

BOARD MEETING DATE: March 6, 2015

AGENDA NO. 8

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

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

COMMITTEE: Administrative, February 13, 2015, 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 and services in a total amount not to exceed \$1,279,500 in FY 2014-15, as the need arises.

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 and services. In response to unexpected litigation costs, the Board appropriated an additional \$500,000 at the October 2014 Governing Board meeting. Now, environmental litigation and special litigation matters require additional funding. The monies for these matters will be expended on lawsuits and other legal proceedings, including Exide Technologies; amendments to Rule 444; a hearing before the Surface Transportation Board on approval of the Railroad Rules; and a challenge to permitting a tank storage project at the Phillips 66 refinery in Carson—which will be reimbursed by Phillips 66 pursuant to Rule 301(aa).

It is expected that expenses in these matters, and the other matters handled by specialized legal counsel, will require an additional amount up to \$500,000. In part, these amounts will be reimbursed, specifically for the litigation costs in the Phillips 66 matter; but under Rule 301(aa), Phillips 66 is required to provide reimbursement once the matter is completed. Accordingly, Legal is requesting the transfer of additional funds in the amount of \$500,000, for a total expected expenditure of \$1,279,500 this fiscal year.

Proposal

In order to defend on-going 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 and services, will require an additional \$500,000 to be appropriated to prequalified counsel approved by the Board, as well as specialized legal counsel and services, as the need arises.

Resource Impacts

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