

• Legal and Human Resources CommitteeJune 12, 2007 Committee Meeting

6b**Subject**

Approve General Counsel's Business Plan for fiscal year 2007/08

Description

The General Counsel's FY 2007/08 business plan sets forth the anticipated focus of the Legal Department for next fiscal year. During fiscal year 2007/08, the Legal Department intends to concentrate on the following priorities in carrying out its mission of providing a full range of legal services in a professional, timely, increasingly cost-effective and creative manner.

1. **Water Supply** – Provide legal support in carrying out the Board of Directors' priority of ensuring the long-term sustainability of the region's water supply, including Bay-Delta resources, the Colorado River Aqueduct supply and local resources programs and strategies.
2. **Energy** – Provide legal support in protecting and maximizing Metropolitan's existing energy assets and planning for future needs.
3. **Communications** – Provide legal advice on utilization and implementation of new communications technology in accordance with applicable laws and court rules.
4. **Capital Programs** – Provide legal support in the planning, environmental compliance, and construction of the board-approved Capital Investment Plan.
5. **Operations** – Provide legal advice on statutory and regulatory requirements and compliance for operations programs.
6. **Workforce** – Provide legal support on various human resources issues to ensure a stable and productive workforce.
7. **Finance** – Provide legal assistance with rates and charges, the issuance of debt obligations, investment of surplus monies, and other financial activities undertaken by Metropolitan.
8. **Administration** – Provide legal support regarding legislation that may affect Metropolitan's interests; ensure compliance with statutory and institutional requirements, such as the Metropolitan Water District Act and Administrative Code, Brown Act, Political Reform Act, and Public Records Act; and operate the Legal Department in a cost-effective and efficient manner.

A detailed description of the specific objectives on which the Legal Department plans to concentrate during fiscal year 2007/08 is attached ([Attachment 1](#)).

Policy

Metropolitan Water District Administrative Code Section 6436(b): Annual and Quarterly Reports to Legal and Human Resources Committee. (Procedure for Department Head Evaluation and Compensation)

California Environmental Quality Act (CEQA)

CEQA determination for Options #1 and #2:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may

have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

Board Options

Option #1

Adopt the CEQA determination and approve General Counsel's Business Plan for fiscal year 2007/08.

Fiscal Impact: None

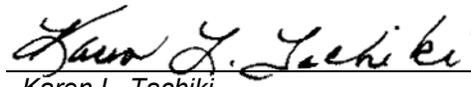
Option #2

Adopt the CEQA determination and redirect General Counsel's Business Plan for fiscal year 2007/08.

Fiscal Impact: None

Staff Recommendation

Option #1


Karen L. Tachiki
General Counsel

5/31/07
Date

Attachment 1 – General Counsel's Business Plan for Fiscal Year 2007/08

BLA #5327

GENERAL COUNSEL'S BUSINESS PLAN FOR FISCAL YEAR 2007/08

Legal Department Mission — The Legal Department's mission is to provide a full range of legal services in a professional, timely, increasingly cost-effective and creative manner. The department provides legal advice to the Board of Directors on all matters affecting Metropolitan's legal interests, represents Metropolitan's interests in litigation, and provides legal advice and counsel to management and staff regarding specific projects and programs. The General Counsel's Business Plan for fiscal year 2007/08 sets forth specific goals and actions the Legal Department intends to pursue in protecting Metropolitan's legal interests and supporting board-adopted initiatives during the next year.

Goal No. 1

Water Supply — Provide legal support in carrying out the Board of Directors' priority of ensuring the long-term sustainability of the region's water supply, including Bay-Delta resources, the Colorado River Aqueduct supply and local resources programs and strategies.

State Water Project/Bay-Delta — A major goal of the Legal Department is to provide legal support in carrying out the Board of Directors' policies related to the State Water Project (SWP), including defending litigation, assisting with development of the Bay-Delta Conservation Plan and emergency response plans, maintaining long-term source protection, water quality improvements, and protecting Metropolitan's interests in the State Water Contract. The department will focus on the following objectives in this area in the coming year:

- Represent Metropolitan's interests in litigation affecting SWP water supply, including litigation challenging SWP compliance with federal and state endangered species act requirements.
- Provide legal support and advice in implementing temporary and long-term improvements in the Delta, including a multi-species conservation plan to provide regulatory coverage, and other CALFED projects, including water quality exchanges.
- Restore the successful trial court decision in the EIS/EIR litigation upholding the validity of the CALFED program. The matter is currently on appeal to the California Supreme Court.
- Represent Metropolitan's interests in State Water Resources Control Board proceedings, including revision and implementation of the Bay-Delta Water Quality Control Plan.
- Provide legal support in the Phase 8 settlement process with the aim of implementing the Sacramento Valley Water Management Program embodied in the final settlement agreement.
- Represent Metropolitan's interests in litigation regarding potential SWP water quality impacts from Sacramento Regional County Sanitation District's plant expansion.
- Provide legal support and advice in implementing the settlement agreement for the Monterey Amendment litigation and in preparing new environmental documentation.
- Provide legal support for Bay-Delta emergency response planning and levee repair options.
- Represent Metropolitan's interests in litigation challenging the current methodology used by the Department of Water Resources to allocate power costs and revenues associated with the Hyatt-Thermalito Power Complex.

Colorado River — During the upcoming year the Legal Department will provide legal support for the Board's policy of ensuring a long-term reliable aqueduct supply by focusing on the following objectives:

- Represent Metropolitan's interests in discussions among the Colorado Basin States and with the Bureau of Reclamation regarding the proposed federal guidelines governing shortage allocations and coordinated operations of Lake Mead and Lake Powell.
- Provide legal assistance in developing a delivery agreement with the Bureau of Reclamation for recovery of intentionally created surplus stored in Lake Mead. Review similar recovery agreements by entities in Nevada to assure compliance with terms in Basin States agreement.
- Provide legal assistance in implementing the Lower Colorado River Multi-Species Conservation Program that provides compliance with the federal and California endangered species acts for the operation of federal water and power facilities on the lower Colorado River and for Metropolitan's diversion of Colorado River water and use of Colorado River hydroelectric power. Provide support and advice on a separate long-term endangered species permit for operation of Metropolitan's Colorado River Aqueduct.
- Provide legal assistance in implementing the Quantification Settlement Agreement (QSA) and related agreements that modify existing allocations to Colorado River water.
- Represent Metropolitan's interests in the litigation challenging approval and implementation of the QSA agreements and related programs.
- Represent Metropolitan's interests and assist staff in expediting the remediation of groundwater contamination adjacent to PG&E's Topock Gas Compressor station located near Needles, California.
- Provide legal assistance in continuing efforts to protect the water quality of the Colorado River by monitoring federal action to clean up and remove the uranium tailings pile located adjacent to the Colorado River near Moab, Utah and monitoring the efforts to further reduce perchlorate contamination from the Henderson, Nevada area.

Integrated Resources Plan – Provide legal support for regional resource development and updating the Integrated Resources Plan.

- Provide legal support on water resource planning objectives and activities to ensure they are consistent with the Urban Water Management Planning Act and other related legal requirements.

Local/Regional Water Resources – The Legal Department will provide legal support in the continuing development and operation of Local/Regional Resources Programs pursuant to board-adopted policies, including evaluation of proposed changes to programs, proposed projects for inclusions in programs, and the execution of related agreements.

- Defend Metropolitan in the *Aerojet v. Metropolitan* litigation, in which Aerojet and other industrial defendants allege that importation of Colorado River water into the San Gabriel Valley groundwater basin contributed to the pollution of the basin.

Goal No. 2

Energy – The Legal Department will provide legal support to protect and maximize Metropolitan's existing energy assets and planning for future needs as the California Independent System Operator Corporation proceeds with implementation of its market redesign and to ensure compliance with new electric reliability standards.

- Protect Metropolitan's existing energy contracts, and advocate and protect Metropolitan's interests in its energy assets, particularly through implementation of California Independent System Operator market redesign.
- Provide legal advice on SWP power issues, including representation of State Water Contractors' and Metropolitan's interests in matters directly affecting the Department of Water Resources, at the Federal Energy Regulatory Commission (FERC) and in other regulatory and judicial forums.
- Provide legal support and advice in connection with the re-licensing of the Hyatt-Thermalito Power Complex by FERC. Represent Metropolitan's legal interests in the proposed settlement agreement reached among various federal, state, and local stakeholders involved in the re-licensing process. Represent Metropolitan's interests in the new license and the proposed settlement agreement before FERC and in other regulatory and judicial forums.
- Provide legal support for projects, activities, and initiatives to achieve Metropolitan's goals for reduction of carbon dioxide emissions.
- Provide legal assistance and representation at the California Public Utilities Commission in proceedings concerning embedded energy savings through water conservation.
- Provide legal advice regarding compliance with new electric reliability standards.
- Provide legal support and assistance for development of Metropolitan's long-term strategic energy plan.

Goal No. 3

Communications – Provide legal advice on utilization and implementation of new communications technology in accordance with applicable laws and court rules.

- Provide legal advice and support for utilization of interactive communications technologies in compliance with Brown Act and other applicable laws.
- Provide relevant and timely communications to the Board on legal matters.
- Advise and lead multi-department E-Discovery Task Force to develop cost-effective strategies for preservation and retention of electronic documents in compliance with court rules.
- Provide legal assistance on telecommunications issues, including acquisition of licenses issued by the Federal Communications Commission.

Goal No. 4

Capital Projects — The Legal Department will provide legal support in the planning, environmental compliance and construction of the board-approved Capital Investment Plan by concentrating on the following priorities:

- Provide legal support and assist in the acquisition of the right-of-way needed for completion of the Perris Valley Pipeline, including condemnation actions if necessary, and preparation of documents and contracts required to construct the pipeline.
- Provide legal assistance in developing plans to construct and operate recreation facilities at Diamond Valley Lake, including the marketing and sale of surplus property.

- Continue to represent Metropolitan's interests in the Inland Feeder, Oxidation Retrofit Program, Skinner expansion, and Diemer construction projects.
- Provide legal support on issues related to termination of the Center for Water Education ground lease and transition of the education facility to Metropolitan. Assist in the development of a Request for Proposal seeking partners to jointly operate and maintain the facility.
- Provide legal assistance for development of basic recreation infrastructure at Diamond Valley Lake.

Goal No. 5

Operations — The Legal Department anticipates focusing on the following priorities in the coming year to provide legal advice on statutory and regulatory requirements and compliance for operations programs:

- Provide legal assistance on real estate and property management issues, including developing and updating all real estate forms, procedures, and policies.
- Provide legal support on water quality issues.
- Provide legal assistance to the Workplace Health and Safety section in developing internal policies and procedures and in responding to various regulatory issues arising at Metropolitan facilities.
- Provide legal assistance on contractual management and negotiations regarding upgrades to the integrated perimeter security system.
- Provide legal assistance regarding coordination of safe operations of Metropolitan infrastructure at Lake Mathews with exploratory drilling for proposed tin mining project.
- Provide legal advice on requirements and regulations for use of existing and newly developed recreational facilities at Diamond Valley Lake.
- Assist with negotiations and management issues related to office space leasing at Metropolitan's Union Station facility.

Goal No. 6

Workforce — To ensure a stable and productive workforce, the Legal Department will provide legal support on various human resources issues. Such areas include:

- Assist management with negotiating successor MOUs for the rank-and-file, supervisors, confidential, and professional/managerial bargaining units. Provide legal advice on related actions and procedures.
- Assist with the implementation of the settlement in *Cargill v. Metropolitan*, the class action litigation regarding temporary workers' entitlement to regular employment benefits.
- Continue to expand the Legal Department's ability to provide legal advice to Human Resources and to represent Metropolitan in personnel litigation, employee relations, and administrative matters.
- Continue to provide legal advice and resolution of legal issues related to administration of Metropolitan's employee benefits, including retirement benefits, death benefits, and deferred compensation.

- Continue to defend Metropolitan in a number of current discrimination/retaliation lawsuits.
- Continue to defend Metropolitan in a number of current Unfair Practice Complaints before the Public Employment Relations Board.
- Continue to assist management in addressing the current backlog of grievances and hearing officer appeal requests.
- Provide legal assistance with implementation of classification/compensation studies.
- Continue to assist management in updating and revising Metropolitan's Operating Policies and Administrative Code to reflect changes in policy.
- Provide timely evaluations to Legal Department employees.

Goal No. 7

Finance — The major goals identified by the Legal Department for fiscal year 2007/08 in the finance area are to provide legal assistance with rates and charges, the issuance of debt obligations, investment of surplus monies, and other financial activities undertaken by Metropolitan. To accomplish these goals, the Legal Department plans to:

- Provide legal advice on revisions to procedures and timelines for adoption of rates and budgets.
- Provide legal assistance with issuance of bonds for capital improvement financing and defeasance of outstanding bonds to provide debt service savings.
- Assist with extension or replacement of standby bond purchase agreements supporting variable rate bond issues.
- Provide legal advice on proposals for innovative financing structures and their implementation.
- Provide updated disclosure to bondholders and the financial markets and make disclosure documents easily accessible.
- Provide legal assistance to the Chief Financial Officer in implementing rates and charges and reviewing legality of investments.

Goal No. 8

Administration — The Legal Department anticipates providing legal support regarding: proposed state and federal legislation that may affect Metropolitan's interests and compliance with statutory and institutional requirements, such as the Metropolitan Water District Act and Administrative Code, the Brown Act, the Political Reform Act, and the Public Records Act. In addition, the department will continue to explore and implement ways in which to expand the effectiveness and efficiency of its operations. Such goals include:

- Represent Metropolitan in Sacramento and Washington on legislative issues of concern to Metropolitan in all areas, including but not limited to resources and water management issues, public agency governance, employee relations, construction management, eminent domain reform, water quality, water user fees, and power regulation.

- Provide legal support to the Board offices, General Manager, Ethics Officer, and General Auditor, including timely legal review of board letters, minutes and agendas.
- Ensure ongoing compliance with public agency laws. Track changes in law and legal rulings to ensure ongoing compliance.
- Represent Metropolitan's interests in any litigation challenging its interpretation and implementation of its governing statute and Administrative Code.
- Implement the recommendations in the General Counsel's report on utilization of outside counsel.
- Continue to analyze current technology trends within the legal profession and utilize where appropriate, such as in E-Discovery and document management.
- Carry out the Legal Department's functions within its authorized O&M budget.
- Continue to successfully address the Department's succession planning and staffing needs.
- Provide regular continuing legal education programs to legal staff, other departments and member agency counsel.