

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

April 13, 2004 Board Meeting

8-5

Subject

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

Description

This letter requests authorization 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, 2002 and 2003 the Board authorized the CEO to enter into the same type of agreements. In 2001, the Department of Water Resources 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 Metropolitan to defer any of its SWP deliveries. In 2003, Metropolitan was paid \$500,000 in option fees, but DWR did not request Metropolitan to defer any of its SWP deliveries.

The proposed agreement would be similar to the 2003 agreement. In particular, the agreement would allow the DWR to reschedule delivery of up to 100,000 AF of Metropolitan's 2004 SWP supplies to help support the Environmental Water Account.

The CALFED Record of Decision specifically indicates that a demand shift agreement for 100,000 AF is required if the EWA is to be considered "functional." Therefore, the agreement before the Board 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 One.

The DWR and other CALFED member agency representatives have initiated staff-level discussions with Metropolitan to develop the general terms of the agreement. 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 the option to reschedule Metropolitan deliveries;
- DWR would pay Metropolitan an additional \$25/AF for water actually rescheduled by Metropolitan;
- DWR will return any rescheduled water to Metropolitan before the end of calendar year 2004;
- 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 (M.I. 43619) 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.

By Minute Item 43688, dated August 17, 1999, the Board adopted the Statement of Needs for the CALFED Bay-Delta Program.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

Pursuant to the provisions of CEQA, the State CEQA Guidelines and the National Environmental Policy Act, DWR, acting as Lead Agency, with the cooperation of the California Department of Fish and Game, the United States Bureau of Reclamation, the United States Fish & Wildlife Service and the National Marine Fisheries Services, prepared and processed a Final Environmental Impact Statement/Environmental Impact Report (Final EIS/EIR) for the EWA. The Final EIS/EIR discusses the extensive environmental analysis undertaken on the EWA's proposed cooperative water management program within the state of California that included demand shifting agreements, such as the one subject to the current board action. The Final EIS/EIR was certified and the EWA was approved by the Lead Agency on March 18, 2004. The Lead Agency also approved the Findings of Fact (findings) and the Mitigation Monitoring and Reporting Program (MMRP). Metropolitan, as a Responsible Agency under CEQA, is required to certify that it has reviewed and considered the information in the certified Final EIS/EIR and adopt the Lead Agency's findings and MMRP prior to entering into an agreement with DWR for the EWA. The environmental documentation is available in the Executive Secretary's Office for review.

The CEQA determination is: Review and consider information provided in the certified 2004 Final EIS/EIR and adopt the Lead Agency's findings and MMRP related to the proposed action.

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 would result in DWR paying Metropolitan \$500,000 for the option to reschedule deliveries. Assuming that 100,000 AF is actually rescheduled, DWR would pay Metropolitan \$3 million total. The agreement may result in minor increases in operational costs, which would be more than offset by the payments to Metropolitan.

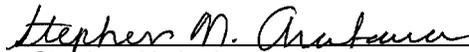
Option #2

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

Fiscal Impact: None

Staff Recommendation

Option #1


 Stephen N. Arakawa
 Manager, Water Resource Management

3/19/2004
 Date


 Ronald R. Gastelum
 Chief Executive Officer

3/23/2004
 Date

Attachment 1 – Metropolitan/EWA Proposed Agreement Terms

MWD/DWR PROPOSED EWA AGREEMENT TERMS	
Agreement Term	Description
1. Service Provided by Metropolitan	Shift the timing of MWD's SWP deliveries to benefit fish.
2. Term	One year.
3. Amount of MWD 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, 2004.
6. Water Quality	Payback water is intended to be of equal or better quality. MWD has the right to reschedule payback supplies to protect water quality.
7. Incremental Costs	DWR agrees to recover any incremental (e.g. power-related) costs of implementing the EWA to the SWP Contractors.
8. Third-Party Impacts	MWD agrees to prepare its 2004 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.