

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

October 8, 2002 Board Meeting

9-4

Subject

Approve Principles of Agreement for water supply arrangements pursuant to San Luis Rey Indian Water Rights Settlement Act

Description

To help bring about the settlement of an Indian water rights dispute along the San Luis Rey River, staff recommends that Metropolitan agree to facilitate receipt of water through an exchange or purchase agreement. Settlement of this water right dispute is a condition precedent to implementation of the Quantification Settlement Agreement (QSA) for Colorado River supplies. Benefits to Metropolitan of executing the QSA include sustaining provisions of the Interim Surplus Guidelines and facilitating water transfers.

Background

The San Luis Rey River in San Diego County has insufficient supply to meet the needs of the La Jolla, Pala, Pauma, Rincon, and San Pasqual Bands of Mission Indians (Indian Bands), the city of Escondido and the Vista Irrigation District (Local Entities). To address this situation, the San Luis Rey Indian Water Rights Settlement Act provides for up to 16,000 acre-feet (AF) of water annually to be furnished by the Secretary of the Interior upon execution of an agreement in the future by both the Indian Bands and the Local Entities (Settlement Parties) and the United States. The source would be water conserved by the All American and Coachella Canal lining projects. At the time of the legislation, Congress contemplated that arrangements would be made with Metropolitan to facilitate Settlement Parties' receipt of the water.

Proposed Principles

Representatives of the United States, the Settlement Parties, and Metropolitan have drafted principles of agreement (**Attachment 1**) addressing two options: Metropolitan exchanging the conserved water for a like quantity or Metropolitan purchasing the water.

Under the exchange concept, the Department of the Interior would provide Metropolitan with up to 16,000 AF of conserved water per year from Lake Havasu. The Settlement Parties would pay Metropolitan the same fee as set in the Metropolitan – San Diego County Water Authority Exchange Agreement for the first 20 years of that agreement. Currently, this would be \$95.71 in 2002 dollars escalated at 1.55 percent per year for each AF. Metropolitan would be furnished 2,000 kilowatt-hours of electrical energy per AF annually by the United States to pump the water through its Colorado River Aqueduct. Metropolitan would provide the Settlement Parties with a like amount of water at or near the terminus of Metropolitan's distribution system in San Diego County.

Under a purchase concept, Metropolitan would pay the Settlement Parties for the water as it becomes available and for the power used to pump it. The Indian Bands through the United States would in turn purchase water for use on their reservations from Metropolitan.

Upon the conclusion of negotiations, staff will provide final agreement terms for Board consideration.

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 Quantification Settlement Agreement among the parties. Reaching a settlement regarding implementation of the San Luis Rey Indian Water Rights Settlement Act is a condition precedent to the commencement of the quantification period.

California Environmental Quality Act (CEQA)

CEQA determination for Options #1 and #2:

This board letter seeks approval of the Principles of Agreement for water supply arrangements pursuant to the San Luis Rey Indian Water Rights Settlement Act. The environmental effects of the proposed action have already been contemplated in two previous environmental documents, the certified All-American Canal Lining Project (AAC) Final Environmental Impact Statement/Final Environmental Impact Report (FEIS/FEIR) and the certified Coachella Canal Lining Project (Coachella) FEIS/FEIR. Acting as the CEQA Lead Agency, the Imperial Irrigation District certified the AAC FEIS/FEIR and approved its project on August 16, 1994. With respect to the Coachella project, Coachella Valley Water District acted as the CEQA Lead Agency and certified its FEIS/FEIR, along with approving its project, on May 15, 2001. Metropolitan, acting as a Responsible Agency under CEQA, certified that it had reviewed and considered the information contained in those two FEIS/FEIR documents and adopted the Lead Agencies' findings on December 13, 1994, for the AAC project and on September 11, 2001, for the Coachella project. These previous actions taken by the Board fully comply with CEQA and the State CEQA Guidelines and, as such, no further CEQA documentation is necessary for the Board to act on the proposed action.

The CEQA determination is: Determine that the proposed action has been previously addressed in the two certified FEIS/FEIR documents for the 1994 AAC project and the 2001 Coachella project and that no further environmental analysis is required.

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and approve the principles of agreement for the water supply arrangements to facilitate implementation of the San Luis Rey Indian Water Rights Settlement Act.

Fiscal Impact: Fiscal impacts will be presented at the conclusion of negotiations and are dependent upon which option is adopted.

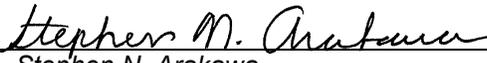
Option #2

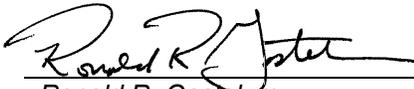
Adopt the CEQA determination and provide direction to the Chief Executive Officer regarding the development of new principles of agreement.

Fiscal Impact: None

Staff Recommendation

Option #1

 Stephen N. Arakawa Manager, Water Resource Management	9/25/2002 Date
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 Ronald R. Gastelum Chief Executive Officer	9/25/2002 Date
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Attachment 1 – Principles of Agreement among the United States of America, The Metropolitan Water District of Southern California, the San Luis Rey Indian Water Authority, the City of Escondido, and the Vista Irrigation District

BLA #2001

PRINCIPLES OF AGREEMENT
AMONG
THE UNITED STATES OF AMERICA,
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA,
THE SAN LUIS REY INDIAN WATER AUTHORITY,
THE CITY OF ESCONDIDO AND
THE VISTA IRRIGATION DISTRICT

IT IS AGREED among the United States of America, The Metropolitan Water District of Southern California ("MWD"), the San Luis Rey Indian Water Authority, the City of Escondido and the Vista Irrigation District (collectively referred to herein as "all parties") as follows:

1. All parties recognize the importance of achieving timely execution of the Quantification Settlement Agreement and implementation of the San Luis Rey Indian Water Rights Settlement Act, Title I of P.L. 100-675, as amended ("Settlement Act"). All parties further recognize the interrelationship of those two goals and are committed to achieving them.
2. All parties recognize that Subsection 106(b) of the Settlement Act provides that the United States may utilize existing programs and authorities to facilitate the development of water for the San Luis Rey Indian Water Authority, the City of Escondido and the Vista Irrigation District ("Settlement Parties"). Pursuant to this authorization, the United States Department of the Interior ("DOI") is working with the Settlement Parties and MWD to facilitate appropriate and timely completion of arrangements to provide for the delivery and use of the conserved water supply developed under the Settlement Act.
3. DOI is committed to continuing to fulfill the requirements set forth in the Settlement Act by using existing programs and authorities to secure implementation of the Settlement Act by various actions, including working actively with MWD to increase the efficiency and effectiveness of cooperative resource planning and program development under existing administrative authorities.
4. All parties recognize that arrangements with MWD and the San Diego County Water Authority for direct delivery, exchange, or purchase of the conserved water offer the most practical means for making the conserved water available for use by the Settlement Parties. Accordingly, all parties have an interest in insuring the availability of the physical and economic infrastructure necessary to enable the use of the conserved water supply developed under the Settlement Act.
5. All parties wish to finalize promptly a set of arrangements that provide MWD and the San Diego County Water Authority, as appropriate, with equitable and sustainable consideration for their roles in making the conserved water available while also providing for the timely utilization of the conserved water by the Settlement Parties.
6. MWD and the Settlement Parties have tentatively agreed to enter into an Exchange Agreement under which DOI, consistent with the Settlement Act, would provide MWD with up to

16,000 acre-feet (AF) of water per year as the Settlement Parties' pro rata portion of the water conserved from the All American Canal and Coachella Branch lining projects as it is conserved. In addition, the Settlement Parties would pay MWD \$95.71 (in 2002 dollars, an amount that will escalate permanently at 1.55 percent per year) for each AF of water delivered to the MWD system. MWD would also be furnished 2,000 kWh of electrical power per AF annually on an equalized schedule. In exchange, MWD would provide the Settlement Parties with the same amount of water at or near the terminus of the MWD distribution system in San Diego County. Alternatively, the parties also are considering an approach under which MWD would pay the Settlement Parties for the conserved water as it comes available and for the power to pump it, and the Indian Bands would purchase supplemental water for use on their reservations from MWD. The United States would be a party to the arrangements pertaining to the conserved water pursuant to sections 106(a)(2) and 108 of the Settlement Act.

7. The parties are committed to achieving the prompt completion of these efforts which will allow them to commit staff and resources to the remaining critical activities necessary to implement the California Colorado River Water Use Plan and the Settlement Act.

8. This document memorializes the commitment of the parties to concepts intended to facilitate timely completion of agreements necessary to implement the Settlement Act and applicable provisions of the California Colorado River Water Use Plan, including the Quantification Settlement Agreement. Formal agreements regarding the delivery and use of the conserved water supply will be developed and executed by the parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the dates indicated:

**THE UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR**

By: _____
Deputy Secretary

Approved as to form:

By: _____

**THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA**

By: _____
Chief Executive Officer

Approved as to form:

By: _____
General Counsel

CITY OF ESCONDIDO

By: _____
Mayor

Approved as to form:

By: _____

VISTA IRRIGATION DISTRICT

By: _____
Board President

Approved as to form:

By: _____

SAN LUIS REY RIVER INDIAN WATER AUTHORITY

By: _____
Board President

Approved as to form:

By: _____
Special Counsel