

Agenda Item: 14-6A (4)
Meeting Dates: April 13 and 14, 2005

JOINT MEETING WITH BAY-DELTA PUBLIC ADVISORY COMMITTEE

**CONSIDERATION OF A RESOLUTION RECOMMENDING APPROVAL OF
AN AMENDMENT TO AN ECOSYSTEM RESTORATION PROGRAM GRANT
AGREEMENT WITH NATOMAS MUTUAL WATER COMPANY
FOR CONTINUATION AND COMPLETION OF PHASE III OF THE
"AMERICAN BASIN FISH SCREEN AND HABITAT IMPROVEMENT PROJECT"**

Summary: This resolution would recommend to the Resources Agency that it approve an amendment to an existing grant agreement with Natomas Mutual Water Company to provide \$500,000 in additional funding and a 12-month time extension for completion of Phase III of the "American Basin Fish Screen and Habitat Improvement Project" (01-N60). This would bring the Ecosystem Restoration portion of the total funding for the grant to \$1,450,000. The project that this amendment will support is described in Attachment 1.

Recommended Action: The California Bay-Delta Authority adopt the attached Resolution 05-04-05.

Background

In 2001, the Natomas Mutual Water Company (NMWC) was awarded a grant from Proposition 204 by The Resources Agency for completion of Phase III of the American Basin Fish Screen and Habitat Improvement Project, which includes the preparation of the final design, environmental documents, and permitting for the diversion consolidation and fish screen project at the Natomas Cross Canal. This amount was matched with \$950,000 in funds from the Central Valley Project Improvement Act (CVPIA), for a total of \$1.9 million. The Proposition 204 funded portion of the grant is being managed by the National Fish and Wildlife Foundation, under Agreement 4600001469 with The Resources Agency, for which the California Bay-Delta Authority acts as management and fiscal agent.

Delays in obtaining project reviews have necessitated the current 12-month time extension request, and the additional \$500,000 in ERP funds is needed to cover unanticipated project costs related to compliance with regulatory requirements. NMWC submitted an amendment request, which has been reviewed, and recommended for approval, through the Ecosystem Restoration Program (ERP) Contract Amendment Workshop on November 19, 2004 and is now being brought to the Authority for its recommendation to the Resources Agency based on the level of the requested funding increase. Funds for amendments to grant agreements of this type are encumbered as contingency funds in the National Fish and Wildlife Foundation contract. No new commitment of Proposition 204 funds is required for this amendment.

This amendment request is to provide funds to complete feasibility and planning studies, including the required California Environmental Quality Act documentation; thus this amendment is statutorily exempt from CEQA (Guidelines Section 15263).

The original Phase III contract was for \$950,000 in ERP funds. CVPIA matched this amount with \$950,000. This amendment request is for \$500,000 in ERP funds. NMWC has received an additional \$500,000 in CVPIA funds for the increased Phase III costs. With approval of this amendment, the ERP portion of the project cost for Phase III is \$1,450,000. The total cost for Phase III (including CVPIA matching funds) will be \$2.9 million.

Attachment 1 further describes the project and how it helps achieve ERP's goals.

Fiscal Information

Funding Source: Proposition 204 (Resources Agency) - No new commitment of Proposition 204 funds is required for this amendment.

Term: November 1, 2001 - December 31, 2005

Total Amount of Additional Recommended Funding: \$500,000

Total Funding Amount (with recommended increase): \$1,450,000

List of Attachments

Attachment 1 – Ecosystem Restoration Project Description
Resolution 05-04-05

Contact

Dan Castleberry
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ECOSYSTEM RESTORATION PROJECT DESCRIPTION

Applicant Organization: Natomas Mutual Water Company

Proposal Title: American Basin Fish Screen and Habitat Improvement Project

Recommended Additional Funding: \$500,000

Recommended Time Extension of Grant Agreement: 12 months

General Project Description:

The Natomas Mutual Water Company (NMWC) controls surface water rights for over 250 landowners in the American Basin, and operates 5 unscreened diversions. The goal of the American Basin Fish Screen Habitat Improvement Project is to remove all facilities from the Natomas Cross Canal and consolidate the diversions on the Sacramento River to the extent possible. The current project is Phase III of a five-phase project.

This grant funds the performance of the final design, completion of environmental documents, and obtaining permits, licenses, and project construction agreements. This includes surveying the site and collecting all physical information for the preliminary design; mapping; producing a set of construction plans, specifications and contract documents for competitive bid; preparation of applications, design reviews, and obtaining right-of-ways; preparation of the Post-Construction Evaluation and Assessment Plan and the Long-Term Operation and Maintenance Plan; preparation of required environmental documents and permit packages.

The overall project addresses fish entrainment caused by unscreened diversions. The completed, five-phase project will remove a migration barrier, remove all diversion facilities from the Natomas Cross Canal, and consolidate diversions and provide positive barrier fish screens. The project benefits winter-, spring-, late fall-, and fall-run Chinook salmon, steelhead trout, and other high risk species.

The original Phase III grant cost was \$1.9 million; \$950,000 was granted through the ERP grant process and 50 percent was contributed as cost share by CVPIA (\$950,000). The current total Phase III cost is \$2,900,000 with an additional \$500,000 requested from Ecosystem Restoration Program (ERP) and the remaining 50 percent (\$500,000) match approved and funded by the Central Valley Project Improvement Act (CVPIA).

The amendment was reviewed at the ERP Amendments Workshop on November 19, 2004 and was further reviewed by the ERP implementing agency managers to refine the request and recommended for approval. The ERP implementing agency managers support this amendment.

Additional Background Information for this request:

The main reasons for the need for additional time and funding is to provide for unanticipated support and consultation to the recently selected California Environmental Quality Act (CEQA) lead; provide for consultation and workshops to the private diverters; allow for concerns about the impacts on delta smelt to be addressed; assist in assuaging concerns about the stability of the East Levee and the performance of additional testing at the project site; and to provide for the preparation of an Environmental Impact Report/Environmental Impact Statement (versus a Mitigated Negative Declaration/FONSI) and an Action Specific Implementation Plan. A detailed accounting of these reasons is provided below:

- The primary delay in schedule has been the need to identify a new CEQA Lead Agency. When the original proposal was prepared, Reclamation District 1000 was the planned lead agency. As the project proceeded, RD 1000 elected to not serve as the lead agency due to staffing issues and the project's increasing complexity. In November 2003, the Department of Fish and Game (DFG) elected to serve as the lead agency.
- An unanticipated level of coordination is required to consolidate additional private diversions along the Sacramento River, in consultation with the Anadromous Fish Screen Program Technical Team. A significant number of workshops and presentations were necessary for the additional diverters.
- Concerns about the impacts to Delta smelt have arisen, requiring additional resources to address the concerns.
- The U.S. Army Corps of Engineers (USACE) and local flood control agencies have developed several flood control mitigation measures that impact the project area, to address seepage, stability, and freeboard issues with the Sacramento River East Levee. Considerable coordination efforts have been necessary to address these issues.
- NMWC has responded to competing interests in the project area by increased coordination with stakeholders. Changes in the project facility design and right-of-way, coordination with the Sacramento River Water Reliability Study, analysis related to changes in land use affecting water distribution, the Sacramento International Airport Master Plan, and changes or planned changes to the facilities belonging to RD 1000 must be considered.
- Based on assessments from the lead Federal and State Agencies, it has been determined that an EIR/EIS rather than a Mitigated Negative Declaration/FONSI will provide the appropriate level of environmental review. A substantial additional effort will be necessary to complete the environmental documents.
- The need to prepare an Action Specification Implementation Plan (ASIP) for endangered species consultations necessitates more effort to develop than the Biological Assessment, on which the original budget was based.
- Geotechnical investigations identified some poor quality subsurface materials in the area surrounding one diversion outfall, requiring additional testing to address this problem.

- Flood control regulatory agencies require that the project's levee pipe crossing configuration comply with special provisions which go beyond the flood control standards on which the project was originally based. These additional precautions are necessary due to the high liability associated with flood control facilities in the Natomas Basin.
- Project management associated with all of the above issues has exceeded the original budget. Due to the complex nature of the project and the competing interests, significant additional coordination has been required of the project team.

California Environmental Quality Act (CEQA): DFG is the CEQA lead agency for the project, and the U.S. Bureau of Reclamation (USBR) is the National Environmental Policy Act Lead Agency. USBR, DFG, National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS) and other responsible agencies, have reviewed administrative drafts of the EIR/EIS and ASIP, and have assisted with the proposed resolution of any outstanding issues to allow for completion of these documents. Although no permit applications have been filed, the project proponents are coordinating the project design with all of the permitting agencies and have made presentations to the permitting authorities including DFG, State Reclamation Board, NMFS, USFWS, and USACE. Section 106 reviews have been completed by the Federal Lead Agency and consultation has been initiated with the State Historical Preservation Office with regards to cultural issues.

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Meeting Date: April 13-14, 2005

CALIFORNIA BAY-DELTA AUTHORITY

RESOLUTION 05-04-05

**RECOMMENDING APPROVAL OF AN AMENDMENT TO AN
ECOSYSTEM RESTORATION PROGRAM GRANT AGREEMENT WITH
NATOMAS MUTUAL WATER COMPANY
FOR CONTINUATION AND COMPLETION OF PHASE III OF THE
"AMERICAN BASIN FISH SCREEN AND HABITAT IMPROVEMENT PROJECT"**

WHEREAS, the Ecosystem Restoration Program presents a comprehensive vision for improving and increasing aquatic and terrestrial habitats and improving ecological functions in the Bay-Delta ecosystem; and

WHEREAS, those State and Federal agencies with CALFED Program restoration funds have coordinated their efforts to solicit for and select the best projects to implement the Ecosystem Restoration Program, with assistance of the staff from the California Bay-Delta Authority; and

WHEREAS, the Authority has a fiscal management agreement with The Resources Agency to administer Proposition 204 Resources Agency-funded projects to implement the Ecosystem Restoration Program; and

WHEREAS, the Authority may distribute funds through grants and may amend those grants; and

WHEREAS, the proposed amendment for continuation and completion of Phase III of the American Basin Fish Screen and Habitat Improvement Project constitutes an eligible project for purposes of receiving Ecosystem Restoration Program funds from the applicable funding source; and

WHEREAS, the proposed amendment listed below meets the objectives of the CALFED Program; and

WHEREAS, the proposed amendment would facilitate the efforts of the California Department of Fish and Game as the lead agency in securing environmental documentation and all other permits for the project; and

WHEREAS, recommendation of approval of this proposed amendment shall be conditioned upon each grantee complying with all applicable laws and regulations;

NOW, THEREFORE, BE IT RESOLVED that the California Bay-Delta Authority hereby recommends to the Resources Agency that it approve an amendment to an Ecosystem Restoration Program grant agreement with Natomas Mutual Water Company for continuation and completion of Phase III for the "American Basin Fish Screen and Habitat Improvement Project" (01-N60), as follows:

- 1-year time extension;
- \$500,000 additional funding, subject to availability of appropriated funds

CERTIFICATION

The undersigned Assistant to the California Bay-Delta Authority does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the Authority held on April 13 and 14, 2005.

Dated: _____

Jamie Cameron-Harley
Assistant to the California Bay-Delta Authority