

- **Board of Directors**  
**Asset, Real Estate and Infrastructure Policy Committee**

November 19, 2002 Board Meeting

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8-4

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**Subject**

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Authorize entering into an agreement for acquisition of land in an amount not to exceed \$600,000 to offset impacts to endangered species caused by Inland Feeder construction

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**Description**

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In compliance with environmental laws applicable to construction and operation of the Inland Feeder Program (IFP), Metropolitan has taken special care to avoid impacts to endangered species. The Final Environmental Impact Report, approved by the Board in February 1993, identified avoidance and mitigation measures for the protection of species of special concern. At that time, impacts were identified for one endangered mammal species, the Stephens' kangaroo rat. Metropolitan received incidental take authorization from the California Department of Fish and Game and the United States Fish and Wildlife Service (USFWS) for this species.

In September 1998, the USFWS issued an emergency listing for another mammal species known as the San Bernardino kangaroo rat (SBKR). The areas that are occupied by SBKR include the Inland Feeder alignment along the Santa Ana River and City Creek in San Bernardino County. In connection with the issuance of approval for construction of the Inland Feeder across the Santa Ana and San Jacinto Rivers, the Army Corps of Engineers consulted with the USFWS regarding impacts to SBKR. Metropolitan performed a survey of the alignment to identify areas with SBKR habitat, and used the survey results together with prior reports of SBKR trapping as the basis for proposed mitigation measures. In 1999, the USFWS issued its biological opinion that the Inland Feeder was not likely to jeopardize the SBKR, and authorized incidental take of this species within identified SBKR-occupied areas with the implementation of specified conservation measures. The conservation program included restoration of occupied habitat, monitoring of the restored areas to ensure restoration success, and preservation of 103 acres of off-site habitat. Metropolitan entered into an agreement with the National Fish and Wildlife Foundation (NFWF) to fund the purchase and perpetual preservation of the off-site lands.

The owner of property crossed by the Highland Pipeline alignment recently surveyed it for SBKR in preparation for using the property for mitigation purposes. The survey determined that the property is occupied by SBKR, although it was not identified as occupied at the time of Metropolitan's surveys in 1998. On the basis of this new information, the USFWS notified Metropolitan that construction work in the area was not authorized under the 1999 biological opinion. The Service further requested a re-initiation of consultation with the Army Corps of Engineers. Metropolitan confirmed the likely existence of SBKR in the area and participated in the consultation for an amendment to the existing biological opinion. The USFWS has required that an additional ten acres of off-site habitat be preserved, as well as fencing and restoration of the construction area. The amended biological opinion authorizes Metropolitan to acquire the off-site mitigation through the NFWF or to use an existing mitigation bank. Staff is currently investigating the cost of each option. The maximum estimated cost is \$600,000 based on appraisal and acquisition cost information provided by NFWF. Staff will pursue the least expensive of the alternatives for off-site mitigation. Approval of this action will authorize the CEO to enter into an agreement with either NFWF or the owner of an approved mitigation bank in an amount not to exceed \$600,000 for the purchase and preservation of SBKR mitigation land.

The current projected total cost of \$981.5 million does not include the cost of this land purchase. However, sufficient funds are available in the program budget to fund the purchase. The revised projected total cost for the IFP is \$982.1 million. The total program budget remains at \$1.186 billion.

## Policy

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Metropolitan Water District Administrative Code § 8115: Negotiated Contracts, contracts for the expenditure of \$250,000 or more shall be executed only upon prior approval of the Board

## California Environmental Quality Act (CEQA)

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CEQA determination for Staff Recommendation:

The environmental effects of construction of the Inland Feeder Project were evaluated in the Final Environmental Impact Report and Environmental Assessment (FEIR/EA), which were certified by Metropolitan's Board in February 1993. The Board also approved a Supplemental Environmental Impact Report (SEIR) for the pipeline construction across the Santa Ana River Wash in 1998. In addition, the Army Corps of Engineers has prepared biological assessments in accordance with the Endangered Species Act to identify the effects of the Project on SBKR. This board action is consistent with the impacts analyzed in the prior FEIR/EA and SEIR, and implements the mitigation measures set forth in the incidental take permit for SBKR issued by the USFWS. As such, no further environmental documentation is necessary for the Board to act on the proposed action.

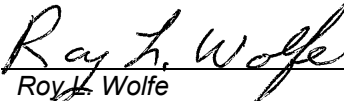
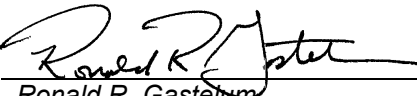
The CEQA determination is: Determine that the proposed action has been previously addressed in the 1993 certified FEIR/EA, the 1998 SEIR, and the 1999 biological opinion, as amended, and that no further environmental analysis or documentation is required.

## Staff Recommendation

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Adopt the CEQA determination and authorize the CEO to enter into an agreement in an amount not to exceed \$600,000 to acquire ten acres of off-site mitigation lands for the Inland Feeder Project in compliance with the requirements of the amended biological opinion issued by the Fish and Wildlife Service.

**Fiscal Impact:** Up to \$600,000, increasing the total project cost for Inland Feeder to \$982.1 million. The total program budget remains at \$1.186 billion.

	10/24/2002
Roy L. Wolfe Manager, Corporate Resources	Date
	10/28/2002
Ronald R. Gastelum Chief Executive Officer	Date