



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

3/14/2023 Board Meeting

7-9

Subject

Consider changes to the Water Shortage Emergency Condition and the Emergency Water Conservation Program for the State Water Project Dependent Area and reaffirm the Regional Drought Emergency for all member agencies; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Executive Summary

In April 2022, the Board declared a Water Shortage Emergency Condition in the State Water Project (SWP) Dependent Area because of severe drought conditions and infrastructure constraints that severely limited the delivery of SWP supplies. Associated with the Water Shortage Emergency Condition, the Board also approved an Emergency Water Conservation Program (EWCP) that imposed stringent outdoor watering restrictions or volumetric limits on SWP water supply deliveries to six member agencies.

In January 2023, California experienced one of the wettest three-week periods on record, yielding a snowpack that was at 205 percent of average on February 1, 2023 and adding more than 1.3 million acre-feet to Lake Oroville since December 2022. In response to the improved hydrologic conditions, the California Department of Water Resources (DWR) increased the SWP allocation from five to 30 percent on January 26, 2023 and then again to 35 percent on February 22, 2023. This increased allocation provides adequate water supplies to meet SWP Dependent Area demands. As a result, the conditions necessitating a Water Shortage Emergency Condition and the EWCP no longer exist and staff recommends removing them effective immediately.

In contrast to the short-term improvement in supply from the SWP, the Colorado River watershed remains in a 23-year drought, the most serious in 1,200 years. On average, 25 percent of Southern California's water supply comes from the Colorado River. On-going negotiations with the Basin States and potential changes to the 2007 Interim Guidelines initiated by the U.S. Bureau of Reclamation warrant continuing the Regional Drought Emergency declared by the Board in December 2022. Further, though the most restrictive and mandatory conservation measures of the EWCP can now be lifted, all counties in Metropolitan's service area remain in a statewide drought emergency and must still seek demand response actions outlined in their Water Shortage Contingency Plans for a shortage level of up to 20 percent. As such, the emergency authorities provided to the General Manager and the call to conserve water issued in the December 13, 2022 Board resolution remain.

Details

Regional Drought Emergency and Statewide Drought Declaration Remain in Effect

Staff's recommendation to remove the Water Shortage Emergency Condition and terminate the EWCP would not affect the other drought emergency declarations adopted by the Board during 2021 and 2022. This includes the November 2021 resolution declaring that specified emergency conditions within the Metropolitan service area as well as the Board's December 2022 resolution declaring a Regional Drought Emergency for all member agencies and calling upon all member agencies to voluntarily reduce use of both SWP and Colorado River supplies. Also unaffected would be the Board's October 2022 resolution that strongly recommended cities and water agencies across Southern California pass ordinances permanently prohibiting the installation and irrigation of non-functional turf.

The December 2022 Regional Drought Emergency resolution reaffirmed authorities delegated to the General Manager under the November 2021 resolution to take certain actions, enter agreements, and secure permits and approvals necessary to address the drought emergency conditions. Consistent with the December 2022 Regional Drought Emergency resolution, which remains in effect, the duration of the delegation of authority to the General Manager will continue until further Board action and is not affected by the action to remove the Water Shortage Emergency Condition in the SWP Dependent Area and to terminate the EWCP.

On August 16, 2022, Metropolitan's Board adopted a resolution affirming a Call to Action and a Commitment to Regional Reliability for All Member Agencies. This resolution directed the General Manager to identify a portfolio of projects and programs in coordination with the member agencies to address the need to connect and serve each member agency with more than one supply source. Collaboration and progress on the portfolio of reliability actions will continue and are not affected by the action to remove the Water Shortage Emergency Condition in the SWP Dependent Area and to terminate the EWCP.

Emergency Water Conservation Program Was Implemented to Address an Acute Water Shortage in the SWP Dependent Area

Beginning in the fall of 2019, the SWP watersheds received very low precipitation and runoff. SWP Table A allocations for 2020, 2021, 2022 were only 20, 5, and 5 percent, respectively. Despite substantial precipitation in October and December 2021, precipitation in Northern California from January through March 2022 fell to the driest levels on record. Deteriorating hydrologic conditions led DWR to reduce the SWP Table A allocation for 2022 from 15 to five percent of contract amounts on March 18, 2022. In 2022, the DWR for the first time used a provision of the SWP Contract (Article 18(a)) to allocate water on a basis other than Table A to meet minimum demands of contractors for domestic supply, fire protection, or sanitation during the year. Contractors that received these human health and safety (HH&S) deliveries must pay back to DWR future Table A water within five calendar years.

Despite extraordinary efforts by Metropolitan to maximize available resources through operational drought actions, it became apparent that there would not be sufficient SWP supply available to meet normal demands in the SWP Dependent Area for the remainder of 2022. Following a public hearing held on April 26, 2022, Metropolitan's Board issued a resolution declaring that a Water Shortage Emergency Condition existed in the SWP Dependent Area and adopting a framework for the new EWCP aimed at preserving SWP supplies. These actions were taken pursuant to Water Code section 350 et seq., Water Code section 375 et seq., and other applicable authorities.

The EWCP adaptively preserves supplies by reducing non-essential uses of water delivered to the SWP Dependent Area. The EWCP began implementation on June 1, 2022, and was authorized through June 30, 2023. Six member agencies currently take restricted delivery of SWP water under the program. The impacted agencies include Calleguas Municipal Water District, Inland Empire Utilities Agency, Las Virgenes Municipal Water District, the City of Los Angeles, Three Valleys Municipal Water District, and Upper San Gabriel Valley Municipal Water District. The EWCP allowed two paths for compliance involving either enforced restrictions on outdoor watering or adherence to agency-specific volumetric limits subject to monetary penalties of \$2,000 per acre-foot for SWP water use over their limits.

Staff provided the Board with monthly reports on program status and current hydrologic conditions. From June through December 2022, the affected agencies took mandatory water supply cuts from their SWP use by an average of 35 percent from average dry-year usage, with some facing reductions of up to 73 percent. As a result of the exceptional conservation response by the SWP Dependent Area, the program successfully reduced demands to stay within the severely limited SWP supply available for 2022. No penalties were issued in 2022.

On December 1, 2022, DWR announced an initial 2023 allocation for the SWP at only five percent of contract amounts. DWR also provisionally allocated additional HH&S water to ensure that the SWP contractors could meet their HH&S needs during the year. A SWP allocation of less than 15 percent was insufficient to meet normal potable demands in the SWP Dependent Area.

In January 2023, SWP Dependent Area agencies received new volumetric limits for second phase of program from January through June 2023. Unlike the volumetric limits for 2022, the volumetric limits during the first half

of 2023 were subject to fluctuation due to uncertainties in the available water supplies at the beginning of the year. For these reasons, Metropolitan staff regularly revaluated the volumetric limits to incorporate changes.

Improving SWP Supply Conditions Alleviate the SWP Dependent Area Shortage

Metropolitan's supply outlook from the SWP in 2023 has improved significantly with the arrival of nine atmospheric rivers during December 2022 and January 2023. Of the nine atmospheric rivers, five were of strong or greater magnitude. On January 26, 2023, DWR increased the SWP annual Table A allocation from 5 percent to 30 percent based on observed runoff and storage gains in Lake Oroville and San Luis Reservoir. This 30 percent SWP allocation matched the combined previous three years of SWP Table A allocations. On February 22, 2023, DWR increased the SWP allocation yet again to 35 percent. Additional increases to the allocation are expected when DWR's later studies begin to incorporate forecasted runoff from snowpack and updated San Joaquin River flow projections. At the current 35 percent SWP allocation, DWR no longer needs to allocate HH&S supplies, and Metropolitan will not accrue any new HH&S payback obligations for 2023. At the same time, wholesale demands on Metropolitan's imported supply are trending lower than earlier projections due to a synergistic combination of conservation drought response by the member agencies and a boost to local supplies from the recent wet weather. Both of these factors allow Metropolitan to put water in storage to help protect the SWP Dependent Area against future dry years.

In summary, there is no longer an acute water shortage for the SWP Dependent Area. With a 35 percent SWP allocation, available supplies exceed the estimated demands for the SWP Dependent Area. As shown in **Attachment 1**, water use under the EWCP is tracking well below the volumetric limits under the current 35 percent SWP allocation. To date, cumulative SWP use during 2023 is trending 83 percent under the total January-June 2023 volumetric limit. This trend, combined with the expectation of further increases in SWP supply, indicates that the critical shortage has abated and that Metropolitan can resume its role of providing reliable water service to the member agencies in the SWP Dependent Area.

Recommended Action: Remove the Water Shortage Emergency Condition in the SWP Dependent Area and Terminate the EWCP

The April 26, 2022, board letter stated that "the Emergency Water Conservation Program shall continue through June 30, 2023, unless the Board of Directors lifts the action before that date." Due to the improved SWP water supply conditions that alleviate the acute water supply shortage in the SWP Dependent Area, staff recommends that the Board take action at this time to remove the Water Shortage Emergency Condition and terminate the EWCP, given that Metropolitan is now able to meet the needs of the SWP dependent member agencies. Terminating the EWCP would end restrictions on the use of SWP water by the SWP Dependent Area, effective immediately, and waive any penalties related to EWCP volumetric limits accrued to date (no penalties had been assessed through December 2022). Terminating the EWCP would also lift any mandatory requirements from Metropolitan concerning enforced outdoor watering restrictions. Monthly reporting and tracking on EWCP performance and compliance would be discontinued.

Under the action that authorized the EWCP, Member Agency Administered Program (MAAP) funding was made fully available to affected member agencies for enforcement activities beginning on July 1, 2022. Consistent with the April 26, 2022, board letter, upon termination of the EWCP, the MAAP funding and procedures will revert to previously established guidelines. Funding for existing approved tasks would be honored, but no new applications for this temporary funding mechanism would be accepted.

Removing the Water Shortage Emergency Condition for the SWP Dependent Area and terminating the EWCP removes the most stringent and mandatory requirements that were needed to deal with the acute emergency. But, it in no way lessens the importance of continued conservation and local supply investment by agencies in the SWP Dependent Area or in any other part of the region. California is still under a statewide drought emergency, and the expectation is that Metropolitan's service area and its member agencies will continue to comply with the Governor's executive order on the statewide drought emergency.

Alternatives Considered

In developing the recommendation to remove the Water Shortage Emergency Condition and terminate the EWCP, staff considered several alternatives. First, staff considered delaying the action until more information was known about SWP hydrologic conditions. DWR's latest Table A allocation is still highly conservative at 35 percent.

However, staff's assessment is that sufficient snowpack and projected runoff exists to expect future increases in the allocation even if dry conditions return.

Second, staff considered whether the current hydrologic conditions warranted a suspension of the Regional Drought Emergency declared in December 2022. Although the improved SWP supplies in 2023 allow for an easing of the immediate emergency this year, there are still ongoing water supply challenges. With the current experience of extreme year-to-year variation of SWP supply, Metropolitan must replenish storage reserves, as well as anticipate possible constraints on Colorado River diversions. The ongoing decades-long drought in the Southwest has plunged the Colorado River system's reservoirs to record low elevations. The federal government has called for significant cutbacks in water diversions from the Colorado River as soon as 2023. Metropolitan intends to minimize the delivery of water from Intentionally Created Surplus to support Lake Mead's elevation and mitigate deeper shortages that could require additional contributions under the 2019 Drought Contingency Plan. As a result, Metropolitan is not planning to have a full Colorado River Aqueduct during 2023 or in subsequent years through 2026. For these reasons, staff believes it is prudent to maintain the current Regional Drought Emergency declaration.

Consistent with staff's recommendation to reaffirm the Regional Drought Emergency, Governor Newsom has taken similar action. On February 13, 2023, Governor Newsom signed Executive Order N-3-23 that maintains almost all of the drought-response actions of his prior drought-related proclamations and executive orders. Executive Order N-3-23 ordered state agencies to submit their views on whether any existing provisions in the Governor's drought proclamations and executive orders are no longer needed. The state agencies will submit their recommendations to the Governor no later than April 28, 2023. Metropolitan staff will monitor the statewide discussions on easing any drought orders and emergency regulations now in effect.

Finally, staff considered the need to move the region beyond the Regional Drought Emergency and to adopt a regional Water Supply Allocation Plan (WSAP) for fiscal year 2023-2024. The December 13, 2022, Board resolution declaring the Regional Drought Emergency had resolved that, should drought conditions persist or worsen in the coming months, the Board would consider implementing a regionwide supply allocation in March 2023. Drought conditions overall have not worsened in 2023 and are significantly improved in the SWP watershed. Based on hydrologic conditions to date, SWP water supply conditions are projected to improve even more in the coming months. These changed conditions are further enhanced by increases in local agency supplies, and demand-response effectiveness of the actions already taken by the member agencies in response to the Governor's call for conservation. Due to these improved conditions, staff does not anticipate a need for a regionwide supply allocation during fiscal year 2023-24. Staff continues to evaluate supply and demand conditions as they develop.

Policy

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

Metropolitan Water District Administrative Code Section 4512: Sales Subject to System and Water Availability

Metropolitan Water District Administrative Code Section 6410: Powers and Duties

By Minute Item 43514, dated April 13, 1999, the Board adopted the Water Surplus and Drought Management Plan.

By Minute Item 47393, dated February 12, 2008, the Board adopted the Water Supply Allocation Plan.

By Minute Item 52481, dated August 17, 2021, the Board adopted a "Condition 2 – Water Supply Alert" resolution.

By Minute Item 52581, dated November 9, 2021, the Board adopted a resolution as modified recognizing a statewide drought emergency, declaring specified emergency conditions within the Metropolitan service area, and directing specified actions.

By Minute Item 52802, dated April 26, 2022, the Board declared a Water Shortage Emergency Condition, authorized the Emergency Water Conservation Program, and expressed support for the Governor's Executive Order N-7-22.

By Minute Item 52946, dated August 16, 2022, the Board adopted a resolution committing to regional reliability for all member agencies.

By Minute Item 53015, dated October 11, 2022, the Board adopted a resolution encouraging action to eliminate irrigation of non-functional turf with potable water.

By Minute Item 53061, dated December 13, 2022, the Board adopted a resolution declaring a Regional Drought Emergency.

California Environmental Quality Act (CEQA)

CEQA Determination for Options #1 & 2:

The proposed actions are not defined as a project under CEQA (Public Resources Code Section 21065, State CEQA Guidelines Section 15378) because they involve continuing administrative or maintenance activities and/or general policy and procedure making that will not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment (Section 15378(b)(2) of the State CEQA Guidelines). In addition, the proposed actions are not defined as a project under CEQA because they involve organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment (Section 15378(b)(5) of the state CEQA Guidelines).

Board Options

Option #1

Remove the Water Shortage Emergency Condition declared on April 26, 2022, for the SWP Dependent Area, terminate the Emergency Water Conservation Program and application of any penalties accrued, and reaffirm the Regional Drought Emergency declared on December 13, 2022.

Fiscal Impact: No negative fiscal impact. Upon terminating the Emergency Water Conservation Program, revenues from water transactions may increase if member agencies increase purchases of Metropolitan water. Expenditures for Emergency Water Conservation Program enforcement activities under Member Agency Administered Program may decrease as funding and procedures revert to the previously established guidelines.

Business Analysis: Making sufficient SWP supplies available to address the reliability needs of the SWP Dependent Area member agencies in 2023 is consistent with the Board's intent for Metropolitan to provide equitable reliability across the service area.

Option #2

Continue the Water Shortage Emergency Condition declared on April 26, 2022, for the SWP Dependent Area, continue the Emergency Water Conservation Program, and reaffirm the Regional Drought Emergency declared on December 13, 2022.

Fiscal Impact: By continuing the Emergency Water Conservation Program, revenues from water transactions will likely decrease as member agencies reduce water demands. At the March 22, 2022, budget workshop, staff presented a scenario with 100,000 acre-feet fewer transactions each year. This scenario—realistic in the magnitude of the needed demand management activity—could reduce revenues by approximately \$100 million in fiscal year 2022/23.

Business Analysis: The Emergency Water Conservation Program would continue until June 30, 2023. Restricting SWP supplies available to agencies within the SWP Dependent Area may not be consistent with the Board's intent for equitable reliability across Metropolitan's service area.

Staff Recommendation

Option #1



Brad Coffey
Manager, Water Resource Management

2/22/2023

Date



Adel Hagekhalil
General Manager

2/27/2023

Date

Attachment 1 – Emergency Water Conservation Program Performance

Ref# wrm12689889

Emergency Water Conservation Program Performance

