



**L&C Committee**

- L. Dick, Chair
- Vacant, Vice Chair
- R. Atwater
- M. Camacho
- A. Fellow
- S. Goldberg
- A. Kassakhian
- J. Murray Jr.
- T. Phan
- R. Record
- S. Smith
- S. Tamaribuchi

**Legal and Claims Committee - Final - Revised 1**

Meeting with Board of Directors \*

**October 12, 2021**

**9:00 a.m.**

Live streaming is available for all board and committee meetings on our [mwdh2o.com](http://mwdh2o.com) website ([Click to Access Board Meetings Page](#))

Public Comment Via Teleconference Only: Members of the public may present their comments to the Board on matters within their jurisdiction as listed on the agenda via teleconference only. To participate call (404) 400-0335 and use Code: 9601962.

<b>Tuesday, October 12, 2021 Meeting Schedule</b>
<b>09:00 am - L&amp;C</b>
<b>10:00 am - RP&amp;AM</b>
<b>11:00 am - Adj Exec</b>
<b>11:30 am - Break</b>
<b>12:00 pm - Board</b>

\* The Metropolitan Water District’s meeting of this Committee is noticed as a joint committee meeting with the Board of Directors for the purpose of compliance with the Brown Act. Members of the Board who are not assigned to this Committee may participate as members of the Board, whether or not a quorum of the Board is present. In order to preserve the function of the committee as advisory to the Board, members of the Board who are not assigned to this Committee will not vote on matters before this Committee.

**1. Opportunity for members of the public to address the committee on matters within the committee's jurisdiction (As required by Gov. Code Section 54954.3(a))**

**2. MANAGEMENT REPORTS**

- a. General Counsel’s report of monthly activities **21-523**

**\*\* CONSENT CALENDAR OTHER ITEMS -- ACTION \*\***

**3. CONSENT CALENDAR OTHER ITEMS - ACTION**

- A. Approval of the Minutes of the Meeting of the Legal and Claims Committee held September 14, 2021 [\*\*21-543\*\*](#)

**Attachments:** [10122021 LC 3A Minutes.pdf](#)

**4. CONSENT CALENDAR ITEMS - ACTION**

- 7-12** Authorize settlement of OHL USA, Inc. v. The Metropolitan Water District of Southern California, Los Angeles Superior Court Case No. 19STCV27689; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA [Conference with legal counsel - existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1)] [Item Added on 10/8/2021] **21-562**

**\*\* END OF CONSENT CALENDAR ITEMS \*\***

**5. OTHER BOARD ITEMS - ACTION**

None

**6. BOARD INFORMATION ITEMS**

None

**7. COMMITTEE ITEMS**

- a.** 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 appeals of the 2010 and 2012 actions, Court of Appeal for the First Appellate District Case Nos. A146901, A148266, A161144, and A162168, 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; 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; and the Metropolitan Water District of Southern California v. San Diego County Water Authority cross-complaints in the 2014 action and the first 2016 action. [Conference with legal counsel – existing litigation; to be heard in closed session pursuant to Gov. Code Sections 54956.9(d)(1)] **21-522**

**8. FOLLOW-UP ITEMS**

None

**9. FUTURE AGENDA ITEMS**

**10. ADJOURNMENT**

**NOTE: This committee reviews items and makes a recommendation for final action to the full Board of Directors. Final action will be taken by the Board of Directors. Agendas for the meeting of the Board of Directors may be obtained from the Board Executive Secretary. This committee will not take any final action that is binding on the Board, even when a quorum of the Board is present.**

**Writings relating to open session agenda items distributed to Directors less than 72 hours prior to a regular meeting are available for public inspection at Metropolitan's Headquarters Building and on Metropolitan's Web site <http://www.mwdh2o.com>.**

**Requests for a disability related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting should be made to the Board Executive Secretary in advance of the meeting to ensure availability of the requested service or accommodation.**

**THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

**MINUTES**

**LEGAL AND CLAIMS COMMITTEE**

**September 14, 2021**

Chair Dick called the teleconference meeting to order at 9:01 a.m.

Members present: Chair Dick, Directors Atwater, Camacho, Fellow, Goldberg, Murray, Phan, Record, Smith, and Tamaribuchi.

Members absent: Director Kassakhian.

Other Directors present: Chairwoman Gray, Directors Abdo, Ackerman, Blois, Butkiewicz, Cordero, De Jesus, Dennstedt, Erdman, Faessel, Hogan, Jung, Kurtz, Lefevre, Luna, McCoy, Morris, Ortega, Ramos, and Repenning.

Committee Staff present: Beatty, Hagekhalil, Miyashiro, Scully, Torres, and Upadhyay.

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

None

**2. MANAGEMENT REPORT**

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

General Counsel referred the committee to her monthly report.

**CONSENT CALENDAR OTHER ITEMS – ACTION**

**3. CONSENT CALENDAR OTHER ITEMS – ACTION**

A. Approval of the Minutes of the Adjourned Meeting of the Legal and Claims Committee meeting held August 17, 2021.

#### 4. CONSENT CALENDAR ITEMS – ACTION

**7-7**            Subject            Authorize an increase in the maximum amount payable under contract with Ryan & Associates for legal services related to general real estate and leasing law issues by \$100,000 to a maximum amount payable of \$200,000; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Presented by:      No presentation was given

The following Directors provided comments or asked questions:

1. Ortega

Chair Dick announced a reordering of the agenda items. The closed session items would be taken together, 7-8, 7-9 and 7a.

**7-8**            Subject            Report on existing litigation OHL USA, Inc. v. The Metropolitan Water District of Southern California, Los Angeles Superior Court Case No. 19STCV27689; and authorize increase of maximum amount payable under contract with Theodora Oringer PC for legal services by \$200,000 to an amount not to exceed \$1,100,000 (Approp. 154170); the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA  
**[Conference with legal counsel - existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1)]**

Presented by:      Senior Deputy General Counsel Mark Parsons

Senior Deputy General Counsel Mark Parsons gave a report on this item. The vote was taken in open session.

After completion of the presentations, Director Record made a motion, seconded by Director Atwater, to approve the consent calendar consisting of Items 3A, 7-7 and 7-8:

The vote was:

Ayes:                Directors Atwater, Camacho, Dick, Fellow, Goldberg, Murray, Phan, Record, Smith, and Tamaribuchi  
Noes:                None  
Recusal:            None  
Abstain:            None  
Absent:             Kassakhian

The motion for Items 3A, 7-7 and 7-8 passed by a vote of 10 ayes, 0 noes, 0 abstain, and 1 absent.

- 7-9**            Subject            Update and authorize the settlement of: (1) Imperial Irrigation District v. The Metropolitan Water District of Southern California, et al., Los Angeles Superior Court Case No. 19STCP01376 and California Court of Appeal Case No. B311674; and (2) Imperial Irrigation District v. The Metropolitan Water District of Southern California, Los Angeles Superior Court Case No. 0STCV46404; the General Manager has determined the proposed action is exempt or otherwise not subject to CEQA  
**[Conference with legal counsel - existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1)]**

Presented by:        Senior Deputy General Counsel Michael Hughes

In closed session, Senior Deputy General Counsel Michael Hughes gave a report on this item. The vote was taken in closed session.

Chair Dick reported that the Committee voted to recommend approval of the proposed settlement.

#### **END OF CONSENT CALENDAR ITEMS**

### **7. COMMITTEE ITEMS**

- a.            Subject            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 appeals of the 2010 and 2012 actions, Court of Appeal for the First Appellate District Case Nos. A146901, A148266, A161144, and A162168, 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; 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; and the Metropolitan Water District of Southern California v. San Diego County Water Authority cross-complaints in the 2014 action and the first 2016 action.  
**[Conference with legal counsel – existing litigation; to be heard in closed session pursuant to Gov. Code Sections 54956.9(d)(1)]**

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.

Director Phan recused herself for the report on this item.

**5. OTHER BOARD ITEMS – ACTION**

None

**6. BOARD INFORMATION ITEMS**

None

**8. FOLLOW-UP ITEMS**

None

**9. FUTURE AGENDA ITEMS**

None

Next meeting will be held on October 12, 2021.

Meeting adjourned at 10:48 a.m.

Larry Dick  
Chair