

BOARD MEETING DATE: October 3, 2014

AGENDA NO. 12

PROPOSAL: Appropriate Funds from Designation for Litigation and Enforcement and Authorize Amending and Initiating Contracts with Outside Counsel

SYNOPSIS: Legal is currently being assisted in environmental lawsuits by outside law firms and in other matters requiring specialized legal counsel. This action is to appropriate \$500,000 from the Designation for Litigation and Enforcement, increase the FY 2014-15 Legal Budget by \$500,000, and amend or initiate contracts to expend these funds with prequalified counsel approved by the Board as well as specialized legal counsel with monies to be appropriated as the need arises.

COMMITTEE: Administrative, September 12, 2014, Recommended for Approval

RECOMMENDED ACTIONS:

1. Appropriate \$500,000 from the Designation for Litigation and Enforcement to Legal's FY 2014-15 Budget.
2. Increase Legal's FY 2014-15 Services and Supplies Major Object, Professional and Special Services account by \$500,000.
3. Authorize the Chairman or the Executive Officer, depending on whether the amount exceeds \$75,000, to amend or initiate contracts with prequalified counsel approved by the Board as well as specialized legal counsel, as needed, in a total amount not to exceed \$779,500 in FY 2014-15.

Barry R. Wallerstein, D.Env.
Executive Officer

Background

The FY 2014-15 Budget for Legal included \$279,500 for litigation expenses in environmental law cases and specialized legal counsel. Several firms, principally Woodruff Spradlin & Smart, Shute Mihaly & Weinberger, Slover & Loftus, Perkins Coie and Paul Hastings have been assisting Legal with environmental litigation and special litigation matters. The monies for these matters will be expended on lawsuits and other legal proceedings, including Exide Technologies; a challenge to permitting a power plant in Desert Hot Springs; defending EPA's approval of Rule 1315 (District's Internal Offset accounts); amendments to Rule 444; a hearing before the Surface Transportation Board on approval of the Railroad Rules.

Legal's FY 2014-15 budget for Professional and Special Services is \$279,500; however, this will not cover expected costs. It is expected that expenses in these matters, and the other matters handled by specialized legal counsel, only as needed with approval of the Chairman or Executive Officer, will require an additional amount up to \$500,000. Accordingly, Legal is requesting the transfer of additional funds in the amount of \$500,000, for a total expenditure up to \$779,500 this fiscal year.

Proposal

In order to defend on-going and threatened litigation, it is necessary to appropriate additional funds for expenditure by outside counsel. It is expected that on-going lawsuits, and new litigation that is possible, as well as matters requiring specialized legal counsel may require an additional \$500,000 in funding for outside counsel as the need arises.

Resource Impacts

Sufficient funds will be available in Legal's FY 2014-15 Budget upon approval of this Board letter.