

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

MINUTES

LEGAL AND CLAIMS COMMITTEE

April 10, 2012

Chair Wunderlich called the meeting to order at 8:35 a.m. in Committee Room 2-145 at Metropolitan's Headquarters.

Members present: Chair Wunderlich, Vice Chair Quiñonez
Directors Ackerman, Ballin, Camacho, Edwards, Fleming, Griset, Hawkins,
Heidel, Record and Steiner

Member absent: Director Dick

Other Board Members present: Directors Barbre, Blake, Brick, Brown, Foley, Grandsen,
Lewinger, Little, Millard, Morris, J. Murray, Peterson, Wilson and Wright

Staff present: Scully, Bennion, Beatty, Bennett, Breaux, Burman, Coffey, Gagar-Downing,
Goshi, Green, Ivey, G. Johnson, Kightlinger, Man, Miyashiro, Parsons, Patterson,
Riss, Schlotterbeck, Stites, Upadhyay, Waade and Zinke

1. OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE COMMITTEE ON MATTERS WITHIN THE COMMITTEE'S JURISDICTION

None

2. APPROVAL OF THE MINUTES OF THE LEGAL AND CLAIMS COMMITTEE MEETING HELD ON MARCH 13, 2012

Approved

Motion: Fleming

Seconded: Edwards

3. CONSENT CALENDAR ITEMS -- ACTION

7-3 Subject: Report on *In Re Tronox Incorporated, et al.*, Chapter 11, Case No. 09-10156 (ALG); and authorize increase in maximum amount payable under contract with Manatt, Phelps and Phillips LLP for legal services by \$60,000 to a maximum of \$440,000.

Presented by: Senior Deputy General Counsel Catherine Stites

Senior Deputy General Counsel Catherine Stites gave a brief overview of the history of the Tronox matter. Metropolitan is continuing with its monitoring efforts with respect to remediation of the site, as well as the adversary action in New York. Legal fees will be shared 50/50 with the Central Arizona Water Conservation District.

Motion: Adopt the CEQA determination and authorize amendment of the contract for legal services with Manatt, Phelps and Phillips LLP for the *In Re Tronox Incorporated* matter to increase the maximum amount payable by \$60,000 to a maximum of \$440,000. The \$60,000 is to be shared equally with CAWCD.

Motion Carried: Move: Fleming Seconded: Edwards
Abstained: Chair Wunderlich

4. OTHER BOARD ITEMS -- ACTION

8-4 Subject: **Report on *J.R. Filanc Construction Co. v. Metropolitan Water District of Southern California, et al.*, Los Angeles County Superior Court Case No. KC063261; appropriate \$300,000; and authorize an increase in the maximum amount payable under contract with Hunt Ortmann Palffy Nieves Lubka Darling & Mah, Inc. for legal services by \$300,000 to an amount not to exceed \$400,000. (Closed session)**

Presented by: Senior Deputy General Counsel Mark Parsons

Closed Session: In closed session the committee heard a report on Item 8-4. In open session, the committee voted to adopt the CEQA determination; appropriate \$300,000; and authorize an increase in the maximum amount payable under contract with Hunt Ortmann Palffy Nieves Lubka Darling & Mah, Inc. for legal services by \$300,000 to an amount not to exceed \$400,000.

Motion Carried: Moved: Fleming Seconded: Edwards
Abstained: Chair Wunderlich

5. BOARD INFORMATION ITEMS

None

6. COMMITTEE ITEMS

a. Subject: General Counsel's report of monthly activities

Presented by: General Counsel Marcia Scully

Senior Deputy General Counsel John Schlotterbeck gave an update on the recent favorable court ruling in the federal QSA lawsuit. He gave a short history of the parties to the action and informed the committee that the United States District Court issued a ruling dismissing the lawsuit. The Court stated the plaintiffs did not have standing in the lawsuit and also rejected all NEPA claims plaintiffs had asserted. Plaintiffs have 30 days to appeal.

General Counsel Marcia Scully informed the committee of two complaints filed against Metropolitan: an employment lawsuit filed by a former employee who was terminated and a construction lawsuit filed by GT Welding, a subcontractor for Oscar Renda, the contractor for Perris Valley Pipeline South.

Ms. Scully also reported on an upcoming mediation with Shimmick Obayashi, the contractor for the Skinner Plant oxidation retrofit project; an arbitration in the San Luis Rey Band of Mission Indians matter; and the upcoming trial in the *Orange County Water District v. Northrop* lawsuit.

Lastly, Ms. Scully reported to the committee that negotiations of a proposed minute order under the 1944 Water Treaty that allocates a portion of Colorado River Water to Mexico are under way with Mexico.

b. Subject: **Report on *San Luis & Delta-Mendota Water Authority, et al. v. Salazar, et al.*, USDC Case No. 1:09-CV-407 OWW GSA, and consolidated cases; *San Luis & Delta Mendota Authority, et al. v. Locke, et al.*, USDC Case No. 1:09-CV-1053 OWW DLB, and consolidated cases. (Closed Session)**

Presented by: General Counsel Marcia Scully

Closed Session: In closed session the committee heard a report on Item 6b. No action was taken.

c. Subject: **Report on *San Diego County Water Authority v. Metropolitan Water District of Southern California, et al.*, San Francisco County Superior Court Case No. CPF-10-510830. (Closed Session)**

Presented by: Senior Deputy General Counsel Heather Beatty

Closed Session: Directors Heidel, Lewinger, Steiner and Wilson, representing the San Diego County Water Authority, withdrew from the meeting for the report on this item.

In closed session the committee heard a report on Item 6c. No action was taken.

7. FOLLOW-UP ITEMS

None

8. FUTURE AGENDA ITEMS

None

Next regular meeting will be held on May 8, 2012.

Meeting adjourned at 9:52 a.m.

Robert Wunderlich
Chair