

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

April 11, 2006 Board Meeting

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8-6

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**Subject**

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Authorize execution of an amendment to a joint participation agreement among the State Water Contractors related to litigation regarding the Sacramento Regional County Sanitation District's planned expansion of its Sacramento Regional Wastewater Treatment Plant with total agreement costs not to exceed \$450,000  
**[Conference with legal counsel—existing litigation (*Alameda County Water District, et al. v. Sacramento Regional County Sanitation District*, Sacramento County Superior Court Case No. 05CS00913); to be heard in closed session pursuant to Gov. Code Section 54956.9(a)]**

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**Description**

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In 2004, the Sacramento Regional County Sanitation District (SRCSD) approved a plan to expand its wastewater treatment plant. In response to potential water quality degradation resulting from the project, urban State Water Contractors signed a funding agreement between the SWC and participating contractors to pursue litigation or settlement activities. Funds under the original agreement have been exhausted and an additional \$200,000 from Metropolitan, as well as additional amounts from other contractors, is required to continue with litigation or settlement activities. This would bring Metropolitan's total obligation under the agreement to \$450,000. Funds would also be used for technical studies to support efforts to limit discharges from the expanded facility through National Pollution Discharge Elimination System (NPDES) requirements.

**Background**

The SRCSD certified the EIR for its wastewater treatment plant expansion and approved the project in June 2004. Metropolitan and the other SWC urban agencies are concerned about the impacts of SRCSD's project on Delta water quality due to increased loadings of drinking water constituents of concern. In early 2005, the SWC and many of its member agencies initiated a study with the SRCSD to identify watershed-based solutions that could offset the water quality impacts of SRCSD's planned expansion. Although several projects were identified, implementation efforts were unsuccessful.

**Joint Participation Agreement**

In 2005, urban SWC participating agencies signed a funding agreement to support legal and study activities related to the SRCSD wastewater treatment plant expansion. Metropolitan's share of the funding, based on proportionate Table A amounts of the agreement participants, was \$192,500 ([Attachment 1](#)). The funds under the original agreement have been exhausted. Settlement discussions with SRCSD reached an impasse over the cost-sharing formula for implementing watershed projects to mitigate water quality impacts. In June 2005, Metropolitan, the SWC and several SWC member agencies filed a CEQA lawsuit against SRCSD alleging that SRCSD violated CEQA in approving the wastewater treatment plant expansion project.

The parties to the litigation have proposed to jointly fund the associated legal and technical costs and also wish to continue parallel dialogue with SRCSD that might lead to settlement. Metropolitan has agreed to contribute up to an additional \$57,500 to bring our total existing commitment up to \$250,000. It is believed that additional funds beyond this amount will be required to reach conclusion of litigation. It is estimated that Metropolitan's share of additional costs – based on the participants' proportionate SWP Table A amounts – would be \$200,000, bringing Metropolitan's total obligation under the agreement to \$450,000.

**Policy**

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Metropolitan Water District Administrative Code Section 8121(a): Contracts over \$250,000  
By Minute Item 45844 on July 13, 2004, the Board authorized initiating legal action as appropriate.

**California Environmental Quality Act (CEQA)**

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CEQA determination for Staff Recommendation:

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). For future, and not yet known, proposed projects associated with a possible future settlement, the appropriate lead agencies will be responsible for complying with all applicable federal and state environmental laws and regulations.

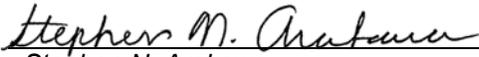
The CEQA determination is: Determine that the proposed actions are not subject to CEQA per Sections 15378(b)(2) and 15378 (b)(4) of the State CEQA Guidelines.

**Staff Recommendation**

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Adopt the CEQA determination and authorize the General Manager to execute Amendment No. 1 to the funding agreement regarding Sacramento Regional County Sanitation District’s planned expansion of its Sacramento Regional Wastewater Treatment Plant with total agreement costs not to exceed \$450,000.

**Fiscal Impact:** \$200,000 from the Operations and Maintenance Fund under the General District Requirement budget. Sufficient funds would be included in Metropolitan’s future fiscal year budgets under the Operations and Maintenance Fund.

  
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Stephen N. Arakawa  
Manager, Water Resource Management

3/23/2006  
Date

  
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Jeffrey Kightlinger  
General Manager

3/24/2006  
Date

**Attachment 1 – Amendment No. 1 - Estimated Costs and Allocation**

**AMENDMENT NO. 1  
ESTIMATED COSTS AND ALLOCATION**

<b>Participating SWP Contractor</b>	<b>Table A (acre-feet)</b>	<b>Cost Allocation*</b>
Alameda County Flood Control and Water Conservation District, Zone 7	80,619	2.95%
Alameda County Water District	42,000	1.54%
Antelope Valley-East Kern Water Agency	141,400	5.18%
Castaic Lake Water Agency	95,200	3.49%
Central Coast Water Agency	45,486	1.67%
Crestline-Lake Arrowhead Water Agency	5,800	0.21%
Kern County Water Agency	119,600	4.38%
Metropolitan Water District of Southern California	1,911,500	70.00%
Palmdale Water District	21,300	0.78%
San Bernardino Valley Municipal Water District	102,600	3.76%
San Geronio Pass Water Agency	17,300	0.63%
Santa Clara Valley Water District	100,000	3.66%
Solano County Water Agency	47,756	1.75%
Total:	2,730,561	100%

\*Cost allocation is based on those contractors expressing a desire to participate as of December 16, 2005.