

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

December 10, 2002 Board Meeting

9-3

Subject

Authorize execution of Quantification Settlement Agreement and related agreements pertaining to California's Colorado River Water Use Plan

Description

The proposed Quantification Settlement Agreement (QSA) would preserve Metropolitan's Colorado River water supply benefits under the federal Interim Surplus Guidelines (ISG) and provide a reliable mechanism for agricultural to urban water transfers benefiting Metropolitan. Execution of the QSA is a key milestone required under the ISG by December 31, 2002.

On October 18, 1999, the respective boards of Coachella Valley Water District (CVWD), Imperial Irrigation District (IID), and Metropolitan, along with the state of California agreed to the Key Terms for Quantification Settlement (Key Terms) as the basis for completing the QSA among the districts. All three of the agencies and the San Diego County Water Authority (SDCWA) have been actively engaged in the drafting of the final QSA terms. On October 15, 2002, the agency negotiators agreed to revisions to the Key Terms primarily aimed at protecting the Salton Sea while still meeting the goals of the QSA.

Quantification of rights and uses of Colorado River water with respect to Priority 3 and Priority 6 of the 1931 California Seven-Party Agreement (Attachment 1) would help facilitate the implementation of cooperative water supply programs and provide a needed baseline by which conservation and transfer programs can be measured. The QSA, which would be in effect for 75 years, allows the long-term transfer of Colorado River water from agricultural to urban use to move forward within California, thereby contributing toward the goal sought by the other Colorado River Basin states to reduce California's use of Colorado River water towards its annual basic apportionment. Progressive water management actions such as the IID/SDCWA water transfer and the Palo Verde Irrigation District (PVID)/Metropolitan transfer become viable under the QSA. It resolves a decades-long dispute over interpretation of a 1934 contract between IID and CVWD over the relative rights of third priority water that they share. The QSA also provides that CVWD and Metropolitan will put aside, for the 75-year term, a long-standing dispute over beneficial use of water by IID.

Attachment 2 is a matrix of the QSA-related agreements proposed for Board consideration. Summaries of the agreement terms are contained in Attachment 3. However, the parties are still engaged in the process of finalizing the actual agreements. Board action today authorizes the CEO to execute the final agreements if they conform to the summarized terms. To the extent there are changes from the summarized terms, the CEO will consult with the Colorado River Negotiating Team (Negotiating Team) before execution. The Negotiating Team may either authorize execution of the agreements or call a special board meeting as it determines appropriate to ensure that Metropolitan can execute the agreements before the December 31, 2002 deadline contained in the ISG.

Policy

By Minute Item 43767, dated October 18, 1999, the Board approved the use of the Key Terms as the basis for drafting the Proposed QSA among the parties to the Key Terms.

By Minute Item 44278, dated December 12, 2000, the Board authorized execution of the joint CVWD, IID, and Metropolitan resolution releasing the proposed QSA, the three basic conserved water Acquisition Agreements, and the Secretarial Implementation Agreement for public review pending resolution of the remaining outstanding issues.

By Minute Item 45056, dated October 22, 2002, the Board ratified the negotiated changes to the QSA as expressed in the "Summary Term Sheet -- Principal QSA Revisions" dated October 15, 2002.

California Environmental Quality Act (CEQA)

As a co-lead agency, Metropolitan's Board certified the Final Program Environmental Impact Report for the QSA on June 24, 2002. Subsequent to that action, negotiations were held among the co-lead agencies (i.e., Metropolitan, CVWD, IID, and SDCWA) to further clarify the terms in the proposed QSA and related agreements. As a result of those negotiations, an Addendum to the QSA Final PEIR was prepared to document the proposed modifications to the proposed QSA and related agreements.

CEQA and State CEQA Guidelines require the preparation of an addendum to a previously certified EIR if changes or additions are necessary, but none of the conditions described in Section 15162 of the State CEQA Guidelines requiring the preparation of a subsequent EIR have occurred (Section 15164 of the State CEQA Guidelines). Instead, the proposed modifications require only minor changes or additions to the evaluation in the certified QSA Final PEIR to make it adequate under CEQA. None of the proposed modifications would cause new significant effects or substantially increase the severity of any previously identified significant effects beyond those effects already disclosed in the certified QSA Final PEIR. In addition, the Board must certify that the Addendum, as in the case of the certified QSA Final PEIR, reflects Metropolitan's independent judgment and analysis.

The Board must adopt the Findings of Fact prior to approval of the QSA and related agreements for any significant effects that the Final PEIR has identified as resulting from implementation of those agreements. As stated in Section 15091 of the State CEQA Guidelines, Metropolitan shall make one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.

In some instances, because it was found that certain significant impacts could not be feasibly mitigated to below a level of significance, the Board must adopt a Statement of Overriding Considerations (Section 15093 of the State CEQA Guidelines) prior to approving the agreements. The Statement of Overriding Considerations concludes that the benefits of the proposed QSA and related agreements substantially outweigh the unavoidable significant adverse effects that would result from project implementation.

CEQA also requires that public agencies adopt a mitigation monitoring and reporting program (MMRP) when they approve a project that contains mitigation measures to reduce or avoid significant environmental effects (Public Resources Code § 21081.6). The QSA Final PEIR evaluated significant environmental effects and recommended feasible mitigation measures. Hence, feasible mitigation measures were prepared and included in the MMRP and must be adopted by the Board.

The QSA Final PEIR, Responses to Draft PEIR Comments were previously provided. Copies of the Addendum to the QSA Final PEIR, Findings of Fact, Statement of Overriding Considerations, and the MMRP will be available for review in the Executive Secretary's office. Additionally, copies of the documents will be available at Metropolitan's website beginning December 6.

CEQA determination for Options #1 and #2 is:

Consider the information contained in the Addendum to the certified 2002 QSA Final PEIR and find that the proposed modifications to the proposed QSA and related agreements do not require preparation of a subsequent EIR pursuant to CEQA; certify that the Addendum reflects Metropolitan's independent judgment and analysis and has been completed in compliance with CEQA; approve the Addendum; and adopt the Findings of Fact, the Statement of Overriding Considerations, and the MMRP for the QSA Final PEIR.

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and

- a. Approve the QSA and related agreements and authorize the CEO to execute the finalized QSA and related agreements listed in Attachment 2; and
- b. Authorize the CEO, in consultation with the Board-designated Negotiating Team, discretion to agree to modifications to the agreement terms, which do not materially increase Metropolitan’s costs or decrease Metropolitan’s supply reliability as necessary to meet the December 31, 2002 QSA execution deadline.

Fiscal Impact: The total environmental costs are estimated to be \$60 to \$90 million, of which Metropolitan’s share is being negotiated. With the continuation of the ISG, Metropolitan would have access to additional surplus water through 2016 that would not be available if the QSA were not executed. The total value of this water to Metropolitan depends on future hydrology.

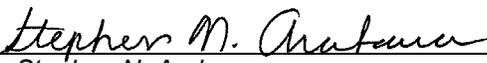
Option #2

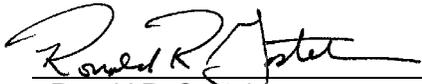
Adopt the CEQA determination and provide direction to the CEO regarding the development of an alternative action plan.

Fiscal Impact: If the QSA is not executed, there would be as yet unquantified costs to obtain replacement water due to Colorado River supply curtailments resulting from federal suspension of certain provisions of the Interim Surplus Guidelines.

Staff Recommendation

Option #1

	12/3/2002
Stephen N. Arakawa	Date
Manager, Water Resource Management	

	12/3/2002
Ronald R. Gastelum	Date
Chief Executive Officer	

Attachment 1 – Priorities Under the 1931 California Seven-Party Agreement

Attachment 2 - Matrix of Proposed QSA Related Agreements

Attachment 3 - Proposed Agreement Summaries

Priorities Under the 1931 California Seven-Party Agreement

Priority	Description	Acre-Feet Annually
1	Palo Verde Irrigation District gross area of 104,500 acres of land on the Palo Verde Valley	<div style="display: flex; align-items: center; justify-content: center;"> } 3,850,000 </div>
2	Yuma Project in California not exceeding a gross area of 25,000 acres in California	
3(a)	Imperial Irrigation District and other lands in Imperial and Coachella valleys ¹ to be served by All-American Canal	
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	550,000
Subtotal		4,400,000
5(a)	Metropolitan Water District of Southern California for use on coastal plain	550,000
5(b)	Metropolitan Water District of Southern California for use on coastal plain ²	112,000
6(a)	Imperial Irrigation District and other lands in Imperial and Coachella valleys to be served by the All American Canal	<div style="display: flex; align-items: center; justify-content: center;"> } 300,000 </div>
6(b)	Palo Verde Irrigation District - 16,000 acres of land on the Lower Palo Verde Mesa	
Total		5,362,000
7	Agricultural use in the Colorado River Basin in California	

¹ The Coachella Valley Water District now serves Coachella Valley.

² In 1946, the City of San Diego, the San Diego County Water Authority, Metropolitan, and the Secretary of the Interior entered into a contract that merged and added the City and County of San Diego's rights to storage and delivery of Colorado River water to the rights of Metropolitan. The conditions of that agreement have since been satisfied.

Matrix of Proposed Quantification Settlement Agreement Related Agreements

Proposed Agreement	Signatories	Description of Significant Provisions
1. Quantification Settlement Agreement	Metropolitan, CVWD, IID	Establishes Colorado River water budgets for CVWD, IID, and Metropolitan and provides for specific conserved water acquisitions, other water supply arrangements, Colorado River Interim Surplus Guidelines, and an inadvertent water use overrun and payback program.
2. Secretarial Implementation Agreement	Metropolitan, DOI, CVWD, IID, SDCWA	Obligates the Secretary of the Interior to deliver Colorado River water in the manner set forth in the Quantification Settlement Agreement during its term.
3. BA/BO/Conservation Agreement	Metropolitan, USBR, CVWD, IID, SDCWA	Provides a voluntary species conservation program to meet the requirements for the issuance of incidental take authorizations for the impacts to listed species in the IID and Salton Sea areas that may result from activities of IID, CVWD, SDCWA, and Metropolitan related to implementation of water conservation projects identified in the Quantification Settlement Agreement.
4. Environmental Cost Sharing Agreement	Metropolitan, IID, CVWD, SDCWA	Provides for the division of the environmental costs associated with the Quantification Settlement Agreement, including review, mitigation, and litigation.
5. IID/Metropolitan Acquisition Agreement	Metropolitan, IID	Provides Metropolitan with a right of first refusal to acquire up to 100,000 AFY of conserved water made available by IID to CVWD that CVWD elects not to acquire, plus Metropolitan option to acquire from IID a total of an additional 10,000 AF of conserved water.
6. Amendment To IID/Metropolitan 1988 Agreement	Metropolitan, IID	Extends the term of the 1988 Water Conservation Agreement for up to 110,000 AFY from September 30, 2033 to December 31, 2041, or 270 days beyond the termination of the Quantification Settlement Agreement, which would be up to 75 years, whichever is later, plus any extension applicable under the 1988 Water Conservation Agreement.
7. Amendment to IID/Metropolitan/PVID/CVWD 1989 Approval Agreement	Metropolitan, IID, PVID, CVWD	Amends the provisions governing reductions in use by Metropolitan of water conserved by IID under the 1988 Water Conservation Agreement to provide for reductions in use by Metropolitan of up to 20,000 AF per year to offset a shortfall of water available to CVWD if its needs cannot be met through Priority 6. Deletes IID flexibility to modify the scope/substitute projects currently implemented. Amends administrative provisions to conform to the Quantification Settlement Agreement.

Proposed Agreement	Signatories	Description of Significant Provisions
8. Amendment to Metropolitan/CVWD 1989 Supplemental Agreement	Metropolitan, CVWD	Extends the term of the 1989 Supplemental Agreement to December 31, 2041, or 270 days beyond the termination of the Quantification Settlement Agreement, whichever is later. Eliminates the 450,000 AF limitation on CVWD's use of Colorado River water as defined in the 1989 Supplemental Agreement for the term of the amendment.
9. Metropolitan/SDCWA Exchange Agreement Amendment Incl. SDCWA Waiver of Rights	Metropolitan, SDCWA	Requires Metropolitan to exchange 10,000 AF of conserved water with SDCWA subject to SDCWA arranging through the Secretary for the delivery of such water to Metropolitan's Colorado River Aqueduct intake facilities. Metropolitan to make available to SDCWA up to 390,000 AF of water over a 15-year period on a schedule determined by Metropolitan to the extent an equivalent amount of water is made available to Metropolitan from the PVID agreement with SDCWA paying a proportionate share of Metropolitan's program cost.
10. CVWD/Metropolitan Acquisition Agreement	Metropolitan, CVWD	Grants Metropolitan options to conserved water made available by IID to CVWD if not used by CVWD. Requires Metropolitan to reimburse CVWD for a portion of its costs associated with its acquisition of the second 50,000 AF from IID. After 2046, Metropolitan to provide up to 50,000 AF of replacement water annually for use by CVWD.
11. 35,000 AFY Transfer and Exchange Agreement	Metropolitan, CVWD	Requires Metropolitan to transfer 35,000 AFY of its SWP entitlement to CVWD. CDWR would deliver 35,000 AFY of CVWD's SWP entitlement water to Metropolitan at the Devil Canyon Afterbay; in return, Metropolitan would exchange 35,000 AFY of Colorado River water to CVWD for its use.
12. IID/CVWD/Metropolitan/CDWR Interim Surplus Guidelines Agreement	Metropolitan, CVWD, IID, CDWR	Requires each party to support, to the extent requested by Metropolitan, the extension of the Interim Surplus Guidelines beyond a fifteen-year period of time as provided in the Quantification Settlement Agreement so long as such extension does not materially reduce the amount of water available to the Parties under the water budgets established in the Quantification Settlement Agreement.
13. 100,000 AFY Transfer and Exchange Agreement	Metropolitan, CVWD, DWA	Provides for a 100,000 AFY transfer and exchange. The Parties to this proposed program (Metropolitan, CVWD, and Desert Water Agency) are to meet in good faith to conclude negotiations.

**Proposed Major Terms of
1. Quantification Settlement Agreement
among Imperial Irrigation District,
Coachella Valley Water District, and Metropolitan**

Basic Provisions

1. Set aside longstanding disputes regarding the priority, use and transfer of Colorado River water in California.
2. Establish Colorado River water budgets for the agencies, provides for specific conserved water acquisitions, other Colorado River water supply arrangements, Colorado River Interim Surplus Guidelines (ISG), and a Colorado River water use/overrun and payback program.
3. Facilitate other agreements and actions that will maintain certainty and reliability of Colorado River water supplies available and assist in meeting water demands.

Water Transfer Provisions

4. Provide for Imperial Irrigation District's Priority 3a annual consumptive use entitlement to be capped at 3.1 million acre-feet (maf) less:
 - a. conserved water made available for use by others, and
 - b. up to 11,500 acre-feet (af) forborne for holders of miscellaneous and Indian present perfected rights;

plus any water made available from the All American and Coachella Canal lining projects in accordance with the terms of the proposed Allocation Agreement, and subject to adjustment pursuant to the proposed Inadvertent Overrun and Payback Program implementation.
5. Require IID to forebear annual use under Priority 6a:
 - a. first, 38,000 af to Metropolitan, and
 - b. after its use of 63,000 af, then 119,000 af to Coachella Valley Water District.
6. Specify that IID's use and conservation of water is to:
 - a. assure achievement of Salton Sea salinity goals for the first 15 years, and
 - b. satisfy resource agency approval requirements while making conserved water available for the entire quantification period.
7. Provide for CVWD's Priority 3a annual consumptive use entitlement to be capped at 330,000 af less:
 - a. conserved water made available from the lining of the Coachella Canal in accordance with the proposed Allocation Agreement, and

- b. up to 3,000 af forborne for holders of miscellaneous and Indian present perfected rights;

subject to adjustment pursuant to the proposed Inadvertent Overrun and Payback Program implementation.
8. Require CVWD to forebear annual use under Priority 6a:
 - a. first, 38,000 af to Metropolitan, and
 - b. second, 63,000 af to IID,

before its use of 119,000 af.
9. Require Metropolitan and IID, however, to forebear use of Priority 6a water in any year from 2008 through 2018, in an amount up to the amount of conserved water to be acquired that year by CVWD from IID. The aggregate amount of Priority 6a water to be made available to CVWD from 2008 through 2018 under this provision would not exceed 160,000 af, and this water would be available in lieu of a like amount of conserved water from IID, which water would remain available to IID for irrigation purposes, contributing to the maintenance of Salton Sea salinity levels. Should additional Priority 6a water or Priority 7 water be available to CVWD in any year, CVWD would forebear use of such water to permit such water to be made available to Metropolitan and then IID, in the amounts which Metropolitan and IID had forborne that year.
10. Specify that CVWD and Metropolitan would each have the exclusive right to use half of any water below 420,000 af unused by Palo Verde Irrigation District (PVID) and the Yuma Project (Reservation Division), and be responsible for repayment of half of any use by PVID and the Yuma Project (Reservation Division) in excess of 420,000 af in a year prior to 2018, with Metropolitan having the exclusive right and being solely responsible for repayment beginning in 2018.
11. Provide for Metropolitan's Priorities 4 and 5 entitlement to be capped at 550,000 af and 662,000 af respectively, less an amount forborne for use by holders of present perfected rights in excess of the amounts forborne by IID and CVWD, plus any amount of Colorado River water acquired from:
 - a. IID or CVWD, or
 - b. anyone as long as such acquisition does not materially reduce the water available to IID and/or CVWD, and

subject to adjustment pursuant to the proposed Inadvertent Overrun and Payback Program implementation.
12. Specify, in addition, that IID and CVWD would not object to consumptive use by Metropolitan of water saved by other Colorado River water arrangements, e.g., the Palo Verde Land Management, Crop Rotation, and Water Supply Program.
13. Limit CVWD's use of Colorado River water outside of its Improvement District No. 1 other than for direct and in lieu groundwater recharge, and require CVWD to use its best efforts to utilize Colorado River water to address the groundwater overdraft problem in Improvement District No. 1 and implement a program designed to achieve safe yield within Improvement District No. 1 by year 30 of the quantification period.

14. Require Metropolitan to assume responsibility for any required payback of use of water by IID and CVWD resulting from a reduction in the availability of Priority 3a water due to the ISG. Metropolitan's aggregate payback obligation would be limited to an amount equal to the aggregate amount of surplus water used by Metropolitan under Full Domestic Surplus and/or Partial Domestic Surplus conditions.

Termination Provisions

15. Provide for IID to give notice:
- a. within 90 days after the 265th day following the Agreement's effective date of its determination whether the resource agency approvals would unduly burden its operations thereby resulting in IID terminating the Agreement, and
 - b. 12 months in advance of a condition that would result in termination of the 1998 IID/San Diego County Water Authority Transfer Agreement.
16. Specify that a Party is to give:
- a. 12 months' notice of any permissible withdrawal of support of the Environmental Cost Sharing Agreement that would result in a discontinued expected or unexpected environmental cost funding obligation, and
 - b. notice of any threatened or pending litigation seeking a stop to a transfer and require good faith negotiation of a joint defense agreement with respect to such litigation.
17. Give the Parties a one-year opportunity to:
- a. fix the unduly burdensome aspects of the resource agency approvals identified by IID,
 - b. cure the condition that would result in termination of the 1998 IID/SDCWA Transfer Agreement,
 - c. fund all expected or unexpected environmental mitigation costs attributable to the implementation of the Agreement, if or to the extent that funding or other relief is not available from insurance or becomes unavailable pursuant to federal or state action.
18. Provide for all transfers other than those that are the subject of a transfer stoppage to continue for 12 months while the Parties seek to overturn the transfer stoppage.
19. Specify an Agreement termination date of the earlier of:
- a. December 31, 2003 if the conditions precedent described below are not satisfied or waived by December 31, 2002,
 - b. the day on which early termination becomes effective based on one of the events described in items 15 to 17 above,
 - c. the date on which the Inadvertent Overrun and Payback Program terminates, or
 - d. December 31 of year 75 of the quantification period.

Other Major Provisions

20. Condition certain Metropolitan, IID, and CVWD obligations to the satisfaction of:
- a. completion of environmental review of the Implementation Agreement, the Inadvertent Overrun and Payback Program, the Quantification Settlement Agreement, the ISG, the IID Water Conservation and Transfer Project, IID's Priority 3a cap, the All American and Coachella canal lining projects, and the CVWD groundwater recharge project; and
 - b. finalization of permits, approvals, authorizations, opinions, assessments, and agreements under the federal and state endangered species acts, and other environmental resource protection laws to implement the IID Water Conservation and Transfer Project and the IID Priority 3a cap.
21. Condition certain Metropolitan, IID, and CVWD obligations to the satisfaction or waiver of:
- a. adoption by the Bureau of Reclamation (Reclamation) of an Inadvertent Overrun and Payback Program to be implemented for 30 years without material change,
 - b. effectiveness of the ISG,
 - c. agreement by PVID to:
 - (1) waive any call rights on All American and Coachella canal lining project conserved water,
 - (2) limit use on the PVID mesa,
 - (3) forego any rights to Priority 6b water, and
 - (4) execute the amendment to the 1989 Approval Agreement,
 - d. execution of the:
 - (1) IID/CVWD Acquisition Agreement,
 - (2) IID/Metropolitan Acquisition Agreement,
 - (3) CVWD/Metropolitan Acquisition Agreement, and
 - (4) Metropolitan/CVWD Transfer and Exchange Agreement,
 - e. effectiveness of the:
 - (1) State Water Resources Control Board order containing findings and conclusions contemplated under the IID/Metropolitan/CVWD/SDCWA Protest Dismissal Agreement and IID compliance with the order,
 - (2) 1998 IID/SDCWA Transfer Agreement, as amended,
 - (3) IID/Metropolitan/CVWD/SDCWA Environmental Cost Sharing Agreement,
 - (4) PVID/Metropolitan Land Management, Crop Rotation, and Water Supply Program Agreement and the Metropolitan/landowners Land Agreements, and

- (5) Amendment to the SDCWA/Metropolitan Exchange Agreement.
- 22. Condition IID's obligations on its determination that its environmental compliance and mitigation costs will not exceed \$30 million in 1998 dollars.
- 23. Condition CVWD's obligations on execution by the United States of an amendment to CVWD's contract for replacing the first 49 miles of the Coachella Canal.
- 24. Condition Metropolitan's obligations on Reclamation agreeing with Metropolitan, IID, and CVWD to develop a process for establishing a statistically significant trend test for increases in use by Priorities 1, 2, and 3b.
- 25. Metropolitan, CVWD, and Desert Water Agency are to meet in good faith to conclude negotiations on a proposed transfer and exchange of 100,000 af of State Project Water from Metropolitan to CVWD and DWA.

**Proposed Major Terms of
2. Implementation Agreement
among the Department of the Interior,
Coachella Valley Water District, Imperial Irrigation District,
Metropolitan and San Diego County Water Authority**

Basic Provisions

1. Determine that appropriate environmental review and compliance for the Agreement has been completed under federal law.
2. Find that the water budget components of the QSA, which would be in effect for up to 75 years, and the water budget components of the other related agreements facilitate and will benefit the Secretary of the Interior's (Secretary) management of the Colorado River.

Water

3. Provide that the Secretary agrees to deliver Colorado River water:
 - a. To the San Luis Rey Indian Water Rights Settlement Parties beyond the quantification period pursuant to Public Law 100-675,
 - b. To IID up to 3.1 mafy less the amount of Priority 3a water conserved by IID for the benefit of others as follows:
 - (1) Metropolitan and CVWD--equal to the amount conserved in accordance with the terms of the Amended 1988 and 1989 Agreements,
 - (2) SDCWA--equal to the amount conserved in accordance with the terms of the 1998 IID/SDCWA Transfer Agreement,
 - (3) CVWD--in an amount equal to the amount conserved for CVWD,
 - (4) San Luis Rey Indian Water Rights Settlement Parties, and Metropolitan (and/or retained by IID under conditions which would not adversely affect Metropolitan) from the All American Canal and Coachella Canal lining projects.
 - c. To CVWD up to 330,000 afy less an amount of Priority 3a water equal to that conserved by CVWD for the benefit of others, as follows
 - (1) San Luis Rey Indian Water Rights Settlement Parties, and Metropolitan (and/or IID under conditions which would not adversely affect Metropolitan) from the Coachella Canal Lining Project.
- plus (to CVWD):
- (2) 20,000 afy of Priority 3a water made available by Metropolitan under the Amended 1989 Agreement,

- (3) 50,000 afy of water made available by Metropolitan in year 46 under the CVWD/Metropolitan Acquisition Agreement, and
 - (4) 35,000 afy under the terms of the Metropolitan/ CVWD Transfer and Exchange Agreement.
- d. To Metropolitan up to 550,000 afy under Priority 4 and 662,000 afy under Priority 5:
- (1) less the amount in any calendar year that Priorities 1 and 2 use, together with Priority 3b use on the PVID Mesa lands, exceeds 420,000 afy, or as determined by the Inadvertent Overrun and Payback Program,
 - (2) plus the difference in any calendar year between that used within Priorities 1, 2, and 3b and 420,000 afy.
4. Provide that the Secretary agrees to deliver:
- a. water that CVWD declines to IID, Metropolitan, or subject to the approval of the Secretary an unspecified user, in accordance with the IID/Metropolitan Acquisition Agreement.
 - b. priority 6a water: 38,000 afy to Metropolitan, 63,000 afy to IID, and 119,000 afy to CVWD.
5. Provide that in any year the Secretary may reduce the amount of water otherwise available to:
- a. IID by up to 11,500 af,
 - b. CVWD by up to 3,000 af, and
 - c. Metropolitan by up to the remainder needed in order to satisfy miscellaneous and Indian present perfected rights within the State of California.

Other Major Provisions

6. Determine that, no action by the Department of the Interior is necessary to consider whether the past use of Colorado River water by IID satisfies applicable requirements for reasonable and beneficial use.
7. Recognize IID's implementation of conservation measures and absent any material adverse change in IID's irrigation practices or material advances in technology associated with economically feasible irrigation efficiency, the Secretary does not anticipate any need to assess IID's reasonable and beneficial use of water prior to year 20 of the quantification period.
8. Acknowledge the ongoing importance to the QSA of the Inadvertent Overrun and Payback Program and accordingly the Secretary will not materially modify the Program for 30 years as long as there is full and timely implementation of the water budget components of the QSA.
9. Recognize the ongoing importance to the QSA, and the willingness of IID, CVWD and Metropolitan to enter into the QSA's related agreements and this Agreement, of the ISG.

**Proposed Major Terms of
3. Conservation Agreement among the Bureau of Reclamation,
Imperial Irrigation District, Coachella Valley Water District,
San Diego County Water Authority and Metropolitan**

The major terms of the proposed Conservation Agreement:

Regulatory Framework

1. IID commenced development of a habitat conservation plan (HCP) pursuant to Section 10 of the Endangered Species Act that is not expected to be completed prior to execution of the QSA.
2. Reclamation has developed a voluntary species conservation program, described in a Biological Assessment, to meet the statutory and regulatory requirements for the issuance of incidental take authorizations for the impacts to listed species in the IID and Salton Sea areas that may result from activities of IID, CVWD, SDCWA, and Metropolitan related to implementation of water conservation projects identified in the QSA.
3. The U.S. Fish and Wildlife Service is preparing a Biological Opinion (BO), which will contain a statement of incidental take that will result from the water conservation projects identified in the QSA, and the reasonable and prudent measures that are necessary and appropriate to minimize the impacts of the incidental take.

General Provisions

4. The Agreement identifies responsibilities of the parties to fund and implement conservation measures identified in the BO for brown pelican, California black rail, desert pupfish, mountain plover, southwestern willow flycatcher, and Yuma clapper rail.
5. The Agreement will be effective upon execution of the QSA and the Secretarial Implementation Agreement, and issuance of a BO by December 31, 2002.

Cost to Metropolitan

6. Costs will be based on the final set of reasonable and prudent measures identified in the U.S. Fish and Wildlife Service's BO.
7. It is anticipated that IID, CVWD, SDCWA, and MWD will share the costs of implementing conservation measures and reasonable and prudent measures identified in the BO in accordance with the provisions of the Environmental Cost Sharing Agreement.

**Proposed Major Terms of
4. Environmental Cost Sharing Agreement
among Imperial Irrigation District, Coachella Valley Water District,
Metropolitan, and San Diego County Water Authority**

Basic Provision

1. Provide for the specified allocation of QSA-related environmental review, mitigation and litigation costs for up to 75 years.

Division of Environmental Review and Litigation Costs

2. Agree not to share environmental review costs, but each party to bear its own costs except as a party and one or more of the other parties may otherwise agree.
3. Contemplate joining in the defense of any environmental litigation pertaining to the QSA and the transactions contemplated by the QSA.
4. Agree not to share environmental litigation costs, but each party to bear its own costs incurred in connection with any such defense, except as such party may otherwise agree pursuant to a joint defense agreement.
5. Agree to use reasonable best efforts jointly to purchase environmental mitigation insurance to insure the payment of unexpected environmental mitigation costs. The Parties are to pay the premium or premiums for any environmental mitigation insurance, in the aggregate, as follows:
 - a. CVWD--\$100,000
 - b. Metropolitan--\$100,000
 - c. SDCWA--\$200,000 and
 - d. IID--the balance.
6. Share and pay reimbursement requested if:
 - a. Reclamation, the United States Fish and Wildlife Service, or any other federal agency, or
 - b. the California Department of Fish and Game, or any other California State agency

request the parties reimburse any of its costs and the parties agree to the request as follows:
25 percent by IID, 25 percent by CVWD, and 50 percent jointly by Metropolitan and SDCWA.

Allocation of Expected Environmental Mitigation Costs in Excess of State Contribution

7. Pay or reimburse the remaining expected environmental mitigation costs in proportion to the conserved water actually made available to CVWD, Metropolitan, and SDCWA under the acquisition agreements and the IID/SDCWA Transfer Agreement over the 45-year period commencing on the

effective date after taking into account the state contribution. SDCWA will receive credit or reimbursement from IID, subject to the following limit of liability:

- a. IID's total payments of environmental mitigation costs, net of any reimbursements received by IID are not to exceed \$30 million in 1998 dollars.

Allocation of Unexpected Environmental Mitigation Costs

8. Pay or reimburse all unexpected environmental mitigation costs other than excluded costs in the same proportion and subject to the same adjustments and final quantification contemplated for expected environmental mitigation costs.
9. Able to give advance written notice to the other Parties of CVWD's, Metropolitan's, or SDCWA's decision to withdraw its financial support for the continued funding of unexpected environmental mitigation costs at any time after the Parties determine that there will be such costs.

Term

10. Terminate with the expected 75-year term of the QSA. Upon termination, the obligations of the Parties continue with respect to expected and unexpected environmental mitigation costs attributable to conserved water transferred to or acquired by the Parties prior to the termination date for as long as environmental mitigation is required to mitigate the impacts of those transfers and acquisitions.

**Proposed Major Terms of
5. Agreement for Acquisition of Conserved Water
between Imperial Irrigation District and Metropolitan**

Basic Provisions (up to 75 years to):

1. amend the 1988 Agreement for the Implementation of a Water Conservation Program and Use of Conserved Water between IID and Metropolitan and the 1989 Approval Agreement among IID, Metropolitan, Coachella Valley Water District, and the Palo Verde Irrigation District,
2. work cooperatively to cause portions of the All American Canal to be lined in order to create conserved water for acquisition by Metropolitan,
3. give Metropolitan a right of first refusal on certain conserved water made available by IID to CVWD, and
4. give Metropolitan options to acquire certain conserved water.

Water Quantity

5. Give Metropolitan a right of first refusal to acquire conserved water made available by IID to CVWD that CVWD elects not to acquire, which will be made available incrementally beginning in 2008 with the following milestones:
 - a. 4,000 af in 2008,
 - b. 45,000 af in 2017, the year after the ISG terminates, and
 - c. 103,000 af maximum in 2026.

The maximum amount will be reduced to 50,000 af in 2047.

6. Give Metropolitan an option to acquire from IID 2,500 af of Conserved Water in 2020, 5,000 af in 2021, and 2,500 af in 2022.

Cost to Metropolitan

7. Pay IID for acquisition of conserved CVWD/Metropolitan option water in the following amounts:
 - a. \$125 per acre-foot, in 1999 dollars; and
 - b. any and all incremental environmental review process and mitigation costs attributed to exercise of the right of first refusal, as set forth in the Environmental Cost Sharing Agreement.
8. Pay for environmental process and mitigation costs as determined under the Environmental Cost Sharing Agreement.

Peace Treaty

9. Agree not to challenge IID's reasonable and beneficial use for the term of the Agreement unless and until IID enters into an agreement or seeks to transfer water that is not permitted under the IID/MWD Acquisition Agreement.
10. Place limits on the position that Metropolitan might take on IID's use of water for the term of the Agreement.
11. Limit IID's ability to make transfers of water for the first 21 years other than:
 - a. transfers permitted by the QSA,
 - b. defensive transfers that IID proposes, subject to Metropolitan's right of first refusal to acquire such water, and
 - c. transfers of 30,000 af per year (afy) within Imperial County.

Term

12. Terminate with the QSA.

**Proposed Major Terms of
6. Amendment to 1988 Water Conservation Agreement
between Imperial Irrigation District and Metropolitan**

Basic Provision

1. Extend the term of the 1988 Water Conservation Agreement to December 31, 2041, or 270 days beyond the termination of the QSA which would be up to 75 years, whichever is later, plus any extension applicable under the 1988 Water Conservation Agreement.

Remaining Provisions

2. Amend administrative provisions of the 1988 Water Conservation Agreement to conform with the QSA.

Term of the Amendments

3. Terminate with the QSA except for item 1.

**Proposed Major Terms of
7. Amendment to 1989 Approval Agreement
among Imperial Irrigation District, Metropolitan,
Palo Verde Irrigation District and Coachella Valley Water District**

Basic Provisions

1. Amend the provisions governing reductions in use by Metropolitan of water conserved by IID under the 1988 Water Conservation Agreement for the benefit of CVWD and PVID to simply provide for reductions in use by Metropolitan of up to 20,000 afy to offset the shortfall of water available to CVWD under Priority 6, at no cost to CVWD or the other parties to the 1989 Approval Agreement.
2. Continue the agreement by PVID not to divert, pump, use or demand the water conserved by IID under the 1988 Water Conservation Agreement for up to 75 years.

Modification and Substitution of Projects

3. Delete provisions that provided IID flexibility to modify the scope of projects or substitute projects currently implemented under the 1988 Water Conservation Agreement.

Remaining Provisions

4. Amend administrative provisions of the 1989 Approval Agreement to conform with the QSA.

Term of the Amendments

5. Terminate with the QSA.

**Proposed Major Terms of
8. Amendment to the Agreement to Supplement Approval Agreement
between Coachella Valley Water District and Metropolitan**

Basic Provisions

1. Extend the term of the 1989 Supplemental Agreement to December 31, 2041, or 270 days beyond the termination of the QSA which would be up to 75 years, whichever is later.
2. Eliminate the 450,000 af limitation on CVWD use of Colorado River water for the term of the amendment in view of the QSA's quantification requirement.

Term of the Amendments

3. Terminate with the QSA except for item 2.

**Proposed Major Terms of
9. Amendment to the Exchange Agreement
between Metropolitan and San Diego County Water Authority**

Basic Provisions

1. Make available up to 390,000 af from the Palo Verde Land Management, Crop Rotation and Water Supply Program to SDCWA within the first 15 years on a schedule to be determined by Metropolitan.
2. Provide Metropolitan an additional 10,000 af of water that is to be transferred to SDCWA by IID in accordance with the 1998 IID-SDCWA Transfer Agreement as amended in 3 annual installments:
3. Provide SDCWA equal amounts of early exchange water in the three years at the Metropolitan Point(s) of Delivery under the same terms applicable to deliveries of other exchange water.

Payment

4. Receive from SDCWA payment of a reasonable proportion of all of Metropolitan's costs under the agreement with PVID, including a proportional share of the total socioeconomic costs incurred under that agreement.
5. Specify that the contract price in the event of force majeure of any early exchange water provided by Metropolitan subsequent to 2022 will be in accordance with the Exchange Agreement.

Term

6. Provide that the proposed Amendment Agreement will become effective upon the Effective Date of the QSA.
7. Provide that the proposed Amendment Agreement will terminate on the earlier of:
 - a. the QSA Termination Date, if such occurs before the 1998 IID/SDCWA Initial Transfer Date, or
 - b. the Exchange Agreement Termination Date.

Other Major Provisions

8. Recognize that SDCWA consents to and waives any right to object to acquisition of water by Metropolitan from IID under the terms of the IID/Metropolitan Acquisition Agreement.
9. Exchange water made available from the Palo Verde Program under the 1998 Metropolitan/SDCWA Exchange Agreement.
10. Specify that SDCWA will pay or reimburse CVWD an aggregate amount equal to fifty percent in 1999 dollars of any reasonably determined environmental process and mitigation expenses allocable to the first fifty thousand acre-foot per year acquisition in excess of the CVWD environmental cost ceiling but not to exceed a total payment by SDCWA of \$1.2 million.

**Proposed Major Terms of
10. Agreement for Acquisition of Conserved Water
between Coachella Valley Water District and Metropolitan**

Basic Provisions

1. Up to 75 years to:
 - a. amend the 1989 Approval Agreement among IID, CVWD, Metropolitan, and PVID,
 - b. work cooperatively to cause portions of the Coachella Canal to be lined in order to create conserved water for acquisition by Metropolitan,
 - c. reimburse CVWD for certain costs associated with CVWD's acquisition of Conserved Water from IID,
 - d. provide replacement water for use by CVWD in return for payments by CVWD, and
 - e. give Metropolitan options to acquire certain conserved water as provided in the IID/Metropolitan Acquisition Agreement.

Cost to Metropolitan

2. Pay CVWD a portion of the amount actually paid by CVWD to IID for its acquisition of the second 50,000 afy from IID in the following amounts:
 - a. \$75 per acre-foot in 1999 dollars for the first 20,000 af of the second 50,000 acre-foot acquisition,
 - b. \$42.50 per acre-foot in 1999 dollars for the amount of water exceeding 20,000 af of the second 50,000 acre-foot per year acquisition up to a maximum of 30,000 af; and
 - c. an amount determined pursuant to the Environmental Cost Sharing Agreement pertaining to the difference between the environmental cost amount paid by CVWD in conjunction with (a) and (b) and \$3.50 in 1999 dollars per acre-foot of water acquired.

Replacement Water Provided by Metropolitan for Use by CVWD

3. Obligate Metropolitan beginning in 2047 to provide up to 50,000 af of water annually for use by CVWD to replace the second 50,000 af of conserved water previously provided by IID to CVWD as follows:
 - a. reduce diversions from the Colorado River below that which it would otherwise have been absent this obligation to make water available for CVWD.
 - b. provide non-Colorado River water, subject to Metropolitan and CVWD completing all necessary arrangements.
4. Receive right to use or transfer the replacement water that may not be acquired by CVWD.

5. Receive payment from CVWD for the replacement water in an amount equal to:
 - a. \$50 in 1999 dollars per acre-foot for the first 20,000 af of replacement water,
 - b. \$82.50 in 1999 dollars per acre-foot for replacement water exceeding 20,000 af of water, up to a maximum of 30,000 af, and
 - c. the lesser of
 - (1) \$3.50 in 1999 dollars per acre-foot, or
 - (2) the actual annualized cost incurred by Metropolitan to comply with federal, state and local environmental laws and regulations.

Term

6. Terminate with the QSA.

**Proposed Major Terms of
11. Transfer and Exchange Agreement
between Coachella Valley Water District
and Metropolitan for 35,000 Acre-Feet per Year**

Basic Provisions

1. Transfer to CVWD 35,000 af of Metropolitan's State Water Project (SWP) Table A annual entitlement.
2. Take delivery of this entitlement transfer water at Devil Canyon Afterbay.
3. Provide Colorado River Exchange Water to CVWD, in return for receiving the entitlement transfer water.
4. Forebear use of the exchange water at the Colorado River water to permit the Secretary to deliver the water at Imperial Dam or deliver the water to the Whitewater Service Connections.

Term, Costs and Payments

5. Commence term on the effective date of the QSA and end, on the earlier of the termination of the QSA, or the expiration of Metropolitan's SWP contract.
6. Contingent upon compliance with the CEQA, and the approval of the California Department of Water Resources.
7. Pay all costs for the delivery of entitlement transfer water and receive \$60 per af adjusted biannually from CVWD. CVWD is to pay any costs associated with the exchange water from Imperial Dam through the All American and Coachella Canals. If the exchange water is delivered at the Whitewater Service Connections, CVWD pays Metropolitan the Supplemental Energy Cost for delivery of the Exchange Water.

Other Major Provisions

8. Obligate Metropolitan to exchange the full 35,000 af annually for CVWD's benefit, subject to certain indemnifying conditions.
9. Distinct from a proposed Metropolitan-CVWD conjunctive use program.

**Proposed Major Terms of
12. Interim Surplus Guidelines Agreement
among Imperial Irrigation District, Coachella Valley Water District,
Metropolitan, and California Department of Water Resources**

Basic Provisions

1. Provide terms and conditions under which the Parties will support, at Metropolitan's election, the extension of ISG as adopted and implemented by the Secretary of the Interior .
2. Support, to the extent requested by Metropolitan, the extension of the ISG beyond a 15-year period of time as provided in the QSA so long as such extension does not materially reduce the amount of water available to the Parties under the water budgets established in the QSA.
 - a. Metropolitan is to provide the other Parties 24 months in advance of the expiration of the ISG, the length of extension to be sought, any changes to the Guidelines to be sought, and the basis for its determination that such extension will not result in any material reduction in the water available to IID or CVWD under the water budgets established in the QSA.
 - b. CDWR, IID and CVWD are to within 60 days individually or collectively send notice to Metropolitan of their support for the extension of Interim Surplus Criteria Guidelines or the basis for its (their) determination that a material reduction in the water available to IID and/or CVWD under the water budgets established in the QSA will occur.

Conditions to CDWR's, IID's CVWD's and Metropolitan's Obligations

3. Condition effectiveness on QSA being in full force and effect, and each of the Related Agreements being in full force and effect.

Dispute Resolution

4. Meet and confer in the event of a disagreement regarding the effect of Metropolitan's Notice of Extension on the water budgets established in the QSA within 30 days of the Response Notice being sent to Metropolitan to resolve, by unanimous vote. Resolve dispute by binding arbitration conducted in a neutral county or at such other location as the Parties may agree if it cannot be resolved by agreement.

Term

5. Terminate with the expected 75-year term of the QSA.

**Proposed Major Terms of
13. Proposed Transfer and Exchange of 100,000 Acre-Feet
of State Project Water from Metropolitan
to Coachella Valley Water District and Desert Water Agency**

Basic Provision

1. Metropolitan, CVWD, and Desert Water Agency are to meet in good faith to conclude negotiations on a proposed transfer and exchange of 100,000 af of State project water from Metropolitan to CVWD and DWA.

Note: If terms for the transfer and exchange are completed, those terms will be brought to the Board for approval.