

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

January 8, 2002 Board Meeting

9-8

Subject

Authorize execution of agreement dismissing protest filed by the Metropolitan Water District to the Petition to the State Water Resources Control Board filed by Imperial Irrigation District and San Diego County Water Authority for transfer of Colorado River water

Description

On April 28, 1998, the Imperial Irrigation District (IID) and the San Diego County Water Authority (SDCWA) entered into an agreement for the transfer of up to 200,000 acre-feet per year of conserved water from IID to SDCWA (IID/SDCWA Agreement). The IID/SDCWA Agreement is conditioned upon, among other things, approval by the State Water Resources Control Board (SWRCB). On July 22, 1998, IID and SDCWA filed a Petition for Approval of the IID/SDCWA Agreement, and to change the point of diversion and place of use. Metropolitan and the Coachella Valley Water District (CVWD), among others, filed timely protests to the Petition. At the time of filing the protests, both Metropolitan and CVWD indicated their willingness to consider withdrawal of their protests upon settlement of outstanding Colorado River issues in a manner that adequately addressed their respective concerns. Subsequently, the Petition has been amended to also seek approval for the transfer of an additional 100,000 acre feet of conserved water per year from IID to CVWD and/or Metropolitan with a change in the point of diversion for any water going to Metropolitan from Imperial Dam to Lake Havasu.

The IID/SDCWA Agreement is an integral part of California's draft Colorado River Water Use Plan (California Plan) and the proposed Quantification Settlement Agreement (QSA). The parties have settled their disputes relating to the quantification, delivery, use, acquisition and transfer of Colorado River water as set forth in the QSA and the additional agreements implementing the QSA. Based upon these agreements, Metropolitan and CVWD have agreed to dismiss their respective protests. The terms of the dismissal are set forth in an agreement (Protest Dismissal Agreement) among IID, SDCWA, CVWD and Metropolitan. The terms of the Protest Dismissal Agreement include that dismissal of the protests is subject to the continuing effectiveness and implementation of the QSA, and that Metropolitan and CVWD do not acknowledge SWRCB jurisdiction over the matter. Both Metropolitan and CVWD retain their rights to appear as interested parties at the SWRCB hearing on the Petition. Should there be a failure of the QSA, the IID-SDCWA Transfer petition shall be withdrawn and SDCWA and IID shall file a new petition. If SDCWA and IID were to file a new petition, Metropolitan and CVWD would then be free to file new protests.

Policy

By Minute Item 43767, dated October 18, 1999, the Board approved the use of the *Key Terms for Quantification Settlement Among the State of California, IID, CVWD and MWD* (Key Terms) as the basis for completing a new QSA among the parties to the Key Terms. The IID/SDCWA Agreement is integral to the implementation of the QSA.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because the proposed action 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 the provisions of CEQA per Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required.

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and authorize the CEO to execute the Protest Dismissal Agreement among Metropolitan, CVWD, IID and SDCWA dismissing Metropolitan's and CVWD's protests of the SWRCB approval of the IID/SDCWA Agreement for transfer of water from IID to SDCWA.

Fiscal Impact: No direct fiscal impact

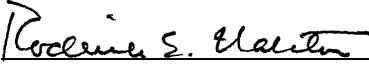
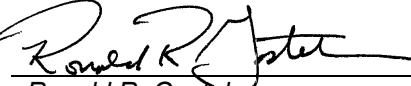
Option #2

Do not authorize the CEO to execute the Protest Dismissal Agreement among Metropolitan, CVWD, IID and SDCWA dismissing Metropolitan's and CVWD's protests of the SWRCB approval of the IID/SDCWA Agreement for transfer of water from IID to SDCWA.

Fiscal Impact: Unknown. As SWRCB approval is a condition precedent to the IID/SDCWA Agreement and the IID/SDCWA Agreement is integral to the approval and implementation of the QSA, failure to obtain SWRCB approval may impact the approval of the QSA and implementation of the California 4.4 Plan.

Staff Recommendation

Option #1

	12/26/2001
Roderick E. Walston General Counsel	Date
	12/26/2001
Ronald R. Gastelum Chief Executive Officer	Date