



- Board of Directors
Water Planning and Stewardship Committee

6/8/2021 Board Meeting

7-7

Subject

Review and approve changes to the start-of-operation timing for four Local Resources Program projects; and adopt CEQA determination that the environmental effects of the four Local Resources Program projects that are the subject of the proposed action were previously addressed in various CEQA documents and related actions, and that no further CEQA review is required

Executive Summary

The Local Resources Program (LRP) provides financial incentives to encourage development of local water supplies for Southern California. Each LRP agreement includes milestones for timely construction, operation, and production. One LRP agreement provision requires that if a project fails to begin operation and deliver a portion of its maximum yield within four fiscal years of agreement execution, the contract will be terminated. This provision can be appealed to the Board by the member agency. Four LRP agreement terminations are currently being appealed at this time, and staff recommends that the Board grant all the appeals.

Timing and Urgency

Four of eleven LRP projects currently under construction are contractually required to begin operation by June 30, 2021. Absent Board action, staff would terminate these contracts.

Details

Background

In 1982, Metropolitan created the LRP to provide financial incentives to help local and member agencies develop water recycling and groundwater recovery projects. Since inception, Metropolitan has provided about \$693 million in incentives for the development of more than 3.0 million acre-feet (AF) of recycled water and 1.0 million AF of recovered groundwater. There are currently 115 projects under the program, with 100 currently in operation. Projects under the LRP help increase water supply reliability, reduce imported water demands, decrease the burden on Metropolitan's infrastructure, reduce system costs, and free up conveyance capacity. In addition, the LRP helps Metropolitan meet its legislative mandates under Senate Bill 60 to expand water conservation, recycling, and groundwater storage and replenishment measures. Overall, the LRP provides regional benefits to all member agencies.

After extensive coordination with member agencies, the program was refined in 2014 to modify performance provisions, increase the maximum incentive amount to \$340/AF, provide three alternative payment structures, and add seawater desalination as an eligible resource. Subsequent to the 2014 program modifications, Metropolitan accepted 17 new projects that are now in various stages of design, construction, and operation.

Current LRP Start of Operation Performance Provisions

Since March 2020, Metropolitan and its member agencies have faced significant challenges due to the COVID-19 pandemic. In a survey sent to the Member Agency Engineering Managers, eight agencies identified impacts to their capital projects as a result of the pandemic.

Separately, member agencies notified staff that several LRP projects under construction experienced significant delays either due to the pandemic, supply chain issues, permitting slow-downs, longer time needed to connect to

recycled water customers, and other construction-related issues. Pandemic-related delays arose from issues surrounding equipment supplies, permitting, and regulations. Metropolitan has likewise experienced some construction delays due to the pandemic.

Metropolitan terminates LRP agreements when a project fails to start operation and deliver its allowable yield within four fiscal years of agreement execution. Because of the delays described above, four of eleven LRP projects currently under construction are not expected to meet their start-of-operation milestone by the end of June 2021. The member agencies report that the projects can be completed if granted three additional fiscal years of construction.

Framework for Extending Start-of-Operation

Metropolitan staff met with the member agency managers in April and reported to the Board in May on this issue and to receive feedback on possible remedies. Pursuant to member agency appeals, staff recommends the Board approve time extensions for the start-of-operation milestone for four LRP projects. Performance provisions that would be extended are included in **Attachment 1**.

Staff recognizes that the pandemic presented a significant challenge to completing construction for projects. Additionally, a wide variety of other factors also affected the ability to start operations and these were exacerbated by the pandemic. These delays include recycled-water customer-related delays, supply chain issues, difficulty acquiring rights-of-way, legal issues, and other construction-related issues.

Rather than identify a prescriptive list of acceptable reasons to extend the contracts, staff requests Board authorization to modify the start-of-operation milestone by up to three fiscal years if the project proponents meet certain criteria. Under this framework, the project must have an active agreement and currently be under construction. The member agency must also meet the following four criteria: (1) formally request an extension and describe the reasons for the delay; (2) affirm that all parties to the agreement are still pursuing the project; (3) provide a revised schedule; and (4) affirm that the project will start operation within the requested extension (not to exceed three fiscal years). Once an extension request is granted by the Board, the LRP project's agreement will terminate 25 years following the new start-of-operation due date (the "25-year operation term"). Note that the start-of-construction milestone of two fiscal years from agreement execution is not being extended. If a project's requested start-of-operation extension exceeds three fiscal years, staff will terminate the project's LRP contract following the project's start-of-operation due date.

Attachment 2 lists four LRP projects that have requested an extension to their start-of-operation due dates and meet the criteria described above. The attachment additionally lists each project's justification for their requests and their estimated start-of-operation dates. These four LRP projects are currently under construction and are contractually required to begin operation by June 30, 2021.

This approach provides flexibility to respond to challenges experienced by the project proponents while still ensuring that proposed projects are ready for construction when brought to the Board for initial consideration. Importantly, Metropolitan would not incur any new overall financial obligations from such an extension.

Policy

By Minute Item 49923, dated October 14, 2014, the Board approved refinements to the Local Resources Program to encourage additional local resource production.

By Minute Item 50632, dated November 8, 2016, the Board authorized entering into a Local Resources Program agreement with Eastern Municipal Water District for Perris II Brackish Groundwater Desalter for up to 5,500 AFY of recovered groundwater.

By Minute Item 50635, dated November 8, 2016, the Board authorized entering into a Local Resources Program agreement with Los Angeles Department of Water and Power for Sepulveda Basin Sports Complex Water Recycling Project for up to 350 AFY of recycled water.

By Minute Item 50665, dated December 13, 2016, the Board authorized entering into a Local Resources Program agreement with Los Angeles Department of Water and Power for Westside Area Water Recycling Project for up to 150 AFY of recycled water.

By Minute Item 50665, dated December 13, 2016, the Board authorized entering into a Local Resources Program agreement with Los Angeles Department of Water and Power for Terminal Island Recycled Water Expansion Project for up to 8,000 AFY of recycled water.

By Minute Item 51356, dated October 9, 2018, the Board approved an interim Local Resources Program target yield of 170,000 AFY of new water production.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The Four LRP projects that are subject to this action were previously evaluated by the Board, and the Board made CEQA determinations for each.

On November 8, 2016, the Board acted as a Responsible Agency and certified that it reviewed and considered the information in the Eastern Municipal Water District's 2015 EA/IS, MND, and MMRP adopted the Lead Agency's findings; and approved the terms and conditions of an LRP agreement for the Perris II Brackish Groundwater Desalter Project.

On November 8, 2016, the Board acted as a Responsible Agency and certified that it reviewed and considered the information in the Los Angeles Department of Water and Power's 2013 MND and MMRP, the 2014 Addendum No. 1, the 2015 Addendum No. 2, and adopted the Lead Agency's findings; and approved the terms and conditions of an LRP agreement for the Sepulveda Basin Sports Complex Water Recycling Project.

On December 13, 2016, the Board acted as a Responsible Agency and certified that it reviewed and considered the information in the Los Angeles Department of Water and Power's 2009 Final EIR, MMRP, SOC, and Findings, the 2012 Addendum, and subsequent Notices of Exemption in 2013 and 2016, and adopted the Lead Agency's findings; and approved the terms and conditions of an LRP agreement for the Terminal Island Recycled Water Expansion Project.

On December 13, 2016, the Board determined that the action to approve the terms and conditions of an LRP agreement for the Westside Area Water Recycling Project was exempt from CEQA in accordance with Section 15301 of the State CEQA Guidelines.

The proposed action to extend start of operation deadlines for these four LRP projects represents a minor modification affecting only the fiscal aspects of these projects. Thus, the previous environmental documentation acted on by the Board in conjunction with these LRP projects fully complies with CEQA and the State CEQA Guidelines, and no further CEQA review is required for the proposed action.

CEQA determination for Option #2:

Not required

Board Options

Option #1

Adopt the CEQA determination that the previous environmental documentation acted on by the Board in conjunction with these LRP projects fully complies with CEQA and the State CEQA Guidelines, and that no further CEQA review is required; and review and approve changes to the start-of-operation timing for four LRP projects included in **Attachment 2**.

Fiscal Impact: No financial impacts from the proposed modifications to the listed LRP projects are anticipated. Financial impacts of specific projects are provided when their respective LRP agreements are brought to the Board for consideration.

Business Analysis: The authorization would help Metropolitan support local supply development and meet its legislative mandates, while reducing the district’s system costs.

Option #2

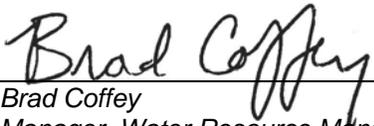
Do not approve changes to the start-of-operation timing for the four LRP projects. Allow contracts to expire on June 30, 2021.

Fiscal Impact: None

Business Analysis: Metropolitan would no longer provide financial incentives for these projects and it may take longer to meet LRP target goals.

Staff Recommendation

Option #1



Brad Coffey
Manager, Water Resource Management

6/2/2021
Date



Jeffrey Kightlinger
General Manager

6/3/2021
Date

Attachment 1 – Local Resources Program (LRP) Adjustments for Time Extension

Attachment 2 – Local Resources Program (LRP) Projects Requesting Start-of-Operation Extensions

**LOCAL RESOURCES PROGRAM (LRP)
ADJUSTMENTS FOR TIME EXTENSION**

Performance provisions marked with an asterisk would be extended according to the table below and as described in Attachment 2.

Timeline (full fiscal year after agreement execution)	Milestone	Consequence if target is not achieved
2 years	Start of Construction	Agreement terminated
4 years*	Start of Operation	Agreement terminated
4-7 years*	50 percent of contract yield	Contract yield reduced
8-11 years*	75 percent of contract yield	Contract yield reduced
12-15 years, and every 4 years thereafter*	75 percent of contract yield	Contract yield reduced

* Staff will request Board authorization to extend the start of operation milestone and each subsequent milestone by up to three fiscal years if member agency conforms with criteria outlined in this letter.

**LOCAL RESOURCES PROGRAM (LRP) PROJECTS REQUESTING
START-OF-OPERATION EXTENSIONS**

Project Information	
<i>LRP Project</i>	Perris II Brackish Groundwater Desalter Project
<i>Member Agency</i>	Eastern Municipal Water District (EMWD)
<i>Ultimate Yield (AF)</i>	5,500
<i>Date of Agreement Execution</i>	June 1, 2017
Extension Timeline	
<i>Start-of-Operation Milestone</i>	June 30, 2021
<i>Revised Start-of-Operation Milestone</i>	June 30, 2022
<i>Length of Extension Requested</i>	12 months
Additional Information	
<i>Project currently under construction?</i> <input checked="" type="checkbox"/>	
<i>Member Agency affirmed all parties pursuing project?</i> <input checked="" type="checkbox"/>	
<i>Member agency provided revised schedule?</i> <input checked="" type="checkbox"/>	
<i>Member agency affirmed that the project will start operation within 3 fiscal years?</i> <input checked="" type="checkbox"/>	
Reasons for Requested Extension	
<p>The delays are related to electrical gear and impacts due to COVID-19 and Southern California Edison (SCE). The electrical gear is critical path. SCE was delayed in providing their Electrical Service Requirements to EMWD which impacted electrical gear design. SCE also revised their design after EMWD proceeded with construction. In addition, the electrical supplier had numerous COVID delays in both the engineering and manufacturing departments. As a result of these delays, EMWD is anticipating starting full operation by the end of this calendar year.</p>	

Project Information	
<i>LRP Project</i>	Sepulveda Basin Sports Complex Water Recycling Project
<i>Member Agency</i>	Los Angeles Department of Water and Power (LADWP)
<i>Ultimate Yield (AF)</i>	350
<i>Date of Agreement Execution</i>	June 8, 2017
Extension Timeline	
<i>Start-of-Operation Milestone</i>	June 30, 2021
<i>Revised Start-of-Operation Milestone</i>	June 30, 2024
<i>Length of Extension Requested</i>	36 months
Additional Information	
<i>Project currently under construction?</i> <input checked="" type="checkbox"/>	
<i>Member Agency affirmed all parties pursuing project?</i> <input checked="" type="checkbox"/>	
<i>Member agency provided revised schedule?</i> <input checked="" type="checkbox"/>	
<i>Member agency affirmed that the project will start operation within 3 fiscal years?</i> <input checked="" type="checkbox"/>	
Reasons for Requested Extension	
<p>The main reason for this extension request is due to the lengthy times required for easements from both the U.S. Army Corps of Engineers and the Los Angeles Metro Transportation Authority. COVID-19 also delayed the pipeline installation. LADWP has already installed 6,500 ft. of the 7,500 ft. total and the rest will be installed once the easements are secured.</p>	

Project Information	
<i>LRP Project</i>	Westside Area Water Recycling Project
<i>Member Agency</i>	Los Angeles Department of Water and Power (LADWP)
<i>Ultimate Yield (AF)</i>	150
<i>Date of Agreement Execution</i>	June 8, 2017
Extension Timeline	
<i>Start-of-Operation Milestone</i>	June 30, 2021
<i>Revised Start-of-Operation Milestone</i>	June 30, 2024
<i>Length of Extension Requested</i>	36 months
Additional Information	
<i>Project currently under construction?</i> <input checked="" type="checkbox"/>	
<i>Member Agency affirmed all parties pursuing project?</i> <input checked="" type="checkbox"/>	
<i>Member agency provided revised schedule?</i> <input checked="" type="checkbox"/>	
<i>Member agency affirmed that the project will start operation within 3 fiscal years?</i> <input checked="" type="checkbox"/>	
Reasons for Requested Extension	
The main reason for this extension request is due to two of the customers for the project still need to install their on-site retrofits.	

Project Information	
<i>LRP Project</i>	Terminal Island Recycled Water Expansion Project
<i>Member Agency</i>	Los Angeles Department of Water and Power (LADWP)
<i>Ultimate Yield (AF)</i>	8,000
<i>Date of Agreement Execution</i>	June 8, 2017
Extension Timeline	
<i>Start-of-Operation Milestone</i>	June 30, 2021
<i>Revised Start-of-Operation Milestone</i>	June 30, 2024
<i>Length of Extension Requested</i>	36 months
Additional Information	
<i>Project currently under construction?</i> <input checked="" type="checkbox"/>	
<i>Member Agency affirmed all parties pursuing project?</i> <input checked="" type="checkbox"/>	
<i>Member agency provided revised schedule?</i> <input checked="" type="checkbox"/>	
<i>Member agency affirmed that the project will start operation within 3 fiscal years?</i> <input checked="" type="checkbox"/>	
Reasons for Requested Extension	
<p>The main reason for this extension request is that it took LADWP much longer than expected to sign up refinery customers, and additional time is needed for the customers to complete their on-site retrofits. One potential customer informed LADWP that they can only construct their on-site improvements in the even years (2022, 2024, 2026, etc.) during their annual plant shutdown.</p>	