

**THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

**MINUTES**

**LEGAL AND CLAIMS COMMITTEE**

**March 12, 2019**

Chair McKenney called the meeting to order at 9:00 a.m. in Committee Room 2-145 at Metropolitan's Headquarters.

Members present: Chair McKenney, Vice Chair Quiñonez (entered 9:01 a.m.), Directors Atwater, Dick, Hall, Murray (entered 9:10 a.m.), Record, and Smith.

Members absent: Director Paskett

Other Board members present: Directors Ackerman, Blois, Butkiewicz, Cordero, Dake, Emrani, Faessel, Goldberg, Hogan, Kurtz, Lefevre, Morris, Peterson, Pressman, Ramos, and Treviño.

Staff present: Scully, Beatty, Kear, Kightlinger, Miyashiro, and Upadhyay.

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

No members responded.

**2. APPROVAL OF THE MINUTES OF THE LEGAL AND CLAIMS COMMITTEE MEETING HELD FEBRUARY 12, 2019.**

Motion: Carried  
Moved: Director Atwater                      Seconded: Director Dick  
Ayes: Chair McKenney, Directors Atwater, Dick, Hall, Record, and Smith  
Noes: None  
Abstentions: None  
Absent: Vice Chair Quiñonez and Directors Murray and Paskett

The motion passed by a vote of 6 ayes, 0 no, 0 abstain, and 3 absent.

Vice Chair Quiñonez entered the meeting at 9:01 a.m.

### 3. MANAGEMENT REPORT

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

Presented by: General Counsel Marcia Scully

General Counsel Marcia Scully updated the committee on the proposed Clean Water Act amendments and its impact on the definition of the Waters of the United States or WOTUS.

Ms. Scully reported on the *CalFire* litigation challenging the elimination of public employees' rights to purchase additional retirement service credits.

She also reported on the case, *Kaanaana v. Barrett Business Services*, which expands the definition of public works and the resulting application of prevailing wages.

### 4. CONSENT CALENDAR ITEMS – ACTION

None

### 5. OTHER BOARD ITEMS – ACTION

**8-3** Subject: Report on *Mary Padres v. Metropolitan Water District of Southern California*, Los Angeles Superior Court Case No. BC698748 and authorize an increase in the maximum amount payable under contract with Seyfarth Shaw LLP for legal services by \$150,000 to an amount not to exceed \$250,000; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Presented by: Assistant General Counsel Henry Torres

In closed session, Assistant General Counsel Henry Torres gave a report on this item. In open session, the committee voted.

Motion: Authorize increase in the maximum amount payable under contract with Seyfarth Shaw LLP for legal services by \$150,000 to an amount not to exceed \$250,000.

Moved: Director Smith      Seconded: Director Record

Ayes: Chair McKenney, Vice Chair Quiñonez, Directors Atwater, Dick, Hall, Murray, Record, and Smith

Noes: None  
Abstentions: None  
Absent: Director Paskett

The motion passed by a vote of 8 ayes, and 0 noes, 0 abstain, and 1 absent.

**8-4** Subject: Authorize settlement of *The Metropolitan Water District of Southern California v. Desert Milling, Inc., John Frederick Benson, et al.*, LASC Case No. BC687102; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Presented by: Chief Deputy General Counsel Catherine Stites

In closed session, Chief Deputy General Counsel Catherine Stites gave a report on this item. The vote was taken in closed session.

Motion: Authorize the General Counsel to settle this matter as outlined in the confidential board letter.

Moved: Director Dick                      Seconded: Director Smith  
Ayes: Chair McKenney, Vice Chair Quiñonez, Directors Atwater, Dick, Murray, Record, and Smith  
Noes: None  
Abstentions: None  
Absent: Director Paskett

The motion passed by a vote of 8 ayes, and 0 noes, 0 abstain, and 1 absent.

## 6. BOARD INFORMATION ITEMS

None

## 7. COMMITTEE ITEMS

a. Subject: Review Settlement Proposal received from SDCWA and Report on San Diego County Water Authority v. Metropolitan Water District of Southern California, et al., San Francisco County Superior Court Case Nos. CPF-10-510830, CPF-12-512466, CPF-14-514004, CPF-16-515282, CPF-16-515391, CGC-17-563350, and CPF-18-516389; the appeal of the 2010 and 2012 actions, Court of Appeal for the First Appellate District Case Nos. A146901 and A148266 and California Supreme Court Case No. S243500; the petition for extraordinary writ in the 2010 and 2012 actions, Court of Appeal

for the First Appellate District Case No. A155310; and the petition for extraordinary writ in the second 2016 action, Court of Appeal for the First Appellate District Case No. A154325 and California Supreme Court Case No. S251025

Presented by: Assistant General Counsel Heather Beatty

Directors Butkiewicz, Goldberg, Hogan, and Smith, representing the San Diego County Water Authority, withdrew from the meeting for the report on this item.

In closed session, Assistant General Counsel Heather Beatty gave a report on this item. No action was taken.

## **8. FOLLOW-UP ITEMS**

None

## **9. FUTURE AGENDA ITEMS**

None

Next meeting will be held on April 9, 2019.

Meeting adjourned at 10:29 a.m.

Larry McKenney  
Chair