



● **Board of Directors**
Water Planning and Stewardship Committee

7/13/2010 Board Meeting

8-6

Subject

Authorize execution of an amendment to the Delta Habitat Conservation and Conveyance Plan Funding Agreement to commit up to an additional \$21.5 million for Metropolitan's share of costs to prepare the environmental documentation and associated preliminary engineering design for the Bay Delta Conservation Plan

Description

In 2006, the Board authorized execution of a Planning Agreement and Cooperation Agreement for the preparation of the Bay Delta Conservation Plan (BDCP). The BDCP is the regulatory mechanism for improving the ecological conditions to provide multispecies regulatory protection in the Delta under the state and federal endangered species laws. Metropolitan's interest is securing the regulatory protection for State Water Project (SWP) operations and restoring water supply reliability. These agreements, each with a term of three years, established: (a) the process for developing the BDCP, and (b) the cost sharing, management and decision-making among the "potentially regulated entities" (Metropolitan, other SWP contractors, federal export contractors, Mirant Delta power company, the California Department of Water Resources (DWR), and the United States Bureau of Reclamation). The Board authorized execution of amendments to these agreements in November 2009 to extend the Planning Agreement through December 2011 and the Cooperation Agreement through January 2011. With the amendment to the Cooperation Agreement, Metropolitan's total cost share to support development of the BDCP was established at \$2.9 million within a total budget of \$13.5 million. This funding covers consulting services, fishery agency staffing, and DWR services provided in support of certain BDCP activities, such as conducting technical analyses, developing alternative physical and operational features, and drafting various agreements and documents.

Separately from the Planning Agreement and Cooperation Agreement for the preparation of the BDCP, the Board authorized execution of the Delta Habitat Conservation and Conveyance Program (DHCCP) Funding Agreement with DWR in December 2008. The DHCCP Funding Agreement supports the environmental analysis and documentation, preliminary engineering designs, geotechnical field studies, and other necessary feasibility information for Delta water conveyance and related habitat conservation measures for the BDCP. The initial budget to initiate activity under the DHCCP Funding Agreement was estimated at \$140 million. The SWP contractors' share of program costs based on the agreement was \$70 million (50 percent) and is allocated based on their Table A contract amount. Metropolitan's share was estimated at about \$35 million in the December 2008 board authorization letter. A similar funding agreement addresses the federal contractors' half of the DHCCP costs.

The DHCCP Funding Agreement establishes uniform terms between participating SWP contractors and DWR to fund their collective half of DHCCP costs. The DHCCP Funding Agreement provides for the program costs to be included in each participating SWP contractor's Annual Statement of Charges.

Proposed Supplemental Funding BDCP and DHCCP

In December 2009, after a reassessment by DWR of program scope, technical needs, and schedule, a revised budget was developed that integrated the costs of activities related to both the BDCP and the DHCCP. This

integrated budget identified increased funding needs of \$100 million, bringing the total estimated costs for all BDCP and DHCCP related activities to \$253.5 million. The breakdown of costs is as follows:

Integrated BDCP and DHCCP Budget

\$ millions

Program	Original	Supplemental	Total
BDCP	13.5	14.0	27.5
DHCCP	140.0	86.0	226.0
Total	153.5	100.0	253.5

The revised budget results in increased costs for SWP contractors of \$7 million for the BDCP and \$43 million for the DHCCP. The increased costs for the BDCP would be collected from all SWP contractors through the SWP Annual Statement of Charges. The increased costs for the DHCCP are being incorporated into a DHCCP Supplemental Funding Agreement, which is the subject of this board action, and would be collected from participating SWP contractors through the Annual SWP Statement of Charges, most likely for 2011 and 2012. Metropolitan's share of these increased costs are estimated to be up to \$3.5 million for the BDCP and \$21.5 million for the DHCCP, allocated based on the Table A contract amount.

The Supplemental Funding Agreement includes essentially the same terms as the original DHCCP Funding Agreement approved by the Board, except for the increased funding amount and a provision to commence discussions and seek agreement with all other SWP contractors regarding the terms for funding actions beyond the planning phase, including the construction and implementation phases of the DHCCP. The revised budget is estimated to provide sufficient funds to complete the BDCP, preliminary design, field surveys, environmental documents, and to obtain the regulatory approvals necessary for BDCP implementation. The cost increase results from additionally required engineering design work on project alternatives (including tunnel options), further hydrodynamic and operational modeling analyses, broadened environmental and biological analyses, and outreach.

Program Status and Schedule

To date, BDCP formulation has proceeded to a point of defining proposed habitat, conveyance facility, and water project operational criteria components. These proposed components will be analyzed in the environmental analysis for the DHCCP. A draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the DHCCP is scheduled to be completed by early 2011. The final EIR/EIS is scheduled to be completed by early 2012. Completion of construction of the isolated conveyance component and initial operations is currently scheduled for 2022.

Policy

By Minute Item 46843, dated October 10, 2006, the Board authorized execution of the Planning Agreement for the Bay Delta Conservation Plan.

By Minute Item 46878, dated November 14, 2006, the Board authorized execution of the Bay Delta Conservation Plan Cooperation Cost-Share Agreement.

By Minute Item 47135, dated June 12, 2007, the Board adopted the proposed Delta Action Plan, as set forth in the letter signed by the General Manager.

By Minute Item 47735, dated December 9, 2008, the Board authorized execution of the Delta Habitat Conservation and Conveyance Program Memorandum of Agreement and three related funding and management agreements.

By Minute Item 48117, dated December 8, 2009, the Board authorized execution of amendments to the Planning Agreement for the Bay Delta Conservation Plan and the Cooperation Agreement Among Potentially Regulated Entities for Preparation of the Bay Delta Conservation Plan.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action on the funding component associated with Metropolitan's continuing contributions to the proposed Delta Habitat Conservation and Conveyance Plan is not subject to CEQA because it involves 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). In addition, the proposed action consists of basic data collection and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. This may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded. Accordingly, the proposed action also qualifies for a Class 6 Categorical Exemption (Section 15306 of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is exempt from CEQA pursuant to Sections 15306 and 15378(b)(4) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination and authorize the General Manager to execute an amendment to the DHCCP Funding Agreement with the DWR to provide up to an additional \$21.5 million for Metropolitan's share of costs to prepare the preliminary engineering design and environmental documentation for the BDCP.

Fiscal Impact: Execution of the agreement amendment will result in direct fiscal impact upon Metropolitan of up to \$21.5 million (Metropolitan's estimated total cost share for BDCP and DHCCP would total up to \$63.375 million or 25 percent of the total cost contained in the Integrated BDCP and DHCCP Budget table above). If the DHCCP projects are approved for construction, these planning cost payments would be returned and financed over a longer repayment term.

Business Analysis: The proposed agreement amendment would provide the necessary basis to complete plans for a long-term Delta solution to restore Metropolitan's SWP water supply reliability, and provide a more stable regulatory environment through a multispecies habitat conservation plan.

Option #2

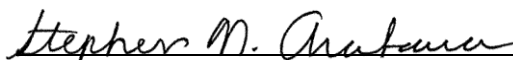
Do not authorize the General Manager to execute the proposed funding amendments.

Fiscal Impact: No immediate direct financial impact upon Metropolitan due to the DHCCP cost contained in the proposed Supplemental Funding Agreement; however, failure to complete and implement the DHCCP, including a multispecies habitat conservation plan and new Delta water conveyance, would likely result in higher water supply costs in the future.

Business Analysis: The lack of sufficient funding will impair the ability to complete the necessary preliminary engineering designs and final environmental documents for the DHCCP, compromising the achievement of anticipated water supply reliability benefits for Metropolitan.

Staff Recommendation

Option #1


Stephen N. Arakawa
Manager, Bay-Delta Initiatives

6/29/2010
Date


Jeffrey Nightlinger
General Manager

6/30/2010
Date

Ref# wrm12605527