

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

August 19, 2003 Board Meeting

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8-12

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**Subject**

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Approve amendments for three agreements for expert analysis of water use issues in *Imperial Irrigation District v. United States* to increase contract amounts by a total of \$225,000

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**Description**

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The central issue in *Imperial Irrigation District v. United States*, USDC, Southern District of California, Case No. 03 CV 0069 W (JFS) (the “IID Litigation”) is determination of the amount of water needed to meet IID’s beneficial use needs. This technical inquiry typically relies on analysis of appropriate field data, but for years IID has maintained that farm-level data on Imperial Valley water use is not available. In the absence of such data, numerous studies have been conducted over the years in efforts to characterize and quantify water use within IID. The State of California, the U.S. Bureau of Reclamation (Bureau), and IID itself have all produced numerous technical studies of IID water use. Anticipating that this issue would again rise to the forefront, Metropolitan had its own team of experts review IID’s water use.

Metropolitan’s team of experts consists of in-house staff and eight retained experts with more than 200 years of collective experience in the areas of agricultural sciences and economics, crop growth and management, and irrigation and conservation techniques. The team includes some of the foremost authorities in these fields, and their work formed the foundation of Metropolitan’s May submittal in the Bureau’s Part 417 process.

IID has stated it will appeal the Bureau’s determination, and is expected to submit new information and more technical analysis. Following this administrative appeal, the Bureau’s determinations and the issue of IID water use may return to court this fall. In order to continue services of the experts uninterrupted through late summer and fall, three of the original team members’ agreements will require an increase in contract amounts. These contracts are with Agricultural Salinity Consulting for the services of James Rhoades, Ph.D.; Allen Consulting for the services of Richard Allen, Ph.D.; and Agricultural Services Company, Inc., for the services of Mr. Harold Payne.

Dr. Rhoades is an expert in the field of agricultural science. Dr. Rhoades has nearly 40 years of experience in assessing factors affecting crop irrigation needs, and has published more than 200 articles, papers, and books on this subject. His work on Metropolitan’s expert team has been instrumental in the determination of IID’s on-farm water needs. The proposed amendment with Agricultural Salinity Services would increase the contract for Dr. Rhoades by \$100,000 to a total of \$200,000.

Dr. Allen is a consultant in the fields of irrigation engineering, hydrology, and water resources engineering. He has over 25 years experience in irrigation system design and hydrologic modeling, including calculation, prediction, and measurement of evapo-transpiration and irrigation water requirements and quantification of irrigation uniformity and efficiency. His expertise has been essential in analyzing model inputs and other factors affecting crop water needs in the Imperial Valley. The proposed amendment with Allen Consulting would increase the contract for Dr. Allen by \$50,000 to a total of \$150,000.

Mr. Payne has over 20 years of professional experience providing technical support for water and land use studies, including data collection, review, interpretation, and evaluation of alternatives for water conservation technology, crop suitability, and soil management. For the expert team, Mr. Payne has identified simple, low-cost on-farm conservation practices that could be easily implemented by Imperial Valley growers. The proposed

amendment with Agricultural Services Co., Inc., would increase the amount payable for Mr. Payne by \$75,000 to a total of \$150,000.

The Legal Department has budgeted the requested funds in this year's board-approved budget.

**Policy**

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Metropolitan Water District Administrative Code § 6431: Authority to Obtain Expert Assistance

**California Environmental Quality Act (CEQA)**

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CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities (Section 15378(b)(2) of the State CEQA Guidelines). In addition, the proposed action is not subject to CEQA because it involves other government fiscal activities, which do not involve any commitment to any specific project, which may result in a potentially significant physical impact on the environment (Section 15378(b)(4) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to the provisions of CEQA pursuant to Sections 15378(b)(2) and 15378(b)(4) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

**Board Options/Fiscal Impacts**

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**Option #1**

Adopt the CEQA determination and approve amendments to agreements with Agricultural Salinity Consulting, Allen Consulting, and Agricultural Services Co., Inc.

**Fiscal Impact:** \$225,000

**Option #2**

Do not approve amendments. As possible, seek technical expert services and advice involving the IID Litigation through other retained consultants and Metropolitan staff. Have no expert witnesses available for certain subject areas involving IID's water use.

**Fiscal Impact:** Unknown

**Staff Recommendation**

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Option #1

  
Jeffrey Kightlinger  
General Counsel

7/23/2003  
Date