



**L&C Committee**

- L. Dick, Chair
- Vacant, Vice Chair
- R. Atwater
- M. Camacho
- A. Fellow
- S. Goldberg
- T. Phan
- R. Record
- T. Smith
- N. Sutley
- S. Tamaribuchi

**Legal and Claims Committee**

Meeting with Board of Directors \*

**May 10, 2022**

**8:30 a.m.**

**Tuesday, May 10, 2022  
Meeting Schedule**

**08:30 a.m. L&C**

**09:30 a.m. E&O**

**11:30 a.m. Break**

**12:00 p.m. BOD**

Teleconference meetings will continue until further notice. Live streaming is available for all board and committee meetings on [mwdh2o.com](http://mwdh2o.com) ([Click Here](#))

A listen only phone line is also available at 1-800-603-9516; enter code: 2176868#. 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 enter Code: 9601962.

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\* 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 [21-1142](#)

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

- A. Approval of the Minutes of the Meeting of the Legal and Claims Committee held April 11, 2022 [21-1143](#)

**Attachments:** [05102022 LC 3A Minutes](#)

**4. CONSENT CALENDAR ITEMS - ACTION**

NONE

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

**5. OTHER BOARD ITEMS - ACTION**

NONE

**6. BOARD INFORMATION ITEMS**

NONE

**7. COMMITTEE ITEMS**

a. Report on litigation in *The Navajo Nation v. United States Department of the Interior* (U.S. Court of Appeals for the Ninth Circuit, Case No. No. 19-17088, D.C. No. 3:03-cv-00507-PCT-GMS) [Conference with legal counsel - existing litigation; to be heard in closed session pursuant to Gov. Code Sections 54956.9(d)(1)] [21-1144](#)

b. Report on litigation, including discussions regarding potential settlement, in *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, 2016, and 2018 actions. [Conference with legal counsel - existing litigation; to be heard in closed session pursuant to Gov. Code Sections 54956.9(d)(1)] [21-1145](#)*

**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**

**April 11, 2022**

Chair Dick called the teleconference meeting to order at 12:12 p.m.

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

Members absent: Directors Goldberg and Kassakhian.

Other Directors present: Chairwoman Gray, Directors Abdo, Ackerman, Blois, Cordero, De Jesus, Dennstedt, Erdman, Faessel, Fong-Sakai, Jung, Kurtz, Lefevre, McCoy, Miller, Morris, Ortega, Peterson, Pressman, and Quinn.

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 REPORTS**

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

General Counsel announced that Item 7b, the *San Diego County Authority v. Metropolitan* litigation, would be deferred. However, she informed the committee that both parties have filed motions for summary adjudication and that the court will hear argument on the cross-motions on Wednesday and the parties are currently engaged in the discovery process in preparation for trial in May.

**CONSENT CALENDAR ITEMS – ACTION**

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

- A. Approval of the Minutes of the Meeting of the Legal and Claims Committee held February 8, 2022 and the Joint Meeting of the Legal and Claims Committee and Organization, Personnel and Technology Committee held February 8, 2022 (Legal and Claims Committee only)

No comments on the minutes.

#### 4. CONSENT CALENDAR ITEMS – ACTION

**7-17**      Subject:            Report on Baker Electric, Inc. v. Metropolitan Water District of Southern California, et al., (Los Angeles Superior Court Case No. 21STCV15612) regarding Metropolitan’s CRA 6.9 kV Power Cables Replacement Project, Contract No. 1915; authorize an increase in the maximum amount payable under contract with Musick, Peeler & Garrett LLP, for legal services by \$600,000 to an amount not to exceed \$900,000; and authorize an increase in the maximum amount payable under contract with Exponent, Inc. for consultant services by \$300,000 to an amount not to exceed \$400,000; 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 Patrick Rohen

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

Director Phan recused herself from participation on this item because of a conflict of interest in that Exponent, Inc. is a client of her employer, Rutan and Tucker.

**7-18**      Subject:            Authorize settlement of John Campbell v. The Metropolitan Water District of Southern California Workers Compensation Appeals Board, Riverside, Case Numbers ADJ11262832, ADJ9311537, ADJ7783020, and ADJ8290584; 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 Government Code Section 54956.9(d)(1)]

Presented by:      Outside Counsel Steven Green

In closed session, outside counsel Steven Green gave a presentation on item 7-18. The vote was taken in closed session.

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

In open session, Director Fellow made a motion, seconded by Director Camacho, to approve the consent calendar consisting of Items 3A and 7-17:

The vote was:

Ayes: Directors Atwater, Camacho, Dick, Fellow, Phan, Record, Smith, Sutley,  
and Tamaribuchi  
Noes: None  
Recusal: Phan for item 7-17 only  
Abstain: None  
Absent: Goldberg and Kassakhian

The motion for Item 3A passed by a vote of 9 ayes, 0 noes, 0 abstain, and 2 absent.  
The motion for Item 7-17 passed by a vote of 8 ayes, 0 noes, 0 abstain, 1 recusal, and 2 absent.

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

#### **5. OTHER BOARD ITEMS – ACTION**

None

#### **6. BOARD INFORMATION ITEMS**

None

#### **7. COMMITTEE ITEMS**

- a. Subject Report on Pacific Coast Federation of Fishermen’s Assns., et al. v. Ross, et al., Federal District Court for the Eastern District of California, Case No. 1:20 CV 00431 DAD SAB and Calif. Natural Resources Agency, et al. v. Ross, et al., Federal District Court for the Eastern District of California, Case No. 1:20 CV 00426 DAD SKO [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 Rebecca Sheehan

In closed session, Senior Deputy General Counsel Rebecca Sheehan make a presentation on this item. No action was taken.

- b.            Subject            Report on litigation, including discussions regarding potential settlement, in 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, 2016, and 2018 actions. [Conference with legal counsel - existing litigation; to be heard in closed session pursuant to Gov. Code Sections 54956.9(d)(1)]

Presented by:            This item was deferred.

## 8. FOLLOW-UP ITEMS

None

## 9. FUTURE AGENDA ITEMS

None

Next meeting will be held on May 10, 2022.

Meeting adjourned at 1:27 p.m.

Larry Dick  
Chair