

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

May 16, 2006 Board Meeting

7-4

Subject

Authorize entering into an Environmental Water Account exchange agreement with the California Department of Water Resources

Description

This letter requests authorization for the General Manager to enter into an Environmental Water Account exchange agreement with the California Department of Water Resources, consistent with the terms provided in [Attachment 1](#). The Board approved a substantially identical agreement in June 2005 under which Metropolitan provided 50,000 acre-feet of water to EWA in exchange for a like amount in a future dry year. Under the proposed agreement, Metropolitan would provide the EWA with up to 100,000 acre-feet of Metropolitan's State Water Project supplies in 2006. Consistent with the 2005 agreement, DWR would pay Metropolitan an \$85/AF deposit for the water provided by Metropolitan in 2006 and EWA would return a like amount of water in a future dry year. When Metropolitan requests DWR to return the exchange water, Metropolitan and DWR would share equally the cost of acquiring the exchange water and Metropolitan would return the \$85/AF deposit to DWR. If DWR does not return the exchange water, Metropolitan would retain DWR's \$85/AF deposit to compensate Metropolitan for lost exchange water, and the obligation to return the water would be eliminated.

The CALFED Record of Decision specifically requires EWA to acquire 150,000 AF of south-of-Delta water for EWA to be considered operational. National Oceanic and Atmospheric Administration Fisheries, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game have extended EWA and the Endangered Species Act (ESA) assurances linked to EWA through 2007, provided that EWA remains operational. Therefore, the agreement before the Board would help to satisfy a key prerequisite for achieving an operational EWA, which is critical to maintaining ESA assurances for SWP supply reliability during CALFED's Stage One implementation, while providing Metropolitan with a cost-effective way to store this year's supply for use in a future dry year.

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 Aug. 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 and 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 evaluated the environmental impacts associated with EWA

assets including exchanges of EWA assets. 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 and adopted the Mitigation Monitoring and Reporting Program (MMRP). On April 13, 2004, Metropolitan, acting as a Responsible Agency under CEQA, certified that it had reviewed and considered the information in the certified Final EIS/EIR and adopted the Lead Agency's findings and MMRP related to the proposed action that was before the Board at that time.

Subsequently, the Board's adoption of the Lead Agency's findings and MMRP in 2004 includes coverage for the current board action, which is solely based on entering into an exchange agreement with DWR consistent with the Final EIR/EIS. Hence, because the Board has already made a CEQA determination on the Final EIR/EIS for its actions as a responsible Agency, no further findings or documentation are necessary for the Board to approve the proposed action.

The CEQA determination is: Determine that the proposed action has been previously addressed in the certified 2004 Final EIS/EIR, Findings of Fact, and MMRP and that no further findings or documentation are required.

CEQA determination for Option #2:

None required

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and authorize the General Manager to enter into an EWA exchange agreement with DWR consistent with the terms described herein, and in form approved by the General Counsel.

Fiscal Impact: Once the exchange water is returned to Metropolitan, Metropolitan would incur half the cost of acquiring the exchange water and would return the \$85/AF deposit to DWR. Since Metropolitan will have sole discretion to trigger the return, Metropolitan will be able to ensure that the net price paid for the exchange water is competitive with alternative supplies during the return year. If DWR does not return the exchange water, DWR would pay Metropolitan a total payment of \$85/AF or up to \$4.25 million.

Option #2

Do not authorize the General Manager to enter into an EWA exchange agreement with DWR.

Fiscal Impact: Lost opportunity to implement a cost-effective storage alternative. Operational and financial impacts could result if the lack of an exchange agreement leads to a non-operational EWA and a loss of ESA assurances for SWP supply reliability.

Staff Recommendation

Option #1



 Stephen N. Arakawa
 Manager, Water Resource Management

4/18/2006

 Date



 Jeffrey Kightlinger
 General Manager

4/21/2006

 Date

Attachment 1 – Metropolitan/DWR Proposed EWA Exchange Agreement Terms

METROPOLITAN/DWR PROPOSED EWA EXCHANGE AGREEMENT TERMS	
Agreement Term	Description
1. Service Provided by Metropolitan	Metropolitan would provide DWR with up to 100 TAF in 2006 on behalf of EWA. DWR would return a like amount of water to Metropolitan in a future dry year.
2. Type of Water Provided by Metropolitan	Most likely source of supply is Table A water allocated to Metropolitan by the State Water Project.
3. Point of Delivery and Return	O'Neil Forebay, just east of San Luis Reservoir.
4. Amount of Metropolitan Water Exchanged	A maximum of 100 TAF in 2006.
5. Limit on Performance by Metropolitan	For 2006, Metropolitan would provide up to 100 TAF to DWR on behalf of EWA. Metropolitan will share the cost of the exchange water when it is returned.
6. EWA Payment to Metropolitan	EWA would pay Metropolitan \$85 for each AF of exchange water provided by Metropolitan.
7. EWA Return of Water to Metropolitan	At Metropolitan's request, DWR would return water to Metropolitan in a year(s) when final State Water Project Allocations are 60% or less. Metropolitan and DWR would share equally the cost of acquiring the exchange water and Metropolitan would return the \$85/AF deposit to DWR.
8. Guarantee	In the event that EWA is no longer in existence or should exchange water not be returned to Metropolitan, EWA's initial deposit will be used to compensate Metropolitan for lost exchange water and EWA's obligation to return water would be extinguished.
9. 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.
10. EWA Funding	From sources available to the EWA.