

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

December 12, 2000 Board Meeting

9-6

Subject

Authorize Chairman to Execute Joint Resolution Releasing Proposed Quantification Settlement Agreement amongst the Imperial Irrigation, Coachella Valley, and Metropolitan Water Districts for Public Review

Description

On October 18, 1999, the respective boards of the Coachella Valley Water District (CVWD), the Imperial Irrigation District (IID), Metropolitan, (collectively, the Districts) and the State of California released the Key Terms for Quantification Settlement (Key Terms) as the basis for obtaining public input and completing a Proposed Quantification Settlement Agreement (Proposed Agreement) among the Districts. The Key Terms is available in the Executive Secretary's office. The Proposed Agreement is based on the Key Terms and it is anticipated that the remaining outstanding issues will be resolved prior to the Board's next meeting. As such, consideration can be given to authorizing the Chairman to execute a CVWD-IID-Metropolitan joint resolution releasing the Proposed Agreement for public review pending resolution of the remaining outstanding issues and the concurrence of the Board Negotiating Committee.

The Proposed Agreement is only one of several agreements that will be necessary to fully set forth the rights and obligations of the various parties. The structure of the transaction is based upon the Proposed Agreement, outlined in [Attachment 1](#), being a framework document which has as attached exhibits, detailed Acquisition Agreements, which provide the terms and conditions under which the various parties will be entitled to and make payments for various water supplies. Additionally, an Implementation Agreement, among the Parties and the Secretary of the Interior (Secretary) is also integral to the transaction since it is the contractual mechanism which will commit the Secretary to honor the Acquisition Agreements, the Proposed Agreement, and the Agreement to annually transfer and exchange 35,000 acre-feet of State Water Project entitlement water. Finally, there will also be several "Related Agreements" which will be completed as soon as possible which will set forth among other matters, responsibilities for the actual construction of the lining of portions of the All American and Coachella Canals.

As part of the environmental review process, a Program Environmental Impact Report for Implementation of the Colorado River Quantification Settlement Agreement (EIR) is being prepared by the co-lead Agencies (the Districts and San Diego County Water Authority). Upon completion of the California Environmental Quality Act (CEQA) review process, the respective boards of the Agencies will be able to analyze the potential impacts of the Proposed Agreement. At that time, the parties will be in position to execute the Proposed Agreement, revise the Proposed Agreement, or not proceed, as appropriate based on the information developed in the CEQA review process.

Quantification of rights and uses of Colorado River water with respect to Priorities 3a and 6a of the 1931 California Seven-Party Agreement ([Attachment 2](#)) would help facilitate the implementation of cooperative water supply programs, and provide a needed quantum baseline by which conservation and transfer programs can be measured.

The Proposed Agreement would help California reduce its reliance on Colorado River water above its basic apportionment. The Proposed Agreement would further quantify the rights and uses of Colorado River water by designating water budgets for CVWD, IID, and Metropolitan and facilitate the availability of water to SDCWA resulting from IID's conservation of water.

Under the Proposed Agreement, when California is limited to 4.4 million acre-feet (maf) per year, Metropolitan, under the third, fourth, and fifth priorities, would be able to receive from 771,000 to 851,000 acre-feet per year with transfers and other adjustments. Beyond that and when surplus water and unused apportionments and entitlements of others are not available, supplies from storage and conjunctive use programs, other cooperative water supply programs, and intermittent option supply programs would be substituted to permit delivery of 1.25 maf through the Aqueduct. Water could be withdrawn from the Hayfield Groundwater Storage Program or groundwater storage programs such as the proposed Cadiz Program or potential programs with the Arizona Water Banking Authority and CVWD or in Chuckwalla Valley. Water would be placed in or withdrawn from storage and conjunctive use programs through the coordinated operation and management of water supplies.

The Agencies have been actively engaged in the process leading to the drafting of the Proposed Agreement. To date, a number of milestones have been reached with respect to implementing the Key Terms. These include:

- Drafts of necessary documents were sufficiently defined to form the basis for the environmental reviews.
- The Agencies entered into a Co-Lead Agency Agreement for the preparation and funding of the CEQA Program EIR to address the cumulative and indirect effects of provisions of the Proposed Agreement.
- The National Environmental Policy Act and CEQA environmental reviews for a number of projects which are components of the Proposed Agreement are under way.
- A draft of California's Colorado River Water Use Plan has been released for public review and comment.
- The U.S. Bureau of Reclamation (Reclamation) released its Colorado River Interim Surplus Criteria Draft Environmental Impact Statement (EIS) and the public comment period closed on September 8.
- Representatives of the Governors of the Colorado River Basin states have provided information to Reclamation on the proposed adoption of Colorado River interim surplus guidelines which has been published in the Federal Register.
- An interagency coordinating committee has been formed and the Coachella Canal Lining Project Revised and Updated Draft EIS/EIR was released on September 22 by Reclamation and CVWD for a 60-day public review period, which closed on November 21.
- General agreement has been reached with representatives of the Basin states on inadvertent consumptive use, overruns, and paybacks.
- Discussions and work have been initiated on the development of a potential long-term Palo Verde Irrigation District/Metropolitan cooperative water supply program.
- Funding, construction, and conserved water allocation agreements are being finalized with respect to lining portions of the All American Canal and Coachella Canal.

In addition to completion of the environmental review process, a number of conditions precedent need to be satisfied prior to the Proposed Agreement becoming effective. The conditions precedent are listed in [Attachment 3](#).

Policy

At its October 18, 1999 meeting, the Board approved the use of the Key Terms as the basis for drafting the Proposed Quantification Settlement Agreement among the parties to the Key Terms (Minute Item 43767).

Board Options/Fiscal Impacts

Option #1

Authorize the Chairman to execute the attached joint CVWD, IID, and Metropolitan resolution (**Attachment 4**) releasing the Proposed Quantification Settlement Agreement, the three basic Acquisition Agreements, and the Implementation Agreement for public review pending resolution of the remaining outstanding issues and the concurrence of the Board Negotiating Committee.

Fiscal Impact: None. Consideration of subsequent agreements would entail fiscal impacts which will be reported to the Board at the time authorization to enter into each agreement is presented for the Board's consideration.

Option #2

Do not authorize the Chairman to execute a joint CVWD, IID, and Metropolitan resolution releasing the Proposed Quantification Settlement Agreement, the three basic Acquisition Agreements, and the Implementation Agreement for public review pending resolution of the remaining outstanding issues and the concurrence of the Board Negotiating Committee.


Fiscal Impact: None. Negotiation of alternative agreement(s) could entail fiscal impacts which would be reported to the Board at the time authorization to enter into each such agreement is presented for the Board's consideration.

Staff Recommendation

Option #1.


Stephen N. Arakawa
Manager, Water Resource Management

12/8/2000
Date


Ronald R. Jester
General Manager

12/11/2000
Date

- [Attachment 1](#)
- [Attachment 2](#)
- [Attachment 3](#)
- [Attachment 4](#)

Proposed Quantification Settlement Agreement Terms

1. Provides for a shift of over 400,000 acre-feet per year from agriculture to principally urban use, through water acquisitions from IID to CVWD, MWD and SDCWA and forbearance of the use of 38,000 acre-feet per year of 6th priority water by IID and CVWD for MWD's use.
2. Provides the districts the ability to acquire Colorado River water from persons other than the districts without objection, so long as such acquisition does not materially reduce the water available to the districts under the Agreement.
3. Caps use of water by IID and CVWD under the third priority.
4. Has a term of up to 75 years, and may be extended.
5. Provides MWD with the exclusive right to utilize all water below 420,000 acre-feet per year unused by the Palo Verde Irrigation District and the Yuma Project (Reservation Division) collectively, and assigns responsibility for reducing use of Colorado River water to MWD if use by these two entities collectively exceeds this long-term average.
6. Provides MWD the first opportunity to be the transferee under any defensive transfer agreement proposed by IID.
7. Permits MWD to challenge a proposed IID transfer, other than a transfer of up to 30,000 acre-feet per year within Imperial County, on any grounds so long as that challenge is limited in scope to whether the proposed transfer can be made.
8. Provides a permanent water supply of 16,000 acre-feet per year for the San Luis Rey Indian Water Rights Settlement, from the All American and Coachella Canal Lining Projects and the remainder of the water conserved by those projects, 77,700 acre-feet per year, to MWD for the term of the Agreement, except under certain limited circumstances when MWD has sufficient surplus Colorado River water available.
9. Addresses deductions from IID, CVWD, and MWD's supplies to permit the Secretary to satisfy use of miscellaneous and Indian present perfected rights by holders of those rights as they were not addressed in the 1931 Seven Party Agreement, the majority of the rights being quantified in 1979.
10. Provides that MWD will not: a) pursue any legislative, administrative, or judicial proceeding, or take any other action that would reduce IID's consumptive use entitlement or, b) divert any water that IID is ordered to conserve as the result of a challenge to IID's water supply before year 21 of the quantification period.
11. Provides a State Water Project (SWP) entitlement transfer to CVWD through an exchange agreement. MWD and CVWD will exchange 35,000 acre-feet per year of SWP entitlement transfer water for Colorado River water.
12. Provides MWD a net yield of up to 90,000 acre-feet per year from the IID-MWD Water Conservation Program over a period of up to 75 years.

Priorities in Seven-Party Agreement and Water Delivery Contracts

<u>Priority</u>	<u>Description</u>	<u>Acre-Feet Annually</u>
1	Palo Verde Irrigation District gross area of 104,500 acres of land in the Palo Verde Valley	
2	Yuma Project (Reservation Division) not exceeding a gross area of 25,000 acres in California	
3(a)	Imperial Irrigation District and land in Imperial and Coachella Valleys to be served by All American Canal*	3,850,000
3(b)	Palo Verde Irrigation District—16,000 acres of land on the Lower Palo Verde Mesa	
4	Metropolitan Water District of Southern California for use on coastal plain	<u>550,000</u>
	Subtotal	4,400,000
5(a)	Metropolitan Water District of Southern California for use on coastal plain	550,000
5(b)	City and/or County of San Diego**	112,000
6(a)	Imperial Irrigation District and land in Imperial and Coachella Valleys to be served by the All American Canal*	300,000
6(b)	Palo Verde Irrigation District—16,000 acres of land on the Lower Palo Verde Mesa	
7	Agricultural Use in the Colorado River Basin in California	<u> </u>
	Total	5,362,000

* Land in the Coachella Valley is served by the Coachella Valley Water District.

** In 1946, the City of San Diego, San Diego County Water Authority, Metropolitan, and the Secretary entered into a contract in which the right to storage and delivery of Colorado River water vested in the City of San Diego was merged with and added to the rights of Metropolitan under conditions since satisfied.

Conditions Precedent

1. Completion of appropriate environmental reviews and arrangements made for any required mitigation;
2. receipt of a “no surprises” assurance with respect to Endangered Species Act compliance for the 200,000 acre-feet per year of water acquired by SDCWA from IID, and for the 100,000 acre-feet per year of water to be acquired by CVWD from IID and for which MWD has an option to use if not utilized by CVWD;
3. appointment of an independent panel to provide recommendations to the Secretary regarding whether use on the Yuma Island is charged to the second priority;
4. adoption and implementation of standards and procedures for decree accounting by Reclamation for annual consumptive use by Priorities 1, 2, and 3b which uses a 25-year running average or an actual annual consumptive use;
5. adoption and implementation of standards and procedures for an inadvertent consumptive use, overrun, and payback program by Reclamation, acceptable to IID, CVWD, and MWD;
6. agreement by Reclamation to develop a process for establishing a statistically significant trend test for increases in use by the holders of the 1st, 2nd, and 3b priorities;
7. recognition that the 1998 IID/SDCWA Transfer Agreement must go forward;
8. waiver by SDCWA of any rights under the 1998 IID/SDCWA transfer agreement with respect to conserved water that may be acquired by MWD;
9. concurrence that should IID transfer less than 200,000 acre-feet per year to SDCWA, but later make available additional conserved water for transfer to SDCWA, MWD agrees to exchange such water up to a total of 200,000 acre-feet per year;
10. annual repayment installments provided in section 102(b) of the Colorado River Basin Salinity Control Act dealing with the lining of the first 49 miles of the Coachella Canal shall continue to be non-reimbursable;
11. implementation of Lake Mead interim surplus guidelines acceptable to MWD;
12. completion of negotiation of San Luis Rey Indian Water Rights Settlement water arrangements;
13. agreement with PVID relative to the use of conserved water from lining of the All American and Coachella Canals, expansion of use on the Palo Verde Mesa, and rights to 6th priority water;
14. receipt of state and federal approvals and permits required for the implementation of all of the Quantification Settlement water budget components;
15. ratification, execution, and delivery by the districts of all legal documents and agreements necessary to implement the Quantification Settlement; and
16. execution by IID and CVWD of an agreement regarding the sharing of liability in Salton Sea flooding cases.

IMPERIAL IRRIGATION DISTRICT RESOLUTION ____
COACHELLA VALLEY WATER DISTRICT RESOLUTION ____
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA RESOLUTION ____

JOINT RESOLUTION OF THE BOARDS OF DIRECTORS
OF THE IMPERIAL IRRIGATION DISTRICT,
COACHELLA VALLEY WATER DISTRICT,
AND THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
AUTHORIZING THE RELEASE OF THE
PROPOSED QUANTIFICATION SETTLEMENT AGREEMENT FOR PUBLIC REVIEW

WHEREAS, on October 15, 1999 the negotiating teams for the Imperial Irrigation District, Coachella Valley Water District, The Metropolitan Water District of Southern California (collectively, the Districts), and the State of California signed the Key Terms for Quantification Settlement (Key Terms);

WHEREAS, on October 18, 1999 the respective Boards of Directors of the Imperial Irrigation District, and Coachella Valley Water District released the Key Terms for Quantification Settlement (Key Terms) as the basis for obtaining public input and completing a Quantification Settlement Agreement among the Districts;

WHEREAS, on October 18, 1999 the Board of Directors of The Metropolitan Water District of Southern California authorized the use of the Key Terms as the basis for completing a new Quantification Settlement Agreement among the Districts;

WHEREAS, the Related Agreements to the Quantification Settlement Agreement refers to the Acquisition Agreements, the Allocation Agreement, the Implementation Agreement, the amendment to the IID/MWD 1988 Agreement, the 1989 Approval Agreement, the CVWD/MWD Supplemental Agreement, and any other agreements, amendments and waivers entered into or adopted by or with the written consent of all Parties in connection with this Agreement and the Acquisition Agreements;

WHEREAS, the Quantification Settlement Agreement and Related Agreements are intended to further California's Colorado River Water Use Plan, resolve long-standing water use and water right disputes, enhance water supply reliability, improve water use efficiencies and implement water conservation efforts, promote water storage and conjunctive use programs, foster interagency cooperation in meeting the Districts' joint water supply and management needs, and seek to improve management of the Colorado River reservoirs;

WHEREAS, a Program Environmental Impact Report for Implementation of the Quantification Settlement Agreement (Program EIR) is being jointly prepared by the Districts and the San Diego County Water Authority to assess the environmental impacts of the Quantification Settlement Agreement and Related Agreements pursuant to the California Environmental Quality Act;

WHEREAS, given the importance of this matter to the Districts, The Metropolitan Water District of Southern California's member public agencies, and the public, it is appropriate to consider release of the proposed Quantification Settlement Agreement, Implementation Agreement, and the three basic Acquisition Agreements at this time, prior to completion of the associated environmental reviews, for the purpose of providing interested parties the opportunity to review these proposed agreements before the environmental documents are released for public review;

WHEREAS, the Districts remain committed to continuing to use their best efforts for the timely completion of the environmental reviews and conditions precedent associated with the Quantification Settlement Agreement and Related Agreements, including necessary approvals and permits;

WHEREAS, upon completion of the environmental reviews, conditions precedent, and public review of the Agreements, and if found appropriate at that time based on such completion, the Districts will seek the timely, cooperative implementation of the components of the Quantification Settlement Agreement and Related Agreements consistent with California’s Colorado River Water Use Plan; and

NOW, THEREFORE, BE IT RESOLVED respectively by the Boards of Directors of the Imperial Irrigation District, Coachella Valley Water District, and The Metropolitan Water District of Southern California, that the foregoing recitals are true and confirm the good faith commitment of the Districts;

BE IT FURTHER RESOLVED that the proposed Quantification Settlement Agreement, Implementation Agreement, and the three basic Acquisition Agreements are hereby released for public review with comments to be accepted by the Districts’ respective General Managers through the close of the public comment period on the respective environmental reviews and that each Board directs its respective General Manager to continue to work expeditiously to fulfill the various conditions precedent to the Quantification Settlement Agreement and Related Agreements to enable each Board to consider them for final action at the earliest possible date;

BE IT FURTHER RESOLVED that the other proposed Related Agreements be released for public review at the earliest possible date;

AND BE IT FURTHER RESOLVED that Secretary of the Interior, Bruce Babbitt, Deputy Secretary of the Interior, David Hayes and the Director of the California Department of Water Resources, Thomas Hannigan are to be commended for their efforts in assisting the Districts in reaching a significant milestone in the development of solutions to California’s Colorado River water use issues;

AND BE IT FURTHER RESOLVED that certified copies of this resolution be sent to the Secretary of the Interior, the Deputy Secretary of the Interior, the Director of the California Department of Water Resources, and the Executive Director of the Colorado River Board of California.

WE HEREBY CERTIFY, that the foregoing is a full, true and correct copy of a joint resolution adopted by the Boards of Directors of the Imperial Irrigation District at its meeting held December __, 2000, the Coachella Valley Water District at its meeting held December __, 2000, and The Metropolitan Water District of Southern California at its meeting held December 12, 2000.

Board President
Imperial Irrigation District

Secretary
Imperial Irrigation District

Board President
Coachella Valley Water District

Secretary
Coachella Valley Water District

Board Chairman
The Metropolitan Water District
of Southern California

Executive Secretary
The Metropolitan Water District
of Southern California