's transmission and distribution system, including its capacity in the State Water Project system. The previous transaction involved a fee of \$262 (plus the cost of power and a \$82 treatment charge). That fee was larger than the proposed fee because the transaction was for "firm" service with Metropolitan regulating water in our system. In this transaction, Metropolitan will not provide system regulation.

This transaction would be similar to the 1998 transaction in that the fee charged by Metropolitan would not be subject to adjustment. Furthermore, while Metropolitan may request other agency approvals for the transfer, Western Water would be responsible for taking the lead in obtaining approvals and responding to requests for information. Further, Metropolitan has not waived its rights to advocate that agencies use all reasonable measures to protect the water supply and quality of Metropolitan's water resources.

Metropolitan and DWR have filed a lawsuit regarding a previously proposed water transfer from San Bernardino Valley Municipal Water District through Western Water to Santa Margarita. Since the lawsuit is founded in the defendants' failure to obtain approvals from Metropolitan and DWR, this proposed agreement does not adversely impact the lawsuit.

State Water Resources Control Board approval of the transfer is exempt from the California Environmental Quality Act (CEQA) under Water Code section 1729. Pursuant to CEQA, Metropolitan's approval of the transfer is Categorically Exempt under section 15301 of the *State CEQA Guidelines* as a Class 1 project consisting of the operation of existing facilities involving negligible or no expansion of use beyond that previously existing.

Policy

Metropolitan has adopted policies in support of water transfers (Admin. Code section 4703) and wheeling (Board Resolution 8520, dated January 14, 1997). This transaction is consistent with those policies.

Board Options/Fiscal Impacts

Option #1

It is recommended that the Board determine that proposed agreement qualifies for a Categorical Exemption as a Class 1 project under section 15301 of the *State CEQA Guidelines* and authorize the General Manager to execute, in a form acceptable to the General Counsel, an agreement to facilitate the transfer of water from Western Water Company to Santa Margarita Water District.

Fiscal Impact: Minimal

Option #2

Do not authorize the General Manager to execute the agreement. Run risk of being accused of non-compliance with State Wheeling statute.

Fiscal Impact: None

Staff Recommendation

Option 1.



General Manager

5/29/2000

Date

BLD308