



THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA

# Board Action

- **Board of Directors**  
***Finance and Asset Management Committee***

5/14/2024 Board Meeting

7-8

## Subject

Authorize the waiver of a \$1,052.52 late fee incurred by the U.S. Bureau of Reclamation regarding its payments to Metropolitan for exchanging water under the Agreement Relating to Supplemental Water Among the Metropolitan Water District of Southern California, the San Luis Rey Settlement Parties, and the United States; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

## Executive Summary

As part of the settlement of the San Luis Rey Indians' water rights claim, the U.S. Bureau of Reclamation (Reclamation) agreed to pay Metropolitan for delivery of approximately 16,000 acre-feet per year of supplemental water supplies to facilitate an exchange of Metropolitan water supplies for the San Luis Rey Settlement Parties, which includes the San Luis Rey Indians. Metropolitan, Reclamation, and the Settlement Parties entered into an Agreement Relating to Supplemental Water in 2003 to facilitate this exchange under which Reclamation provides approximately 16,000 acre-feet of water per year to Metropolitan and Metropolitan provides an equal amount for use by the Settlement Parties. Reclamation agreed to pay Metropolitan for delivery of the water in compliance with Metropolitan's billing and payment provisions, set forth in Sections 4507 and 4508 of Metropolitan's Administrative Code. For the first time since 2003, Reclamation's payment on the January 2024 invoice was late. Reclamation explained it had inadvertently paid the February 2024 invoice, and when it realized the January one was unpaid, it immediately wired the money. Payment was received 12 days late. Section 4508 imposes a two percent late fee for delinquent payments that may not be waived without Metropolitan Board approval. For the January 2024 invoice, a late fee of \$1,052.52 was assessed. Staff recommends waiving the late fee because it was inadvertent, unprecedented, and immediately corrected.

## Proposed Action(s)/Recommendation(s) and Options

### Staff Recommendation: Option #1

#### Option #1

Authorize the waiver of a \$1,052.52 late fee incurred by the U.S. Bureau of Reclamation regarding its payments to Metropolitan for exchanging water under the Agreement Relating to Supplemental Water Among the Metropolitan Water District of Southern California, the San Luis Rey Settlement Parties, and the United States.

**Fiscal Impact:** Forego a \$1,052.52 late fee

**Business Analysis:** Reclamation's request for waiver of the late fee is reasonable

#### Option #2

Do not authorize the waiver of a \$1,052.52 late fee incurred by Reclamation.

**Fiscal Impact:** \$1,052.52

**Business Analysis:** Strict enforcement of the late fee

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**Alternatives Considered**

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Same as the options above

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**Applicable Policy**

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Metropolitan Water District Administrative Code Section 4508: Additional Payment and Reporting in the Event of Delinquency in Payment for Water

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

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**Related Board Action(s)/Future Action(s)**

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None

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**California Environmental Quality Act (CEQA)**

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**CEQA determination for Option #1:**

The proposed action is not defined as a project under CEQA because it will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. (State CEQA Guidelines Section 15378(a)).

**CEQA determination for Option #2:**

None required

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**Details and Background**

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Congress approved the San Luis Rey Indian Water Rights Settlement Act in 1988, settling litigation brought by the San Luis Rey Indians in 1969 to claims to reserved tribal water rights from the San Luis Rey River in San Diego County. With the litigation, the tribes sought to quantify and secure their water rights. The process took decades to complete with a final settlement agreement signed in 2012.

As part of the settlement, Reclamation agreed to pay Metropolitan for delivery of approximately 16,000 acre-feet per year of supplemental water supplies to facilitate an exchange of Metropolitan water supplies for the San Luis Rey Settlement Parties, which includes the San Luis Rey Indians. Metropolitan, Reclamation, and the Settlement Parties entered into an Agreement Relating to Supplemental Water in 2003 to facilitate this exchange under which Reclamation provides approximately 16,000 acre-feet of water per year to Metropolitan and Metropolitan provides an equal amount for use by the Settlement Parties. In paragraph 6(e) of the Agreement, Reclamation agreed to pay Metropolitan for delivery of the water in compliance with Metropolitan's billing and payment provisions, set forth in Sections 4507 and 4508 of Metropolitan's Administrative Code.

For the first time since 2003, Reclamation's payment on the January 2024 Invoice No. 11397 was late. Reclamation explained it had inadvertently paid the February 2024 invoice, and when it realized the January payment was unpaid, it immediately wired the money. Due on March 28, 2024, payment was not received until April 9, 2024—12 days late.

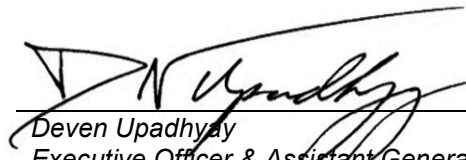

Section 4508 imposes a two percent late fee for delinquent payments that may not be waived without Metropolitan Board approval. Section 4508 provides:

§ 4508. Additional Payment and Reporting in the Event of Delinquency in Payment for Water.

In the event any member public agency shall be delinquent in the payment for water delivered and other charges as invoiced by the District, an additional charge equal to two (2) percent of such delinquent payment for each month or portion thereof that such payment remains delinquent shall be assessed, and the member public agency shall pay such charge to the District in addition to the amount of such delinquent payment. Notwithstanding the above, if the total period of delinquency does not exceed five (5)

business days, the additional charge shall be equal to one (1) percent of such delinquent payment. Invoices for delinquencies including additional charges shall be mailed not later than the tenth day of each month. In the event any member public agency shall be delinquent for more than thirty (30) days in the payment for water, such delinquency shall be reported by the General Manager to the Board of Directors of the District at its next meeting. The Board, in its discretion and upon such other conditions as it may prescribe after giving the member public agency a reasonable opportunity to be heard, may order the termination of service to such member public agency until all delinquent payments, including additional charges, are made to the District or may authorize such other actions as may be legally available to effectuate collection.

For the January 2024 invoice, a late fee of \$1,052.52 was assessed and sent to Reclamation in Invoice No. 49629. Staff recommends waiving the late fee because it was inadvertent, unprecedented, and immediately corrected.

 Deven Upadhyay Executive Officer & Assistant General Manager	5/8/2024 Date
 Adel Hagekhalil General Manager	5/8/2024 Date

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