



- Board of Directors
Water Planning and Stewardship Committee

12/10/2013 Board Meeting

8-3

Subject

Authorize the General Manager to execute an agreement with Imperial Irrigation District for participation in the Minute No. 319 Binational Pilot Project.

Executive Summary

On November 5, 2012, the Board granted authority to the General Manager to negotiate with the Imperial Irrigation District (IID) to allow IID to participate in a pilot project for up to 20 percent of the Intentionally Created Surplus (ICS) made available to Metropolitan pursuant to the International Boundary and Water Commission's Minute No. 319. The authority requested here would include execution of an agreement in a form approved by the General Counsel, allowing IID to participate in up to one-half of the pilot project water supply available to Metropolitan.

Details

In November 2012, after lengthy negotiations, the United States and Mexican Sections of the International Boundary and Water Commission executed Minute No. 319. The minute included a number of provisions that will benefit both countries during its five-year term. The minute included shortage sharing, surplus sharing, and allowed Mexico to store water in the United States' reservoirs. Minute No. 319 also established a pilot project under which United States entities agreed to fund water conservation projects in Mexico to generate a water supply for environmental uses in the Colorado River Delta and also to increase funders' ICS storage accounts in Lake Mead. The pilot project called for \$21 million in U.S. funding to generate 124,000 acre-feet (AF) of conserved water to be stored in the United States as Intentionally Created Mexican Allocation (ICMA). The United States committed to \$11 million. Lower Basin water contractors agreed to provide the remaining \$10 million in exchange for conversion of 95,000 AF of ICMA into ICS credits for their future use. Southern Nevada Water Authority and Central Arizona Water Conservation District each agreed to provide one-quarter of the nonfederal funding for the pilot project, with Metropolitan agreeing to provide the remaining 50 percent of the nonfederal funding.

Prior to execution of the funding agreement, IID had expressed an interest in participating in the pilot project. Metropolitan and IID met to try to develop mutually agreeable terms that would allow IID to participate in the funding agreement for the pilot project. After several negotiating sessions, both parties were unable to agree on terms for sharing the pilot project supply.

With an impending deadline for execution of Minute No. 319 near the end of November 2012, Metropolitan made an offer to IID to share up to 20 percent of the pilot project water supply to meet new industrial demands in IID's service area for specifically identified new projects. That proposal was not approved by IID. As a result, the pilot project agreements were finalized for signature without IID. However, a clause was inserted into the pilot project funding agreement that negotiations between Metropolitan and IID could continue.

In early 2013, IID requested that Metropolitan engage in further negotiations to see if the parties could come to agreement for IID participation in the pilot project. Over the last eleven months, IID has taken steps to address many of the concerns of Metropolitan and other Basin States regarding IID's use of Colorado River water. In its June 28, 2013 letter to the Bureau of Reclamation (Reclamation), IID agreed to repay to Lake Mead the pre-delivery of water to the Salton Sea in 2010, ending the dispute between IID and Metropolitan over that action. In 2012, IID ramped up its conservation efforts to meet all of its transfer obligations, and provide make-up water to

SDCWA for the prior year's shortfall. IID is also taking steps to further increase conservation actions to pay back its prior year overruns over the next two years.

The General Manager seeks authority to negotiate revised terms that, in his discretion, are acceptable in light of IID's improved performance of its other obligations and its need for water supplies to satisfy nonagricultural demands in its service area and to payback inadvertent past overuse of Colorado River water; and to execute a final agreement on such terms, if agreement is reached, in a form approved by the General Counsel. The General Manager's discretion would be limited to sharing no more than one-half of the pilot project water supply available to Metropolitan. In addition, under the existing contracts for the pilot project, IID would share in reductions of any Quantified Surplus water supplies that are made available to Mexico pursuant to Minute No. 319. IID's participation in the pilot project would be through Metropolitan's role as a party to the funding agreement, and would be subject to all other existing agreements related to the project (including forbearance agreements by other Colorado River water rights holders) and any additional agreement that may be required by the Bureau of Reclamation as a condition of making the water available to IID.

Policy

By Minute Item 49247, dated November 5, 2012, the Board authorized execution of agreements for the Minute No. 319 pilot project and negotiations with Imperial Irrigation District on terms for its participation.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action of negotiating and executing an agreement for IID to participate in the Minute No. 319 pilot project is statutorily exempt under the provisions of CEQA and the State CEQA Guidelines. In particular, the proposed action consists of sharing in funding that would allow Mexico to intentionally create a portion of surplus supplies of Colorado River water, without increasing the total amount of available surplus supplies, for retention of the water in the federal Colorado River system, and future delivery to Metropolitan and IID in accordance with existing delivery contracts. As the portion of the federal Colorado River system where surplus supplies would be created is located outside California and the Bureau of Reclamation completed an environmental impact statement pursuant to the National Environmental Policy Act that addressed the potential impacts of the creation and delivery of the surplus water, Metropolitan's proposed action is exempt from CEQA under a statutory exemption (Public Resources Code Section 21080(b)(14) and State CEQA Guidelines Section 15277). In addition, the proposed action consists of operation of existing facilities of Metropolitan and IID involving no expansion of their use beyond that currently existing. Accordingly, the proposed actions qualify for Class 1 categorical exemption (State CEQA Guidelines Section 15301).

The CEQA determination is: Determine that the proposed action is exempt from CEQA pursuant to Section 21080(b)(14) of the Public Resources Code and Sections 15277 and 15301 of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination that the proposed action is statutorily exempt from CEQA and authorize the General Manager to:

- a. Negotiate revised terms for IID to participate in the Minute No. 319 pilot project, with a limitation that IID would share in no more than one-half of the ICS water available to Metropolitan; and
- b. Execute an agreement with IID on such other terms as the General Manager may negotiate in a form approved by the General Counsel.

Fiscal Impact: Up to \$2,500,000 would be reimbursed to Metropolitan by IID in exchange for a share of up to 23,750 AF of ICS converted from ICMA.

Business Analysis: Cooperative action among California's Colorado River water users improves access to water supplies for all. The General Manager would have the discretion to negotiate reasonable terms with IID based on its recent commitment to improve performance in meeting transfer obligations under the Quantification Settlement Agreement and payback obligations that improve system supplies and reduce risks of shortages.

Option #2

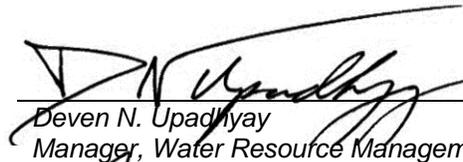
Do not authorize the General Manager to negotiate revised terms for IID to participate in the Minute No. 319 pilot project.

Fiscal Impact: Metropolitan would remain responsible for payment of \$5,000,000 under the pilot project funding agreement, subject to reimbursement by IID of up to \$1,000,000 upon its showing that it would use 9,500 AF of the ICS water for municipal and industrial uses.

Business Analysis: The retention of the pilot project water supplies would provide a short-term water supply benefit. There would be potential long-term effects on future cooperation with IID over Colorado River water use.

Staff Recommendation

Option #1

	11/20/2013
Deven N. Upadhyay Manager, Water Resource Management	Date
	11/25/2013
Jeffrey Knightlinger General Manager	Date