

- **Board of Directors**
Legal and Human Resources Committee

July 10, 2007 Board Meeting

9-2

Subject

Metropolitan's Response to Notice of Preparation for Perris Dam Remediation Project [Conference with legal counsel – potential litigation; may be heard in closed session pursuant to Gov. Code Section 54956.9(b)]

Description

On June 1, 2007, the California Department of Water Resources (DWR) issued a Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Perris Dam Remediation Project (Project). According to the NOP, DWR's preferred alternative is to return Lake Perris to its historical maximum operating capacity of 131,000 acre-feet (AF). The Draft EIR will assess the environmental impacts that could result from the proposed project and identify feasible mitigation measures that could reduce or eliminate such impacts. In addition, the Draft EIR will discuss four alternatives to the proposed project and explain the criteria used to identify a preferred alternative. If and when the Draft EIR is certified, it would serve as the basis for approving a remediation project for Lake Perris.

Background

Lake Perris was dedicated in May 1973 as a major component of the State Water Project (SWP). Located between the cities of Hemet and Perris in western Riverside County, the facility is owned and operated by DWR. Lake Perris provides 65,000 AF of dry-year supplies to Metropolitan, and another 65,000 AF of emergency and annual regulatory storage. Lake Perris also provides a backup supply to the Mills Treatment Plant should outages occur on DWR's Santa Ana Valley Pipeline, and has been used recently to buffer certain poor water quality events on the California Aqueduct. Metropolitan uses water from Lake Perris on a routine basis to help manage water deliveries in its water distribution system and maintain water system reliability. In addition, over the past five years, Metropolitan has used approximately 80,000 AF of water from Lake Perris during infrastructure outages and water quality episodes.

In July 2005, DWR notified Metropolitan that it had concerns regarding the seismic safety of Lake Perris dam. More specifically, MWD was informed that DWR had identified an area of the dam located near the left abutment that could be subject to liquefaction during seismic events. In light of these concerns, the interim maximum operating level of the reservoir was lowered by 25 feet, resulting in a reduced maximum operating capacity of 74,000 AF. This drawdown was necessary to reduce the risk of water overtopping the dam and an uncontrolled release of water in the event of a major earthquake. Since that time, DWR has been studying various options for addressing these seismic safety issues. The outcome of these studies were discussed in detail at the Engineering and Capital Programs Committee meeting held on March 12, 2007. Because this is such a significant issue, they are summarized again below.

Reconnaissance Studies

In June 2006, DWR completed a reconnaissance study requested by the three participating SWP contractors, Metropolitan, Desert Water Agency (DWA) and Coachella Valley Water District (CVWD). The purpose of this study was to qualitatively evaluate the advantages and disadvantages of various reservoir storage capacities to assist in determining the best course of action for repairing the dam. Ultimately, eight scenarios ranging from 1,000,000 AF to an empty reservoir were evaluated, of which four were eliminated from further review. Specifically, three scenarios that involved increasing the reservoir storage capacity to 500,000 AF, 700,000 AF and 1,000,000 AF, respectively, were rejected as being too costly and unnecessary to meet the agencies' current

and projected needs. A fourth scenario that called for draining the reservoir was rejected because it would not achieve the agencies' basic water supply and storage objectives for this facility.

Accordingly, in December 2006, DWR completed a supplemental reconnaissance study that included rough construction cost estimates for the four scenarios identified by Metropolitan, DWA and CVWD as being the most feasible. As shown in the table below, these cost estimates range from a low of \$437 million to a high of \$1.52 billion.

	Option A	Option B	Option C	Option D w/o NE Dam
Capacity	40,000 AF	74,000 AF	131,000 AF	257,000 AF
Repair Costs¹	\$147 million	\$193 million	\$216 million	\$612 million
Total Costs² (Low Estimate)	\$437 million	\$336 million	\$343 million	\$1.14 billion
Total Costs (High Estimate)	\$583 million	\$448 million	\$457 million	\$1.52 billion

Option A corresponds to a "recreation only" scenario and would provide no water supply, storage or operational benefits to Metropolitan, DWA or CVWD. Option B corresponds to the current interim operating level for the reservoir and would provide only marginal water supply, storage and operational benefits to our three agencies. Option C corresponds to the historical maximum operating capacity for the reservoir and would provide the same benefits as we had prior to the drawdown of the lake. Finally, Option D corresponds to a higher operating level for the reservoir that would roughly double the water supply, storage and operational benefits we previously received from this facility.

DWR's Preferred Alternative

As noted above, DWR has issued an NOP for the Perris Dam Remediation Project, in which it identifies restoring Lake Perris to its historical maximum operating capacity of 131,000 AF as the preferred alternative. To accomplish this, DWR is proposing to remove and replace foundation material along a portion of the toe of the dam and construct a stability berm along the face. In addition, DWR is proposing to retrofit the existing outlet tower at the left abutment and make improvements to the emergency outlet release facility. According to the NOP, all of these modifications would be constructed "without draining the lake in an effort to maintain the beneficial uses of the State Recreation Area."

Unfortunately, the NOP is based on and reflects the outcome of the studies and investigations completed by DWR last year. In fact, the four alternatives that DWR has selected for evaluation in the Draft EIR are the same ones that were examined in the supplemental reconnaissance study. However, much has changed since those studies were completed. The current ecosystem problems in the Bay-Delta have created a large amount of uncertainty with respect to the delivery of water from the SWP. The decline of pelagic organisms, including the Delta smelt, has lead DWR to significantly reduce SWP exports over the past two months. In addition, these declines have prompted various environmental groups to file state and federal lawsuits seeking drastic restrictions on SWP

¹ The estimates of repair costs include only those construction costs associated with repairing the dam and its appurtenant structures, such as the outlet tower, spillway and emergency release channel.

² The estimates of total costs include both repair costs and other costs associated with implementing a particular alternative, such as the cost for design, project management, environmental mitigation, and relocation of recreational facilities.

pumping operations. Ultimately, it could take several years to determine the causes of these declines and longer to correct them.

Given these circumstances, staff believes it is premature for DWR to commit to restoring Lake Perris to its historical operating level. This preferred alternative is based on the assumption that SWP pumping operations will return to and remain at sustained levels in the near future. Yet, such an assumption is not reasonable at this point in time.

Metropolitan's Response

If DWR is able to demonstrate that the SWP can and will reliably deliver sufficient water supplies from the Delta, then, in staff's view, it would be appropriate for Metropolitan to support the preferred alternative, i.e., restoring the reservoir to its historical maximum operating capacity of 131,000 AF. Of the alternatives previously examined, this one appears to be the best in terms of (1) maintaining flexible, regulatory, dry-year and emergency storage; (2) ensuring continued system reliability; and (3) providing water quality benefits.

On the other hand, if DWR is not able to demonstrate that the SWP will reliably deliver sufficient water supplies from the Delta, then staff believes that Metropolitan should not support the preferred alternative. Instead, Metropolitan should support only those repairs needed to ensure that life and property are protected.

Metropolitan has submitted comments on the NOP consistent with this position. In addition, Metropolitan, DWA, and CVWA have submitted a joint letter to DWR that communicates our concerns and urges DWR to delay making any further decision or taking any further action on their preferred alternative. Under the current circumstances, we believe that more time is needed to fully evaluate the best approach for addressing the seismic safety issues at Lake Perris.

Potential Financial Obligations

Under DWR's preferred alternative, approximately \$22.3 million is tied to recreation costs. Of the remaining dam rehabilitation costs, Metropolitan would be responsible for paying at least \$210 million, based on the current cost allocation formula.³ These costs would be in addition to Metropolitan's existing financial obligations associated with Lake Perris.⁴

If Metropolitan does not support the preferred alternative and pays only for its share of those repairs needed to ensure that life and property are protected, then its costs could be reduced by up to \$166 million.⁵ However, if Metropolitan no longer uses this facility for water supply-related purposes, additional improvements to Metropolitan's distribution system would be required to provide an equivalent level of operational reliability. These improvements, costing an estimated \$50 million, include construction of a structure and interconnecting pipeline to bypass Lake Perris and convey flows from the Santa Ana Valley Pipeline to Metropolitan's Lakeview Pipeline. These costs would be in addition to Metropolitan's existing financial obligations associated with Lake Perris.

Metropolitan, DWA and CVWD strongly believe that Lake Perris provides significant recreational and environmental benefits that are not fully accounted for under the current cost allocation formula. Thus, even if Metropolitan chooses to support the preferred alternative, Metropolitan still should pursue a more equitable cost-sharing arrangement with DWR. In a similar vein, Metropolitan should explore alternative means of financing

³ Under the 2003 Exchange Agreement, Metropolitan is responsible for paying at least 60 percent of the capital and fixed operation and maintenance costs associated with Lake Perris, and DWA and CVWD are collectively responsible for paying up to 35 percent. Metropolitan's obligation increases if it calls back its SWP Table A supplies from DWA and CVWD. The State General Fund currently is obligated to pay the remaining 5 percent of the costs associated with this facility, primarily for recreation and fish and wildlife enhancement purposes.

⁴ Currently, there is approximately \$117 million in remaining debt associated with the existing Lake Perris facilities. Under the current cost allocation formula, Metropolitan is responsible for just over \$70 million of this total.

⁵ These anticipated savings are based on the estimated cost of reducing the height of the dam and cutting a notch in it to prevent impoundment of water. However, this does not take into account the potential cost of any mitigation required for environmental impacts resulting from draining the reservoir, which could be significant.

any repairs, such as a future water bond, so as to minimize costs while maximizing our water supply and operational benefits from this facility.

Conclusion

In sum, staff believes that unless and until DWR demonstrates that the SWP can reliably deliver sufficient water supplies from the Delta, Metropolitan should not support the current proposal for rehabilitating the dam and restoring the reservoir to its historical operating level. For these reasons, we have urged DWR to delay making any further decisions or taking any further action on this Project until it has more fully evaluated the best approach for addressing the seismic safety issues at Lake Perris, and how that approach would fit into the long-term plans for SWP reliability. Of course, if DWR decides to proceed with this Project in order to support recreation or other purposes unrelated to water supply that certainly is its prerogative. However, DWR should not expect our agencies to bear the financial burden associated with that decision.

The response to the NOP is the first step in the environmental review process for the Perris Dam Remediation Project. Once comments are received as to the scope of the EIR, DWR will develop a Draft EIR for review and comment. Based on these comments a Final EIR would then be prepared. As these milestones develop, staff will update the Board.

Policy

Administrative Code Section 4201.

Fiscal Impact

Unknown at this time.



Roy L. Wolfe
Manager, Corporate Resources

7/3/2007
Date



Jeffrey Kightlinger
General Manager

7/3/2007
Date