

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

March 11, 2003 Board Meeting

8-6

Subject

Authorize entering into a one-year Environmental Water Account demand shifting agreement with the California Department of Water Resources

Description

Authorization is requested for the Chief Executive Officer to enter into a one-year Environmental Water Account demand shifting agreement with the California Department of Water Resources, consistent with the terms provided in [Attachment 1](#). In 2001 and 2002, the Board authorized the CEO to enter into a similar EWA demand shifting agreement with DWR. In 2001, DWR performed according to the terms of agreement and Metropolitan was paid \$4.25 million to defer delivery of 50,000 acre-feet of its 2001 State Water Project supplies. In 2002, Metropolitan was paid \$1 million in option fees, but DWR did not request that Metropolitan defer any of its SWP deliveries.

The proposed agreement would be similar to the 2002 agreement. In particular, the agreement would allow the DWR to reschedule delivery of up to 100,000 AF of Metropolitan's 2003 SWP supplies to help support the EWA. The Agreement would satisfy a key prerequisite for achieving an operational EWA, which is critical to maintaining Endangered Species Act assurances for supply reliability during CALFED's Stage 1. The CALFED Record of Decision specifically indicates that a source shift agreement for 100,000 AF is required if the EWA is to be considered "functional".

The DWR and other CALFED member agency representatives have initiated staff-level discussions with Metropolitan to develop the general terms of the Agreement. Staff has emphasized that any source shift agreement would require management and board approval. Accordingly, staff has not made any commitments during these discussions. The proposed Agreement terms are included in [Attachment 1](#), and contain the following critical components:

- The Agreement would be for one year;
- DWR would pay Metropolitan \$5/AF up front for water Metropolitan makes available for rescheduling;
- DWR would pay Metropolitan an additional \$25/AF for water rescheduled by DWR;
- DWR will return the rescheduled water to Metropolitan before the end of calendar year 2003;
- DWR and Metropolitan will use their best efforts to ensure that the water which DWR returns to Metropolitan is of equal or better quality to the SWP water deferred by Metropolitan; and
- All costs of the Agreement are to be paid by non-SWP funds.

Policy

The Board's policy direction regarding the CALFED Bay/Delta Program, adopted on July 13, 1999 instructs staff to "Develop a range of options to meet future water quality and reliability needs for the service area." This agreement would help to ensure that CALFED's member agencies with fishery regulatory responsibilities will be able to provide water supply reliability assurances for Bay/Delta exporters, including Metropolitan. Further, the "Statement of Needs for the CALFED Bay-Delta Program", adopted by the Board on Aug. 17, 1999, specifically endorses an Environmental Water Account.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

Pursuant to the provisions of CEQA and the State CEQA Guidelines, DWR, acting as the Lead Agency, adopted a Negative Declaration (ND) entitled "Initial Study and Negative Declaration: Source Shifting Agreement with Metropolitan Water District of Southern California for the Environmental Water Account" on January 17, 2002, for the proposed agreement. In turn, Metropolitan, acting as a Responsible Agency adopted the Lead Agency's findings on the ND on February 12, 2002. Since that time, an Addendum to the ND was prepared on December 30, 2002, by the Lead Agency to document the proposed minor modifications to the approved project (see [Attachment 2](#)). The Lead Agency adopted the Addendum and approved the minor modifications on February 10, 2003. CEQA and the State CEQA Guidelines require the preparation of an addendum to a previously adopted ND if changes or additions are necessary but none of the conditions described in Section 15162 of the State CEQA Guidelines calling for the preparation of a subsequent ND have occurred (Section 15164 of the State CEQA Guidelines). Instead, the proposed modifications require only minor changes or additions to the evaluation in the previously adopted ND to make it adequate under CEQA. None of the proposed modifications alters the original determination by the Lead Agency. Metropolitan, as Responsible Agency under CEQA, is required to certify that it has reviewed and considered the information in the Addendum to the ND and adopt the Lead Agency's findings prior to approval of the formal terms and conditions for the proposed agreement. The environmental documentation is in [Attachment 2](#).

The CEQA determination is: Review and consider information provided in the adopted 2003 Addendum to the ND 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 authorize the CEO to enter into an EWA demand shifting agreement with DWR consistent with the terms in [Attachment 1](#), and in form approved by the General Counsel.

Fiscal Impact: As currently proposed, the Agreement could result in DWR paying Metropolitan \$30/AF of Metropolitan's SWP entitlement deliveries that are rescheduled to support the EWA. Assuming that 100,000 AF is rescheduled, DWR would pay Metropolitan \$3 million. The Agreement may result in minor increases in operational costs, which would be more than offset by the payments to Metropolitan.

Option #2

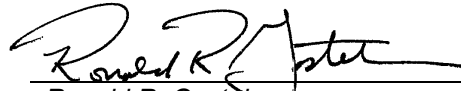
Do not authorize the CEO to enter into an EWA demand shifting agreement with DWR.

Fiscal Impact: None

Staff Recommendation

Option #1

	2/10/2003
Stephen N. Arakawa Manager, Water Resource Management	Date

	2/16/2003
Ronald R. Gastelum Chief Executive Officer	Date

Attachment 1 – Metropolitan/DWR Proposed EWA Agreement Terms

Attachment 2 – Addendum to the Negative Declaration for the Source Shifting Agreement With Metropolitan Water District of Southern California for the Environmental Water Account (SCH No. 2001111164)

BLA #1989

METROPOLITAN/DWR PROPOSED EWA AGREEMENT TERMS

Agreement Term	Description
1. Service Provided by Metropolitan	Shift the timing of Metropolitan’s SWP deliveries to benefit fish.
2. Term	One year.
3. Amount of Metropolitan Water Shifted	A maximum of 100,000 AF
4. Fees	\$5/AF “Option Fee”, \$25/AF “Shift Fee”. If 100,000 AF is shifted, total fees are \$3 million.
5. Payback Schedule	Payback is due December 31, 2003.
6. Water Quality	Payback water is intended to be of equal or better quality. Metropolitan has the right to reschedule payback supplies to protect water quality.
7. Incremental Costs	DWR agrees to recover any incremental costs (e.g. power-related) of implementing the EWA to the SWP contractors.
8. Third-Party Impacts	Metropolitan agrees to prepare its 2003 SWP delivery schedule based on conditions without agreement. Agreement structured to not cause adverse impacts on allocation or delivery of SWP water, including interruptible water, to other SWP contractors.
9. Funding	To be derived from non-SWP sources.

ADDENDUM

to the

**Negative Declaration for the Source Shifting Agreement with Metropolitan Water
District of Southern California for the Environmental Water Account
(SCH No. 2001111164)**

**State of California
The Resources Agency
California Department of Water Resources**

February 5, 2003

**ADDENDUM TO THE NEGATIVE DECLARATION FOR THE SOURCE
SHIFTING AGREEMENT WITH METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA FOR THE ENVIRONMENTAL WATER ACCOUNT
(SCH No. 2001111164)**

Introduction

On January 17, 2002 the California Department of Water Resources (DWR), as the lead state agency pursuant to the California Environmental Quality Act (CEQA), adopted and certified an Initial Study and Negative Declaration (SCH No. 2001111164) for a water source-shifting project with the Metropolitan Water District of Southern California (MWD) to make water available to the Environmental Water Account. After completing the Initial Study, Negative Declaration, and all other actions required by the California Environmental Quality Act and agency policy, DWR and MWD signed a contract to implement the source-shift project in 2002. The anticipated need for the source-shift project, however, did not materialize in 2002. Consequently, DWR and MWD did not initiate the project or any associated actions. DWR anticipates that the source-shift project may be needed in 2003 to make water available to the EWA and to meet the requirements of the CALFED Programmatic EIS/EIR and its Programmatic Record of Decision (ROD), adopted August 2000. Therefore, DWR and MWD intend to enter into additional agreements to implement the source-shift project in 2003. Although DWR discussed and analyzed this project in the Negative Declaration and Initial Study, the purpose of this Addendum is to provide additional details regarding the project, assure that there are no new environmental impacts excluded from environmental review, and to fully inform decision makers prior to signing agreements to implement a source-shift project in 2003.

This addendum has been prepared in accordance with CEQA Guidelines §15164 “Addendum to an EIR or Negative Declaration.” DWR has determined that the additional circumstances and new information currently available do not affect or change the impact of the approved project. The changes proposed for the source-shift project with MWD include only minor additions or technical changes to the original project description and none of the conditions indicated in CEQA Guidelines §15162 requiring preparation of a subsequent Negative Declaration or Environmental Impact Report, have occurred. Pursuant to CEQA Guidelines §15164(c) this addendum will be an attachment to DWR’s Negative Declaration for the Source Shifting Agreement with Metropolitan Water District of Southern California for the Environmental Water Account (SCH No. 2001111164).

Project Description

The project location, description, and other information contained in the Initial Study of the adopted Negative Declaration remains accurate except for the dates of implementation of the source-shift project. The dates for various parts of the project were planned to occur in 2002, but the time for performance of parts of the source-shift project will now be 2003. Other minor modifications to

information contained in the Initial Study and Negative Declaration are also available. These are:

- 1) The Initial Study and Negative Declaration described that the source-shifting would occur at a maximum rate of 25,000 acre-feet per month from January 1 through August 31, 2002. This source-shifting will now potentially occur from January 1 through August 31, 2003, and the maximum rate may be slightly higher than 25,000 acre-feet. DWR had determined that this will not cause any significant increase in identified impacts or any new environmental impacts.
- 2) If SWP allocation in 2003 is sufficient, an additional amount of water may be source-shifted. This is identical to the project as described and planned for 2002, but the new dates for source-shifting of Additional Water will be in 2003.
- 3) The Initial Study and Negative Declaration described that DWR would return deferred Initial Water (the first 100,000 acre-feet source-shifted) by December 31, 2002. The payback date for source-shifted water will now be December 31, 2003.
- 4) If the source-shift project occurs in 2003, DWR will provide MWD with a preliminary water repayment schedule on May 1, 2003 and an updated water repayment schedule on September 15, 2003.
- 5) As indicated in the Initial Study and Negative Declaration, DWR will attempt to repay MWD with water of at least the same or better quality as the deferred water.
- 6) Any implementation details additional to those mentioned in items 1-6, where the date or year is stated in the Initial Study and Negative Declaration as 2002, should be advanced one calendar year in order to accurately reflect the currently devised implementation of the source-shift project during the 2003 water year.

Environmental Setting and Analysis of Impacts

The original environmental documentation for this project included an Initial Study, CEQA Environmental Checklist, and Negative Declaration. The environmental impact analyses in these documents determined there would be no impacts or less-than-significant impacts on all resource categories. The analysis envisioned implementation of the source-shift project in 2002, and consequently defined some analyses within that timeframe. Because the entire project is merely a small operational adjustment in the timing of water conveyance and delivery within the large SWP and MWD facilities network, however, the one-year delay in implementation does not change the impact analyses. The infrastructure of SWP and MWD facilities remains the same and there have been no major, new changes to the existing conditions of those facilities or the service areas of the SWP and MWD. Therefore, DWR has concluded that the analyses and conclusions in the Initial Study and Negative Declaration remain accurate and unchanged for the following resource categories:

Aesthetics
Agricultural Resources
Air Quality
Biological Resources
Economic Impacts
Energy and Power
Environmental Justice
Geology and Soils
Indian Trust Assets
Water Quality
Land Use and Planning
Population and Housing
Public Services
Recreation
Cumulative Effects

DWR has concluded that the water resources analysis should be modified. This section contained detailed information about conditions in 2001 and the 2002 water year. Several comments are included below to reflect the proposal to implement the source-shift in 2003 rather than 2002:

- 1) MWD's water delivery schedule was previously described and its request of 1.8 million acre-feet on October 1, 2001 was stated. MWD has requested 2.09 million acre-feet for calendar year 2003 and on December 1, 2002 was allocated 402,300 acre-feet for calendar year 2003. Allocation for 2003 has initially been set at 20% by DWR, but this number is not final and is expected to increase.
- 2) Tables 1 and 2 of the Initial Study depicted hypothetical deferral and payback scenarios for a dry (50% allocation) and a wet (100% allocation) year. The scenarios suggested in the tables remain accurate and continue to be the planned implementation framework for the source-shift project in 2003, although there may be some minor deviations in the quantities of water deferred and paid back in any particular month. This inherent flexibility of water operations was always a part of the project and an exact schedule for deferral and delivery of water in 2002 was never delineated. The project in 2003 will retain this flexibility, but will also remain within the established, intended parameters of the project as planned, but not implemented, in 2002.
- 3) Table 3 of the Initial Study provided information on the water storage capacity at surface and groundwater facilities. These numbers remain unchanged and there are no new facilities that have added capacity. MWD has continued to pursue additional groundwater banking opportunities such as with the Kern Delta Water Agency, but these projects are not complete. Furthermore, any additional water storage ability or facilities would only increase the flexibility and ease with which MWD and DWR could source-shift water.

Consistency with Plans and Policies

This section remains accurate for the year 2003. The project will continue to comply with all applicable CALFED environmental compliance agreements, all SWP contractual agreements and regulations, and all other pertinent laws and regulations.

Conclusion

The additional information and technical details described in this addendum will not cause any substantial impacts to any resource category that increase the measured impact of the project above previously determined levels, which were all less than significant. There have been no substantial changes to the existing environment since the original analysis and adoption of the Negative Declaration on January 17, 2002. Neither DWR nor MWD is required to perform any mitigation for the current project, and the actions described in this addendum will not require any mitigation. Project implementation in 2003 will comply with all applicable laws and regulations, and will involve minor changes to SWP and MWD operation, however, all operations will remain well within standard operational parameters and DWR and MWD will ensure that the project is implemented without causing adverse impacts to their respective water contractors.

Determination

The new information contained in this addendum will not substantially change or affect information and analyses in the Initial Study and Negative Declaration. It does not trigger preparation of a supplemental or subsequent Negative Declaration or Environmental Impact Report as described in CEQA Guidelines §15162. After reviewing the existing CEQA documents, DWR has determined that they remain accurate and sufficient, and that this addendum is appropriate, and conforms to the California Environmental Quality Act with particular reference to CEQA Guidelines §15164.

Agencies Contacted

California Department of Water Resources (DWR)
Metropolitan Water District of Southern California (MWD)

List of Preparers

Delores Brown, DWR Division of Environmental Services
Hanspeter Walter, DWR Division of Environmental Services
Teresa Geimer, DWR State Water Project Analysis Office
Don Shelvock, DWR State Water Project Analysis Office
Claire LeFlore, DWR Legal Office