

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

February 11, 2003 Board Meeting

8-10

Subject

Authorize entering into an agreement for the Conjunctive Use Storage Project with Inland Empire Utilities Agency, Three Valleys Municipal Water District and Chino Basin Watermaster under Proposition 13, and authorize the modification of the Carbon Canyon Reclamation Agreement

Description

The Governor's Annual Budget Act, released in May 2000, appropriated to the Department of Water Resources local assistance grant funds from Proposition 13. From these funds, the state allocated \$45 million to Metropolitan to help finance Southern California water reliability projects targeting groundwater conjunctive-use projects within Metropolitan's service area. These conjunctive-use projects will improve the water supply reliability for the entire region by creating additional dry-year supply, as targeted in the Integrated Resources Plan.

In April 2001, the Board directed staff to finalize agreement terms with the sponsoring entities that were selected through the Prop. 13 competitive Request for Proposal process. Among the programs selected was the Chino Basin Groundwater Storage Project, sponsored by Inland Empire Utilities Agency and the Chino Basin Watermaster. The Three Valleys Municipal Water District will also be participating in the program with its subagency, the city of Pomona. A portion of the Chino Basin is within the TVMWD service area and the city of Pomona will be a retail agency operating program facilities.

This conjunctive-use program was recommended to receive \$9 million from the Prop. 13 funds allocated to Metropolitan. In November 2001, the Board authorized the Chief Executive Officer to proceed with finalizing an expanded program costing an additional \$18.5 million. The expanded program included the modification of the agreement for the Carbon Canyon Reclamation Project under the Local Projects Program and refurbishment of inactive Inland Empire replenishment connections.

The Chino Basin Groundwater Storage Project will enable Metropolitan to store up to 100,000 acre-feet of water in the Chino Basin when surplus water is available during wet years and produce 33,000 acre-feet per year during dry, drought, or emergency periods. The program facilities include new wells and ion exchange treatment facilities. On Aug. 22, 2001, Inland Empire submitted the signed Program Term Sheet ([Attachment 1](#)) for this project to Metropolitan. The Program Term Sheet briefly describes the key articles of the agreement, consistent with Metropolitan's Principles for Groundwater Storage approved by the Board in January 2000, and is the basis of the contractual agreement. The submittal of the signed Program Term Sheet by Inland Empire signified the intent to execute an agreement to develop the conjunctive-use project.

As part of the conjunctive-use project, Metropolitan would agree to a cost sharing approach to refurbish four existing replenishment connections and one new connection along the Etiwanda Feeder. Metropolitan would review and approve design drawings, inspect constructed facilities, and approve all connections at a cost of \$700,000. Inland Empire will fund and contract for the design and construction of all five connections. Inland Empire would also be responsible for all permits and environmental work necessary to complete the new connection and reactivate the old replenishment connections. Another component of the project would permit modification of the Carbon Canyon Reclamation Project agreement to allow for credits under the Local Projects Program to be applied to other areas in the Inland Empire service area under a new agreement. The resultant acceleration of recycled water use would enable local agencies to redirect groundwater production to higher-value

potable applications, offsetting demand for imported water. The agreement limit of 13,500 acre-feet per year would remain unchanged. Therefore, Metropolitan would have no new funding commitment.

Metropolitan has prepared the agreement consistent with the Program Term Sheet for the Chino Basin Groundwater Storage Project and the modified agreement for the Carbon Canyon Reclamation Project. These agreements are available for review at the Executive Secretary's office. Under the agreement, Inland Empire will be responsible for the preparation of the CEQA documentation as the lead agency and the design, construction and operation of the facilities. This conjunctive-use program would add to the programs the Board approved last year with the city of Long Beach and Three Valleys Municipal Water District.

Policy

By Minute Item 43668, dated August 17, 1999, the Board adopted a Statement of Needs for the CALFED Bay-Delta Program.

By Minute Item 43860, dated January 11, 2000, the Board approved strategies for implementing Groundwater Storage Programs within Metropolitan's service area.

By Minute Item 44210, dated October 17, 2000, the Board adopted Resolution 8706 to accept the grant for funds from Proposition 13.

By Minute Item 44427, dated April 10, 2001, the Board gave authority to finalize agreement terms for Groundwater Conjunctive-Use Projects using Proposition 13 Funds.

By Minute Item 44695, dated November 20, 2001, the Board gave authority to proceed with finalizing agreements at increased funding levels for the Chino and Orange County Groundwater Storage Programs.

California Environmental Quality Act (CEQA)

CEQA determination(s) for Option #1:

Conjunctive Use Storage Project with Inland Empire Utilities Agency, Three Valleys MWD and Watermaster under Proposition 13

Pursuant to the provisions of CEQA and the State CEQA Guidelines, Inland Empire, acting as Lead Agency, prepared and processed a Final Program Environmental Impact Report (Final PEIR) for the Chino Basin Optimum Basin Management Program. The Final PEIR was certified and the project was approved by the Lead Agency on July 12, 2000. The environmental effects associated with construction activities tied to the proposed agreement between Metropolitan, Inland Empire, Three Valleys MWD and the Watermaster were evaluated in the Final PEIR. Subsequent to that process, proposed minor modifications to those construction activities were found to be necessary. As a consequence, Inland Empire prepared a Finding of Consistency with the Final PEIR/Initial Study (i.e., Addendum) relating to those proposed modifications and found that no new significant effects would occur or no new mitigation measures would be required beyond what had been previously addressed in the Final PEIR. The Addendum was certified by Inland Empire on December 18, 2002. Metropolitan, as Responsible Agency under CEQA, is required to certify that it has reviewed and considered the information in the certified Final PEIR and Addendum and adopt the Lead Agency's findings prior to approval of the proposed agreement. The Final PEIR and addendum are available in the Executive Secretary's Office for review.

The CEQA determination is: Review and consider information provided in the 2000 certified Final PEIR and in the 2002 certified Addendum, and adopt the Lead Agency's findings related to the proposed agreement.

Amendment to the Carbon Canyon Reclamation Agreement

Pursuant to the provisions of CEQA and the State CEQA Guidelines, Inland Empire, acting as Lead Agency, prepared and processed the Final PEIR for the Chino Basin Optimum Basin Management Program. The Final PEIR was certified and the project was approved by the Lead Agency on July 12, 2000. The environmental effects associated with construction activities tied to the proposed modification to the existing agreement were evaluated in the Final PEIR. Metropolitan shall have no obligations regarding funding of the future improvements under this proposed modification, until such time as the Lead Agency has complied with the

requirements of CEQA and the State CEQA Guidelines. Metropolitan, as Responsible Agency under CEQA, is required to certify that it has reviewed and considered the information in the certified Final PEIR and adopt the Lead Agency's findings prior to approval of the proposed modification to the existing agreement. The Final PEIR is available in the Executive Secretary's Office for review.

The CEQA determination is: Review and consider information provided in the 2000 certified Final PEIR, and adopt the Lead Agency's findings related to the proposed agreement.

CEQA determination for Option #2:

None required

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and

- a. Authorize the CEO to enter into an agreement acceptable to the General Counsel substantially in the form on file with the Executive Secretary for the Chino Basin Groundwater Storage Project with Inland Empire Utilities Agency, Three Valleys Municipal Water District, and the Chino Basin Watermaster.
- b. Authorize the CEO to enter into an agreement acceptable to the General Counsel substantially in the form on file with the Executive Secretary that will modify the Carbon Canyon Reclamation agreement to allow credits under the Local Projects Program to be applied to other areas in the Inland Empire service area.
- c. Appropriate \$18.5 million for Metropolitan's costs associated with the design and construction of the Chino Basin Groundwater Storage Project.
- d. Appropriate \$700,000 for Metropolitan's costs associated with the review, approval of design drawings, and inspection of the refurbished and new replenishment connections.

Fiscal Impact: Up to \$19.2 million in Proposition 13 or other state funds, or Metropolitan's Local Groundwater Storage Program (Appropriation 15272). No additional financial commitment for the LPP will be realized.

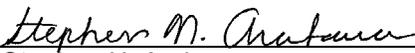
Option #2

Do not proceed with approval of agreement.

Fiscal Impact: May jeopardize current plans to spend \$9 million of Proposition 13 funds in the Chino Basin.

Staff Recommendation

Option #1

	1/14/2003
Stephen N. Arakawa	Date
Manager, Water Resource Management	
	1/20/2003
Ronald R. Gastelum	Date
Chief Executive Officer	

Attachment 1 – Terms of Agreement for the Chino Basin Groundwater Storage Project

BLA #1946

Proposition 13
Groundwater Storage Program
Term Sheet

ARTICLE	DESCRIPTION
I. Recitals	Establishes Metropolitan's Board-adopted Groundwater Storage Principles as basis for agreement and includes items as necessary from the participants of the agreement.
II. Effective Date and Term	A. 25-year Term with renewal by mutual consent
III. Conditions Precedent to Project Funding Obligation	<p>A. CEQA</p> <p>B. DWR commitment - DWR agreement conditions fulfilled</p> <p>C. Permits and Approvals - All authorizations shall have been obtained</p> <p>D. No litigation</p> <p>E. No Existing Force Majeure Event</p>
IV. Program Planning and Construction	<p>A. Planning</p> <ol style="list-style-type: none"> 1. General description 2. Operational Capacity thresholds 3. Submission of Plans, Schedule and Budget – By September 1, 2003 agency shall deliver engineering, construction, schedule and budget to Metropolitan 4. Metropolitan shall review and approve schedule and budget only. Metropolitan shall submit schedule and budget to DWR for approval <p>B. Construction - Program Agency is responsible for the construction. Metropolitan and DWR retain inspection right. Metropolitan has no ownership interest in the Program facilities</p>
V. Project Construction Funding Procedure (not including Maintenance/Energy Cost Funding)	<p>A. Metropolitan Funding Obligation - Sets Metropolitan maximum funding obligation</p> <p>B. Contribution from Agency - Sets Agency contribution (if any)</p>

**Proposition 13
Groundwater Storage Program
Term Sheet**

ARTICLE	DESCRIPTION
	<ul style="list-style-type: none"> C. Cost Overruns - Agency liable for overruns D. Disbursement Protocol <ul style="list-style-type: none"> 1. Agency submits 90-day budget for Metropolitan approval. Metropolitan approves or disallows and forwards to DWR. DWR approves and sends money to Metropolitan. Metropolitan forwards money to agency 2. Agency must certify expenditures 3. Funds held in a construction trust account 4. Ten percent retainage by DWR
<p>VI. Operation of Project</p>	<ul style="list-style-type: none"> A. Operating Committee <ul style="list-style-type: none"> 1. Two members from Metropolitan and two members representing the Basin - disputes according to Article XIV 2. Annual Planning Meeting, Operating Budget, and Schedule - Committee to develop and manage O&M plan for year, including Agency baseline, schedule and budget 3. Committee duties <ul style="list-style-type: none"> a. Account for storage and extraction and losses b. Annual reconciliation of water accounts, energy and operations expenses c. Confirm Baseline Assurances d. Prepare annual Program operating report e. Coordinate timing, locations and nature of storage B. Program Agency Obligations <ul style="list-style-type: none"> 1. Operate and maintain facilities in good condition 2. Provide for repairs

**Proposition 13
Groundwater Storage Program
Term Sheet**

ARTICLE	DESCRIPTION
	<ul style="list-style-type: none"> 3. Maintain the Agencies' facilities as necessary 4. Certify water delivered into Metropolitan account C. Metropolitan Obligations <ul style="list-style-type: none"> 1. Pay for maintenance of Program facilities 2. Pay for power to pump water 3. Pay annual administrative fee (ratio of \$100,000 per 25,000 AF of yield) D. Payment of O&M: Agency may choose to receive payment in form of credit on water bill E. Annual Reconciliation - Reconcile actual storage and O&M costs
VII. Groundwater Storage and Extraction	<ul style="list-style-type: none"> A. Storage of water - Metropolitan can store up to 25 percent of its total capacity rights per year on fifteen days notice B. Extraction of Stored Water - Metropolitan can extract up to 33 percent of its total capacity rights per year on fifteen days notice C. Agency will certify storage and extraction deliveries D. Payment for Stored Water - Agencies pay full service rate E. Disposition of water in storage at termination of agreement
VIII. Other Uses of Facilities	<ul style="list-style-type: none"> A. Agencies may use facilities, but may not use the facilities in a manner that would negatively impact Metropolitan financially. Agencies responsible for O&M when they use facilities.
IX. Baseline Assurances	<ul style="list-style-type: none"> A. Agency covenants not to operate the facilities in a manner that would negatively impact Metropolitan financially. B. Agency pays full service rate for water if they operate the facilities in a manner that would negatively impact Metropolitan financially.

**Proposition 13
Groundwater Storage Program
Term Sheet**

ARTICLE	DESCRIPTION
X. Representations, Warranties and Affirmative Covenants of Parties	
XI. Record Keeping and Audit Provisions	
XII. Indemnity	<ul style="list-style-type: none"> A. General Indemnity B. Program Agency indemnity of Metropolitan C. Metropolitan indemnity of Agency
XIII. Insurance	<ul style="list-style-type: none"> A. General Required Coverage B. Environmental Liability Insurance - Commercially available to cover on- and off-site clean up of pollution arising from the program and losses from tort claims. Liability insurance will also cover payment of future costs to upgrade Program water quality, seismic, fire/hazardous materials handling or other regulatory/safety rules. Metropolitan and Agency share cost. C. Extra Expense Insurance D. Specific Policy Requirements E. Deductibles/Self Insurance F. Metropolitan copies of insurance certificates G. Acceptability of Insurers
XIV. Defaults and Remedies	<ul style="list-style-type: none"> A. Dispute Resolution - Disputes will be handled by 1) Operating Committee, 2) Mutually acceptable consultant, or 3) Arbitration B. Termination - If there is a breach of contract by the Agency, Metropolitan may terminate with written notice. Agency to purchase water over 3 year period and pay liquidated damages. C. Liquidated Damages - Agency repays the program construction costs

**Proposition 13
Groundwater Storage Program
Term Sheet**

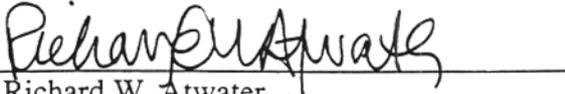
ARTICLE	DESCRIPTION
XV. Force Majeure Events	A. Provisions for Force Majeure Events
XVI. Miscellaneous	A. Miscellaneous Legal Provisions
Exhibits	A. DWR Funding Letter B. RFP C. Agency Proposal D. Metropolitan Award Letter E. Initial Storage Account (Cyclic) F. Accounting and Certification for Storage and Extraction

Concur:

Concur:



 Ronald R. Gastelum
 Chief Executive Officer
 The Metropolitan Water District
 of Southern California



 Richard W. Atwater
 Chief Executive Officer/General Manager
 Inland Empire Utilities Agency

August 17, 2001

 Date

AUGUST 22, 2001

 Date