

- **Board of Directors**
Budget, Finance, Investment and Insurance Committee

April 11, 2006 Board Meeting

8-2

Subject

Authorize increase of \$15.2 million in Diamond Valley Lake Construction capital appropriation, \$1.4 million in Oxidation Retrofit capital appropriation, and an increase of \$17 million in O&M appropriation relating to the Cargill Settlement

Description

On June 14, 2005, the Board authorized payment in the sum of \$35 million to settle the case of *Dewayne Cargill et al. v. Metropolitan*. On March 8, 2006, \$35 million were transferred into a trust account that was created by the Cargill Class Action Counsel. The payment was made pursuant to the Settlement Agreement and the March 6, 2006 Stipulation And Order Modifying Settlement Agreement.

The independent contractors and agency temporaries, who are the subjects of this settlement, were assigned to work on both capital and operations and maintenance projects. The projects included the construction of Diamond Valley Lake and the Inland Feeder, along with the Oxidation Retrofit Program for the Jensen and Mills water treatment plants. As such, following generally accepted accounting principles, the \$35 million have been allocated to these projects, as well as O&M projects, as follows:

<u>Program</u>	<u>Appropriation</u>	<u>Capital</u>	<u>O&M</u>	<u>Total</u>
Diamond Valley Lake Construction	15123	\$15,157,827	\$ 0	\$15,157,827
Inland Feeder	15122	1,475,569	0	1,475,569
Oxidation Retrofit – Jensen and Mills	15173	1,410,816	0	1,410,816
O&M projects		<u>0</u>	<u>16,955,788</u>	<u>16,955,788</u>
		<u>\$18,044,212</u>	<u>\$16,955,788</u>	<u>\$35,000,000</u>

Generally accepted accounting principles require that costs be appropriately classified and disclosed as to assets, liabilities, revenues and expenses. In this instance, the capital component must be recorded as an asset and the O&M component must be recorded as an expense. In order to properly account for the capital component, the DVL and Oxidation Retrofit appropriations need to be increased by \$15.2 million and \$1.4 million, respectively. This action is required because there are no available funds remaining in those appropriations. The initial funding for these payments was through the General Fund. The Inland Feeder capital appropriation had available funds to cover its \$1.5 million share of the settlement costs. Bond proceeds will fund the capital appropriations.

The O&M portion of the settlement cost was paid from revenues. This action also requests an increase to the FY 2005/06 budgeted O&M appropriation of \$16,955,788.

Policy

Metropolitan Water District Administrative Code Section 5108(a): Appropriations

California Environmental Quality Act (CEQA)

CEQA determination for Options #1 and #3:

The proposed actions are not defined as a project under CEQA because they involve continuing administrative activities (Section 15378(b)(2) of the State CEQA Guidelines). In addition, the proposed actions are not subject to CEQA because they involve 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 actions are not subject to CEQA per Sections 15378(b)(2) and 15378 (b)(4) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and authorize an increase in the Diamond Valley Lake Construction capital appropriation of \$15,157,827 and the Oxidation Retrofit appropriation of \$1,410,816 for the Cargill settlement to be paid with bond funds, and to increase the FY 2005/06 O&M appropriation by \$16,955,788. **Fiscal Impact:** \$16.6 million increase in capital appropriations and use of bond funds to reimburse General Fund (\$15,157,827, Approp. 15123; \$1,410,816, Approp. 15173); \$16.9 million increase in O&M

Option #2


Do not increase capital appropriations and authorize expenditure of \$35 million from general Metropolitan requirements. **Fiscal Impact:** Capital project costs not in compliance with generally accepted accounting principles; \$16.6 million of capital costs to be paid with operating funds; and O&M expenses \$17 million over budget

Option #3

Adopt the CEQA determination and authorize an increase in the Diamond Valley Lake Construction capital appropriation of \$15,157,827 and the Oxidation Retrofit appropriation of \$1,410,816 for the Cargill Settlement to be paid with bond funds and reduce other capital expenditures by the same amount, and to increase the FY 2005/06 O&M appropriation by \$16,955,788. **Fiscal Impact:** \$16.9 million increase in O&M


Staff Recommendation

Option #1



Brian G. Thomas
Chief Financial Officer

3/24/2006
Date



Jeffrey Kightlinger
General Manager

3/24/2006
Date