



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Manager

August 1, 2012

Ms. Maureen Stapleton
General Manager
San Diego County Water Authority
4677 Overland Avenue
San Diego, California 92123-1233

Re: Compliance with the Amended and Restated Exchange Agreement

Dear Maureen,

Thank you for your letter of June 27, 2012 requesting an opportunity pursuant to Section 11.1 of the Amended and Restated Exchange Agreement to negotiate in an attempt to resolve the current dispute related to the Water Authority's compliance with the provisions of the Exchange Agreement.

Metropolitan is happy to meet with the Water Authority in response to your request. Our staffs have ongoing discussions related to QSA implementation and these will continue. Please contact my assistant to make any other arrangements for meetings and/or negotiations that you wish to pursue.

In your letter, you state that Metropolitan's assertion that the actual amount of Exchange Water delivered in 2011 was 16,722 acre-feet short of the amount credited is, "*at best highly misleading. Metropolitan has no basis whatsoever for 'billing' the Water Authority an additional \$2.6 million.*" It is undisputed that IID did not conserve the entire 80,000 acre feet of water to meet its transfer obligations to the Water Authority in 2011. The final Decree Accounting Report for 2011 (at page 14, footnote 4) shows that there was a shortfall of 16,722 acre-feet in the amount of Conserved Water ("in 2011 IID conserved 63,278 acre-feet under the following contracts to support the IID-SDCWA transfer").

Metropolitan's obligations to deliver Exchange Water to the Water Authority under the Exchange Agreement are unambiguous and expressly limited to an amount that is no greater than the aggregate amount of **Conserved Water** Made Available to Metropolitan "**in that Year.**" "Conserved Water" is defined, by reference to the QSA, as water made available for acquisition as a result of either the temporary land fallowing or crop rotation, or projects that enable the use of less water to accomplish the same purpose or purposes of allowed use. "Year" is defined in the Exchange Agreement and means a calendar year.

By the clear terms of the Exchange Agreement, Metropolitan's delivery obligations for Exchange Water in 2011 are limited to the amount of water actually conserved by IID for delivery to the Water Authority. Any Colorado River water that may have been provisionally allocated to Metropolitan by the Bureau of Reclamation, which is not a party to the Exchange Agreement, is neither Conserved Water, as required by the Exchange Agreement, nor relevant to a determination of the Water Authority's compliance with the terms of the Exchange Agreement.

While Metropolitan is open to discussing the matter, the contractual obligations are clear and cannot be complied with retroactively. As such, while Metropolitan is willing to meet in accordance with Section 11.1 per your request, the Water Authority will also be invoiced for the applicable water rate rather than the Price defined in the Exchange Agreement for 16,772 acre feet delivered in 2011.

While you assert that Metropolitan did not experience a shortfall because Reclamation delivered to Metropolitan the full 80,000 acre feet as scheduled in the Colorado River Water Delivery Agreement, you fail to acknowledge that the allocation is provisional. As I stated in my December 9, 2011 letter, Metropolitan is willing to discuss delivering the 16,722 acre-feet to the Water Authority when IID meets its obligation to make the full amount of the Conserved Water available. While the failure to comply with the Exchange Agreement last year cannot be remedied at this point in time, we look forward to the Water Authority's constructive participation in discussions as to the best way to move forward. This is particularly important because current indications are that there may well be another shortfall in the Conserved Water scheduled delivery in 2012.

With regard to your present request for negotiations, discussions of the IID shortfall have been ongoing for months. By letter dated November 28, 2011, Reclamation Regional Director Lorri Gray-Lee invited the agencies to meet to address the pending shortfall. I responded by letter on December 9, 2011 with a proposal and a request that the Bureau of Reclamation convene a group of QSA-party representatives to address such issues. IID also responded by a letter of the same date setting forth its proposal. The Water Authority chose not to submit a proposal.

Metropolitan believes it is critical that final resolution of this matter result in California living within its basic apportionment of 4.4 million acre-feet and that water transfers on the Colorado River are truly conserved water and not "paper water." Metropolitan remains ready to pursue

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discussions of QSA issues with all the agencies and to engage in the negotiations with the Water Authority as you request.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Kightlinger". The signature is fluid and cursive, with the first name "Jeff" and last name "Kightlinger" clearly distinguishable.

Jeffrey Kightlinger
General Manager

JK:bg

cc: T. Fulp, U. S. Bureau of Reclamation
K. Kelley, Imperial Irrigation District
S. Robbins, Coachella Valley Water District
C. Harris, Colorado River Board of California
D. Hentschke, San Diego County Water Authority
M. Scully
Metropolitan Water District Board of Directors
San Diego County Water Authority Board of Directors