



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

1/11/2022 Board Meeting

7-9

Subject

Approve Agreement for Temporary Emergency Delivery of a Portion of the Mexican Treaty Waters of the Colorado River to the International Boundary in the Vicinity of Tijuana, Baja California, Mexico, and for Operation of Facilities in the United States; the General Manager determined that the proposed action is exempt or otherwise not subject to CEQA

Executive Summary

Authorize the General Manager to execute an agreement providing for delivery of Mexican Treaty water for Tijuana (proposed agreement). At times of capacity or maintenance constraints in Mexico's Colorado River water conveyance system, since 1972, Metropolitan diverted small amounts of Mexico's water at Lake Havasu and conveyed it to the San Diego County Water Authority for delivery from Otay Water District to Tijuana. This agreement would allow for this diversion for an additional five years.

Details

Pursuant to the 1944 international treaty between the United States and Mexico, entitled the United States-Mexico Treaty for Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande (Treaty), Mexico normally diverts Colorado River water from the Mexicali Valley. The water is then delivered to Pacific Ocean communities and other points along the way via a pipeline. Since 1972, the government of Mexico periodically requested assistance from the United States for emergency water deliveries for the Tijuana region to respond to drought conditions, aqueduct construction and repairs, or water distribution infrastructure problems. Under a series of agreements, Metropolitan assisted in making those deliveries. **Attachment 1** lists historical deliveries.

In 2003, the International Boundary and Water Commission (IBWC) adopted Minute No. 310, which addressed emergency delivery of a portion of Mexico's Colorado River water for Tijuana. In response to Mexico's request to extend the agreement, IBWC adopted Minute No. 314 in 2008. Later in 2008, Metropolitan, the San Diego County Water Authority, Otay Water District (collectively, "California Agencies"), and the United States Bureau of Reclamation (Reclamation) executed an amendment that extended the five-year emergency delivery agreement to November 9, 2013. On January 19, 2017, the California Agencies and Reclamation executed a new five-year emergency delivery agreement. These agreements facilitated emergency deliveries of up to 14,400 acre-feet annually of Mexico's Colorado River water.

Mexico requested that the United States Section of the IBWC provide emergency delivery capacity for another five years, on similar terms, pursuant to a new agreement and approval of Minute 327 to the Treaty and the joint engineering report, which confirm Mexico's consent to the proposed agreement with the California Agencies. The parties are currently negotiating the final terms of Minute 327. Potential capacity constraints in Metropolitan's Colorado River Aqueduct or its Robert A. Skinner Water Treatment Plant service area could limit Metropolitan's ability to meet Mexico's emergency needs in the future. As such, the proposed agreement recognizes that the California Agencies will only make deliveries when capacity is available.

Metropolitan's charge for fair compensation for deliveries would be an amount equivalent to the System Access Rate and Treatment Surcharge or equivalent at the time of the delivery, plus actual power costs. This is a negotiated contract price as Metropolitan's rates are not applicable to non-member agencies. Upon request for deliveries, relevant parties will inform Mexico of the charges in advance. Because the deliveries go through a

connection on Otay Water District's system, Otay Water District is paid for charges for actual operation and maintenance costs. The San Diego County Water Authority would coordinate all payments of charges between the United States and the California Agencies. The agreement is effective after all parties approve and execute Minute 327 and adopt the joint engineering report.

Staff recommends the Board authorize the General Manager to execute an agreement on similar terms as the previous agreement to allow emergency deliveries of Mexican Treaty water for Tijuana, subject to the agreement being in a form approved by the General Counsel. **Attachment 2** lists the proposed key terms.

Policy

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

By Minute Item 39895, dated October 13, 1992, the Board authorized the General Manager to enter into agreements with the United States, San Diego County Water Authority, and the Otay Water District for the delivery of Mexican Treaty water for Tijuana, subject to the agreements being in a form approved by the General Counsel.

By Minute Item 44900, dated June 11, 2002, the Board set the charges for emergency deliveries.

By Minute Item 50636, dated November 8, 2016, the Board approved a five-year emergency delivery agreement.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is categorically exempt under the provisions of CEQA and the State CEQA Guidelines. The proposed action involves an agreement providing for delivery of Mexican Treaty water for Tijuana associated with the operation of existing public water conveyance facilities with negligible or no expansion of use and no possibility of significantly impacting the physical environment. Accordingly, this proposed action qualifies for a Class 1, Categorical Exemption (Section 15301 of the State CEQA Guidelines).

CEQA determination for Option #2:

None required

Board Options

Option #1

Authorize the General Manager to execute the Agreement for Temporary Emergency Delivery of a Portion of the Mexican Treaty Waters of the Colorado River to the International Boundary in the Vicinity of Tijuana, Baja California, Mexico, and for Operation of Facilities in the United States for five years, subject to the proposed agreement being in a form approved by the General Counsel and further providing that the proposed agreement will become effective only upon approval and execution by the parties of Minute 327 to the Treaty and adoption of the joint engineering report that are both consistent with the terms of the proposed agreement.

Fiscal Impact: Metropolitan would recover all delivery-related costs, so there is no net fiscal impact.

Business Analysis: Support of emergency service for Tijuana would have the overall benefit of assisting our neighboring country to deliver water at relatively little inconvenience to California Agencies in order to help prevent public health and economic problems in Mexico.

Option #2

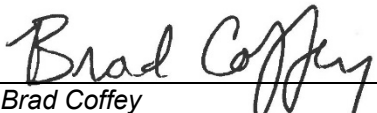
Do not authorize the General Manager to execute an agreement that provides emergency water service for Tijuana.

Fiscal Impact: No impact

Business Analysis: Not signing the proposed agreement may impair constructive relations that have developed with Mexico regarding water management.

Staff Recommendation

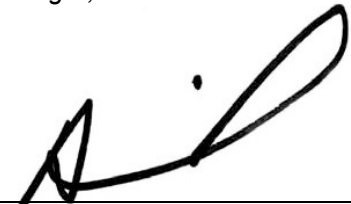
Option #1



Brad Coffey
Manager, Water Resource Management

12/21/2021

Date



Adel Hagekhalil
General Manager

12/27/2021

Date

Attachment 1 – Historical Emergency Water Service Deliveries for Tijuana, Mexico**Attachment 2 – Agreement for Temporary Emergency Delivery of a Portion of the Mexican Treaty Waters of the Colorado River to the International Boundary in the Vicinity of Tijuana, Baja California, Mexico, and for Operation of Facilities in the United States**

Ref# wrm12678202

Historical Emergency Water Service Deliveries for Tijuana, Mexico

Year*	Delivery at International Boundary (AF)
1972	2,317
1973	8,397
1974	8,649
1975	7,377
1976	9,159
1977	8,029
1978	5,514
1979	224
1980	3,125
1989	301
1992	231
2003	641
2004	349
2005	163
2006	36
2008	5,086
2009	4,781
2012	95
2018	293
2019	655
2020	1,394

*Table includes years in which emergency deliveries were made.

Agreement for Temporary Emergency Delivery of a Portion of the Mexican Treaty Waters of the Colorado River to the International Boundary in the Vicinity of Tijuana, Baja California, Mexico, and for Operation of Facilities in the United States

The key terms of the agreement, as relevant to Metropolitan, include:

1. Metropolitan will determine, at its sole discretion, whether capacity is available in its water distribution system and at the Robert A. Skinner Treatment Plant for all or a portion of the requested deliveries for Tijuana.
2. Mexico will pay fair compensation for the full cost of transporting and treating the water delivered for Tijuana, in an amount equivalent to Metropolitan's System Access Rate and Treatment Surcharge or equivalent at the time of delivery, and actual energy costs. This is a negotiated contract price as Metropolitan's rates are not applicable to non-member agencies. Prior to water deliveries, an estimate of the actual energy costs will be provided to Mexico.
3. An Energy Reserve Fund will be created. This fund shall be used to cover actual energy costs that are above and beyond the estimated energy costs that were provided to Mexico.
4. The annual maximum amount of water that can be delivered for Tijuana is 14,400 acre-feet.
5. There is flexibility in the timing of diversions and deliveries to ensure that Metropolitan has access to its full entitlement to Colorado River water, including water conservation and water acquisition programs.