

**IMPORTED WATER COMMITTEE**

AGENDA FOR

**JULY 22, 2010**

Dan McMillan – Chair  
Bill Knutson – Vice Chair  
Yen Tu – Vice Chair  
Keith Blackburn  
Jim Bond  
Gary Croucher  
Lynne Heidel  
Keith Lewinger

John Linden  
Barry Martin  
Ralph McIntosh  
Rua Petty  
Hershell Price  
Elsa Saxod  
Barbara Wight

1. Roll call – determination of quorum.
2. Additions to agenda (Government Code Section 54954.2(b)).
3. Public comment – opportunities for members of the public to address the Committee on matters within the Committee’s jurisdiction.
4. Chair’s report.  
4-A Directors’ comments.

**I. CONSENT CALENDAR**

1. Amendment to professional services agreement with Brownstein Hyatt Farber Schreck, LLP for Metropolitan Water District Work Plan support. Amy Chen  
Staff recommendation: Authorize the General Counsel to execute an amendment to the professional services agreement with Brownstein Hyatt Farber Schreck, LLP for additional retainer services. (Action)

**II. ACTION/DISCUSSION**

1. Metropolitan Water District Issues and Activities update. Amy Chen  
1-A Metropolitan Water District Delegates report.  
(Information) (pickup packet)



2. Colorado River Programs.
  - 2-A Colorado River Board representative's report. (Information) (pickup packet) Bill Knutson
  - 2-B Colorado River Programs quarterly report. (Information) Halla Razak

III. INFORMATION

1. Bay-Delta Quarterly update. (Information) Jeff Volberg
2. Metropolitan Water District Program report. (Information) Amy Chen

IV. CLOSED SESSION

1. CLOSED SESSION: Dan Hentschke  
Conference with Legal Counsel – Existing Litigation  
Government Code §54956.9(a)  
Name of Case: QSA Judicial Council Coordination Proceeding No. 4353
2. CLOSED SESSION: Dan Hentschke  
Conference with Legal Counsel – Existing Litigation  
Government Code §54956.9(a) – SDCWA v Metropolitan  
Water District of Southern California; LASC Case No. BS126888

V. ADJOURNMENT

Doria F. Lore  
Clerk of the Board

**NOTE:** This meeting is called as an Imported Water Committee meeting. Because a quorum of the Board may be present, the meeting is also noticed as a Board meeting. Members of the Board who are not members of the Committee may participate in the meeting pursuant to Section 2.00.060(g) of the Authority Administrative Code (Recodified). All items on the agenda, including information items, may be deliberated and become subject to action. All public documents provided to the committee or Board for this meeting including materials related to an item on this agenda and submitted to the Board of Directors within 72 hours prior to this meeting may be reviewed at the San Diego County Water Authority headquarters located at 4677 Overland Avenue, San Diego, CA 92123 at the reception desk during normal business hours.

July 14, 2010

**Attention: Imported Water Committee**

**Amendment to professional services agreement with Brownstein Hyatt Farber Schreck, LLP, for Metropolitan Water District (MWD) Program Work Plan support (Action)**

**Purpose**

This report seeks Board approval of an amendment to the professional services agreement with Brownstein Hyatt Farber Schreck, LLP, to increase the monthly retainer services relating to the MWD Program for fiscal year 2011.

**Staff recommendation**

Authorize the General Counsel to execute an amendment to the professional services agreement with Brownstein Hyatt Farber Schreck, LLP, for additional retainer services.

**Alternatives**

1. Do not approve the amendment.
2. Direct negotiation of an amendment upon different terms.

**Fiscal impact**

The MWD Program's Fiscal Year 2011 includes funds for the existing contract amount of \$209,664. The proposed action will increase the monthly retainer by \$8,320. It will also provide for a potential of additional as-needed services. Funds for the recommended increased amount of \$150,000 are available in the additional budget authorization approved by the Board on June 24, 2010 in relation to the MWD rate litigation matter, and will be transferred from the General Counsel's budget to the MWD Program budget.

**Background**

The law firm of Brownstein Hyatt Farber Schreck, LLP, (Brownstein) provides special legal and other professional services to the Water Authority. These services are divided into two categories, "retainer services," related to implementation of the MWD programs, and "regular services," primarily for Quantification Settlement Agreement (QSA) litigation and other water law issues. Retainer services are provided by Chris Frahm under the supervision of the MWD Program Chief. Regular services are provided primarily by Liz Rothman and Scott Slater under the supervision of the General Counsel. On June 10, 2010, the Board unanimously authorized litigation challenging MWD's rates and charges. The proposed increase in retainer services will assure continuation of MWD Program support at an appropriate level due to increased activity related to impacts of the litigation.

*Previous Board Action: In July 2009 the Board approved the contract for special counsel services with Brownstein. On June 19, 2010, the Board authorized commencement of litigation challenging MWD's rate and charges. On June 24, 2010, the Board appropriated an additional \$2.85 million to the General Counsel's budget for fiscal year 2011.*

## **Discussion**

The current Brownstein retainer is \$17,472 per month plus actual approved expenses, and was based upon an assumed average monthly workload of 42 hours. It was understood that the actual hours of work performed under the retainer services in a month would vary; however, the contract was structured so that the total annual hours are not expected to greatly exceed or fall below the anticipated annual work load of 504 hours.

The Water Authority employs a team approach to addressing issues relating to Metropolitan Water District. The MWD Team includes the MWD Delegates, Board Officers and the MWD Staff Team comprised of Assistant General Manager Dennis Cushman, General Counsel Dan Hentschke, MWD Program Chief Amy Chen and consultant Chris Frahm of the Brownstein firm. The MWD Team and MWD Staff Team have worked on a number of major initiatives including the development of MWD foundational work plan, strategic leadership positioning, alliances with key MWD member agencies, Integrated Resources Plan (IRP) update, MWD allocation plan implementation, cost of service review, water conservation program revisions, and the Blue Ribbon Committee. The scope of retainer services is intended to provide support for all strategic MWD activities as well as additional advocacy and outreach to key decision makers at local and regional levels. The success of the MWD Team in raising major supply and financial policy issues at MWD has increased the workload significantly beyond anticipated. Due to increased MWD activities as well as the preparation for litigation challenging MWD's rates as well as the QSA litigation, Ms. Frahm provided additional services that exceeded the retainer limit. For fiscal year 2010, approximately \$39,000 of these additional services associated with the MWD rate litigation was covered by the General Counsel's budget. However, because the retainer limit was reached, retainer services in support of other MWD program issues were curtailed over the last two months of the fiscal year.

Under the current contract, retainer services are provided at a monthly retainer fee of \$17,472.00, plus actual authorized expenses. Although the amount of retainer services may vary from month-to-month, the monthly average is specified at 42 hours. In order to cover the increase work level within the MWD program resulting from the rate litigation, as well as other MWD initiatives including its Blue Ribbon Committee and IRP update, staff recommends an increase in the monthly retainer of \$8,320, or an average of 20 hours. In addition, it is recommended that the agreement provide a budget of \$37,500 to cover as-needed "full day" assignments – typical of travel to meetings in Los Angeles – at a discounted rate of \$2,500/day; this provision would permit up to 15 one-day assignments, at the Water Authority's discretion, during FY11. The budget amount for the recommended increase including fees and expenses is \$150,000 for both fees and expenses, which would be covered by a transfer from the General Counsel's budget to the MWD Program budget. Direct litigation work provided by Ms. Frahm as a member of the General Counsel's litigation team would be paid on an hourly basis in the same manner as other regular services under the Brownstein contract. The General Counsel's litigation team is comprised of the General Counsel, special counsel Colantuono and Levin (Mike Colantuono, Holly Whatley), special counsel Howard Rice Nemerovski Canady Falk and Rabkin (Steve Mayer), and Chris Frahm.

Prepared by: Amy Chen, MWD Program Chief  
Approved by: Daniel S. Hentschke, General Counsel  
Approved by: Dennis A. Cushman, Assistant General Manager

July 14, 2010

**Attention: Imported Water Committee**

## **Colorado River Program Quarterly Report (Information)**

### **Purpose**

This is a status report on the implementation of Colorado River Program water supply projects and activities, including the Water Authority's water transfer with the Imperial Irrigation District (IID), the All-American and Coachella canal lining projects, and potential Colorado River water supply augmentation projects. The report covers the second quarter of 2010 (April through June).

### **Discussion**

#### *Coachella Canal Lining Project.*

Work is continuing on project environmental mitigation components. Construction was completed on the 17-acre created marsh, after the site was treated to reduce soil salinity to an acceptable level and was planted with native vegetation. Plant growth is taking place. Project staff continues to work with the state Department of Fish and Game to design and construct a sport fishery pond. The pond site has been selected and design elements and considerations are being discussed. A comprehensive approach to deliver water to a variety of land parcels being used for mitigation has been developed. The contract documents for this water supply project are being finalized and it is anticipated that Coachella Valley Water District (CVWD) will advertise the project this month (July) with bids due in August 2010.

#### *All-American Canal Lining Project.*

Kiewit completed all of the project's remaining punch list items and IID deemed the project complete in April 2010. A Notice of Completion was filed on April 28, 2010 and the Contractor's retention has been released. A transfer inspection by the Bureau of Reclamation was conducted on June 4, 2010. A few administrative work items remain to be completed prior to the transfer of the project to O&M status. The construction of off-site water drinkers for large mammals to keep the animals away from the newly lined canal has been completed. Other project activities, including remaining environmental mitigation components, are on-going.

Water Authority staff continue to work with IID and others through project coordination on potential human safety improvements. In addition to the 4 existing buoy lines in the canal, an additional 3 test buoy lines have been installed (one in each of the 3 Reaches). As part of the public outreach effort to educate undocumented migrants about the dangers of using the canal as a means of entering the U.S., the Mexican Consulate has conducted surveys to document the effectiveness of the program. The outreach program includes posters, flyers, a DVD, and public service announcements.

#### *QSA status*

On May 7, the Court of Appeal issued a stay of the judgment in the QSA cases until final resolution of the appeal, which maintains the status quo of the QSA contracts. In October, the

County of Imperial and Imperial County Air Pollution Control District filed a federal lawsuit against the U.S. Department of the Interior and the U.S. Bureau of Reclamation alleging violations of the National Environmental Policy Act and Clear Air Act in connection with approval of the QSA. The Early Neutral Evaluation took place at the U.S. Courthouse in El Centro on May 13. At that time, the magistrate ordered the administrative record to be filed by September 10 and scheduled a case management conference to be held October 8, 2010. In the meantime all QSA programs will remain intact and deliveries from the IID water transfer and the All American and Coachella Canal Lining projects will continue.

#### Imperial Valley outreach

In the second quarter of 2010, the Imperial Valley Outreach program was invited to present at a Kiwanis Club, a Rotary Club and to a District Rotary Club gathering with members from both the Imperial and San Diego counties. Additionally, the outreach program continued work on the Web-based newsletter, Water Updates from the Coast, highlighting the Water Authority's ongoing positive relationship with the Imperial Irrigation District and the Imperial Valley as a whole in the wake of a state court judge's ruling that raised questions about the future of the Quantification Settlement Agreement.

During this quarter, the outreach effort included involvement and participation in one of the largest community events held in the Imperial Valley - the Mariachi Festival - in Calexico and the Cesar Chavez Celebration in Brawley.

The second quarter of 2010 also saw outreach staff evaluating the 2009-10 Imperial Valley Outreach Plan to determine where the plan was most successful in maintaining and building strong relationships with IID and the Imperial Valley. That evaluation allowed staff to begin work on developing the 2010-11 Outreach Plan, which will see such activities as community presentations, publication of the Web-based newsletter, involvement in community organizations and sponsorship of key community events continue.

#### Binational cooperative process.

Mexican representatives in June presented to U.S. state and federal representatives a proposal that incorporates a number of Colorado River management strategies. The proposal was in the form of a draft minute, which is similar in function to an addendum, to the 1944 Mexican treaty regarding the Colorado River. The draft minute includes proposed provisions for:

- Mexico storing water in U.S. reservoirs
- Implementing new shortage and surplus guidelines for Mexico;
- U.S. parties providing financial assistance to repair Mexican infrastructure damaged by the April 2010 earthquake in exchange for water from Mexico; and
- Implementing environmental restoration projects in Mexico.

Mexican officials indicated that they would like a prompt response from the U.S. parties, leading to an agreement based on the proposal within 90 days. A binational meeting of U.S. principals and Mexican officials was held June 17 to discuss the proposal. The pace of meetings is

expected to accelerate as U.S. parties respond to the proposal. Other binational activities are continuing, including a feasibility study of a seawater desalination plant at Rosarito Beach, Mexico; a proposed pilot project to restore willow habitat on 50 acres of land in Mexico; and a feasibility study for the construction of a small re-regulating reservoir in Mexico that would conserve about 3,200 af annually.

Prepared by: Dave Fogerson, Senior Engineer  
Reviewed by: Halla Razak, Colorado River Program Director

July 14, 2010

**Attention: Imported Water Committee**

**Bay-Delta Quarterly update. (Information)**

**Background**

This quarterly update discusses activities that are taking place in the Bay-Delta region. Recent activities in the Delta include the launch of the Delta Stewardship Council, court rulings in favor of water users, and new science regarding the pelagic organism decline (Delta smelt, etc.). In addition, this report and accompanying table will demonstrate the effects of court-ordered pumping restrictions on the water supply available to the Metropolitan Water District.

**Discussion**

**Delta Stewardship Council**

The new Delta Stewardship Council has now met four times; twice in April, in May, and in June. The Council has chosen CH2M-Hill as its consultant to write the Delta Plan. The Council has also appointed 10 scientists to its Independent Science Board. Compared to its forerunner, the California Bay-Delta Authority, the Council is moving forward with a very strong sense of purpose, as well as a well-defined blueprint for action in the Delta Vision and the legislative package that created the Council.

There has been some talk that the Senate will not confirm the Governor's appointees to the Council, other than the chairman, Phil Isenberg. The Senate may prefer to have the next Governor make the appointments. A confirmation hearing for appointee Richard Roos-Collins that was scheduled for June 22 was postponed, however; Mr. Roos-Collins subsequently resigned from the Council.

**Bay-Delta Conservation Plan**

The Bay-Delta Conservation Plan steering committee is preparing a Draft Habitat Conservation Plan under the federal Endangered Species Act and a Draft Natural Communities Conservation Plan under the California Natural Communities Conservation Plan Act. The committee plans to release the two draft plans by the end of 2010.

The plans are intended to address the following:

- Habitat restoration and reduction of other stressors
  - Habitat restoration targets for aquatic species of up to 80,000 acres
  - Preserve and enhance approximately 45,000 acres of habitat for the needs of plants and wildlife species
  - List measures to address water quality and other stressors on aquatic species
  
- New water conveyance facilities
  - Up to five intakes along the Sacramento River

- Additional study of two underground 33-foot diameter tunnels/pipelines designed for a combined capacity of up to 15,000 cubic feet per second. In addition, the steering committee will consider an above-ground canal.
- Flow criteria (operations rules)
  - The committee is studying a range of new diversion rules for the new water facilities in the North Delta in combination with continued operation of the existing South Delta facilities to meet the flow criteria to be adopted by the SWRCB.

### **Water Allocations**

Due to the very high volume of late runoff from the Sierra snowpack, DWR increased its allocation to the State Water Contractors to 50 percent. The U.S. Bureau of Reclamation increased its allocation to Central Valley Project contractors to 45 percent. Unfortunately, most farmers have planted their crops this year based on the earlier allocations, so the increased allocation will not allow them to increase their production very much. However, the CVP contractors may be able to store some of the water for protection against another dry year.

### **Court Rulings**

In May, Judge Wanger of the federal District Court in Fresno, granted a preliminary injunction against the federal government's implementation of pumping restrictions under the salmon biological opinion. The judge said that the federal government had not properly taken into account the impact the restrictions would have on people in the Central Valley and had not justified the need for imposing the harshest restrictions within the range stated in the biological opinion.

The state and federal governments were operating the water system at a tenth of its capacity in April and May, despite relatively high flows of water through the Delta. According to MWD, the restrictions cost the exporters 750,000 acre feet of water by the end of June.

The biological opinion states various ranges of restrictions to protect salmon, depending on water conditions when salmon are in the estuary. The water contractors and federal government negotiated a settlement under which the government would adopt the least severe restrictions for the remainder of the restricted period, but the settlement came late in June when it would have almost no impact before the restrictions are lifted in July.

### **Scientific Advances**

Also in May, the University of Maryland released a study by Dr. Patricia Glibert that examined the relationship between releases of ammonia from the Sacramento Regional Water Treatment Plant and the decline of the Delta smelt. The study found a very strong correlation between the concentration of ammonia and the decline in smelt populations, but only a weak correlation between volumes of export pumping and smelt numbers. The study also found an area in the Delta where Delta smelt are still relatively abundant, but ammonia from the wastewater treatment plant is diverted away by currents. Dr. Glibert says that a reduction in releases of ammonia would almost certainly result in better environmental conditions for the Delta smelt and an increase in Delta smelt numbers.

Following the release of the University of Maryland report, which was partially paid for by members of the State Water Contractors and Central Valley Project contractors, Dr. Glibert was asked to resign from the National Research Council's committee on the Bay-Delta. When she resigned, another scientist on the committee, Dr. Michael McGuire, also resigned in protest. The NRC claimed that Dr. Glibert had reached a conclusion on the subject matter of the NRC investigation ahead of the whole NRC committee, which the NRC felt to be improper. The general managers of the MWD, Kern County Water Agency, and Westlands Irrigation District, along with the President of the Coalition for a Sustainable Delta, wrote a letter to the NRC in protest, in which they pointed out that other committee members had also released reports on aspects of the Delta study, for which they were not asked to resign.

### **Historic Water Allocations to MWD**

At the June board meeting, Imported Water Committee Chair McMillan requested staff to report on the effect of the pumping restrictions on MWD's water supply. Specifically, the questions were:

- How much water has been available to MWD from the State Water Project?
- How much water has MWD taken?
- What has been the effect of the restrictions?

MWD's entitlement under the State Water Project is known as "Table A." Depending on the year, MWD may receive water from carryover, flexible storage withdrawal, withdrawal from various groundwater banks, north of Delta water transfers, and other sources that are delivered through the SWP facilities. This report focuses on Table A.

From 1997 through 2000, MWD requested and took delivery of relatively little of its SWP entitlement, because it was receiving enough water from the Colorado River to meet demand. However, beginning in 2001, MWD's reliance on the SWP increased. MWD began requesting the entire amount of its entitlement. Due to drought conditions and then the pumping restrictions imposed by the federal court, allocations began to vary widely and Table A deliveries declined. In 2008 and 2009, particularly, the amount of Table A water delivered has dropped dramatically, due to the pumping restrictions combined with drought conditions.

Beginning in 2001, MWD began requesting its full entitlement, because it lost half of its historic allocation from the Colorado River due to drought. However, in 2001, DWR only allocated 39 percent of Table A. The only year since 2001 when DWR has allocated 100 percent of SWP entitlement was 2006.

Until 2005, MWD's annual SWP entitlement was 2,011,500 acre feet. Since 2005, through agreement with other water agencies, MWD's basic entitlement has dropped to 1,911,500 acre feet per year. From 1997 through 2000, DWR allocated 100 percent of the Table A entitlement. However, MWD only requested a portion of its entitlement in those years, between 1,044,100 acre feet in 1997 to 1,507,136 in 2000.

Imported Water Committee

July 14, 2010

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In August 2007, Judge Oliver Wanger invalidated the federal biological opinion for Delta smelt and issued a Remedy Order that limits the operational flexibility of the SWP and CVP. The restrictions went into effect in December 2007 and have remained in effect since. In 2008, the federal government imposed additional restrictions under the biological opinions for salmon and other species. Last month, DWR reported that fishery restrictions this year impacted SWP deliveries by 800,000 acre-feet.

The attached table shows the amount of water to which MWD is entitled in each year since 1997, the SWP allocation, the amount MWD requested, the approved allocation, and the amount of water that was actually delivered to MWD.

Prepared by: Jeffrey Volberg, Government Relations Manager

Reviewed by: Dennis Cushman, Assistant General Manager

Attachment: Table – MWD State Water Project Allocations and Deliveries

## MWD State Water Project Allocations and Deliveries

1997 – 2009

Data from the State Water Project Administrative Office. All numbers are acre feet, except where otherwise noted. SWPAO numbers differ slightly from MWD records. Data were collected and organized with the assistance of Debra Discar-Espe and Julia Velez.

Year	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Table A Entitlement	2,011,500	2,011,500	2,011,500	2,011,500	2,011,500	2,011,500	2,011,500	2,011,500	1,911,500	1,911,500	1,911,500	1,911,500	1,911,500
SWP Allocation	100 %	100 %	100 %	100 %	39%	78%	90%	65%	90%	100%	60%	35%	40%
Amount requested	1,044,100	1,203,578	1,380,000	1,507,136	2,011,500	1,800,167	2,011,500	2,011,500	1,911,500	1,911,500	1,911,500	1,911,500	1,911,500
Approved Allocation	1,044,100	1,203,578	1,180,000	1,507,136	784,485	1,408,050	1,810,350	1,307,475	1,720,350	1,911,500	1,146,900	669,025	764,600
Table A Delivered	719,497	359,213	829,777	1,245,388	686,545	1,273,205	1,415,381	1,145,746	1,197,183	1,103,538	1,047,046	644,304	544,304
Other SWP Delivered	28,213	73,073	22,840	284,305	406,906	159,189	271,560	578,634	280,862	408,648	467,992	313,385	298,674
<b>Total SWP Delivered</b>	<b>747,710</b>	<b>432,286</b>	<b>852,617</b>	<b>1,529,693</b>	<b>1,093,451</b>	<b>1,432,394</b>	<b>1,686,941</b>	<b>1,724,380</b>	<b>1,478,045</b>	<b>1,512,186</b>	<b>1,515,038</b>	<b>957,689</b>	<b>842,978</b>

July 14, 2010

**Attention: Imported Water Committee**

## **Metropolitan Water District Program Report (Information)**

### **Purpose**

The MWD Program Report summarizes activities associated with the Metropolitan Water District of Southern California and other imported water agencies and organizations.

### **Discussion**

**Metropolitan Water District.** This section provides a summary of key actions taken at the July 12 and 13 meetings of the MWD board of directors. The board next meets on August 16 and 17, 2010.

### **Agreement with Municipal Water District of Orange County and Irvine Ranch Water District for procurement and transfer of water supplies**

MWD has been working with Municipal Water District of Orange County (MWDOC) and Irvine Ranch Water District (IRWD), a member agency of MWDOC, to facilitate the delivery of State Water Project (SWP) water acquired by IRWD into MWD's service area. This month MWD authorized entering into a 25 year agreement for the transfer and exchange of water supplies obtained by IRWD.

As reported in February 2010, IRWD has established a water banking program at Strand Ranch located in the Central Valley, just west of Bakersfield, with the capability of storing up to 50,000 af. IRWD has entered into an unbalanced exchange agreement with another SWP contractor, Central Coast Water Authority, and has stored some of Central Coast Water Authority's SWP water in its Strand Ranch water bank. Under the unbalanced exchange agreement, when called, IRWD is obligated to return only 50 percent of the stored water to Central Coast, and gets to keep the remaining 50 percent for its use.

Water supplies obtained by IRWD and stored at its Strand Ranch bank may consist of SWP water and non-SWP water. Delivery of that SWP water into the MWD service area requires MWD consent to the delivery prior to it entering its service area. In the event that IRWD wishes to transfer non-SWP water supplies, MWD's existing wheeling policy would be applied. MWD's existing wheeling policy allows the general manager to make a determination of available system capacity on a case-by-case basis.

In February, MWD staff presented the board with proposed policy terms for IRWD's procurement of SWP supplies, which are consistent with the terms of the agreement proposed this month. Under the proposed agreement, MWD would have the option of taking immediate delivery of the IRWD acquired SWP water within its service area, storing it in an available reservoir, or having the water stored in IRWD's Strand Ranch. MWD would then be obligated to return a like amount of water to MWDOC in future years. The water would qualify as an extraordinary supply under MWD's Water Supply Allocation Plan and MWDOC would pay

MWD's Full Service water rate at the time the water is delivered. The Water Authority's delegates voted against this agreement and encouraged MWD to establish a set of policies relating to member agencies procurement of State Water Project supplies for delivery into MWD's service area, rather than handle each one on a case-by-case basis.

### **Authorized amendment to the Delta Habitat Conservation and Conveyance Plan Funding Agreement**

In December 2008, the board authorized execution of the Delta Habitat Conservation and Conveyance Plan (DHCCP) Funding Agreement, which set forth funding guidelines for environmental analysis and documentation, preliminary engineering design, geotechnical field studies, and other necessary information for Delta water conveyance, and related habitat conservation measures for the Bay Delta Conservation Plan (BDCP). The original budget to initiate activity under the DHCCP Funding agreement was estimated at \$140 million, of which, the SWP contractors' share was \$70 million (50 percent). MWD's share of the DHCCP was estimated at about \$35 million, based on its Table A contract amount; and its proportional share to support the BDCP development was \$2.9 million out of \$13.5 million total budget. However, a recent assessment in December 2009 identified the need to increase the overall funding of the DHCCP and BDCP by \$100 million. The cost increase results from additional engineering design work on project alternatives, including tunnel options. The costs associated with the DHCCP total \$86 million and \$14 million for the BDCP – \$43 million and \$7 million respectively for the SWP Contractors. This increased budget resulted in an amendment to the DHCCP Funding Agreement, and because MWD's share of the SWP Contractors' expenses is 50 percent, the increase to MWD was \$21.5 million for related DHCCP costs.

The additional funds will be allocated towards completion of the BDCP, preliminary design, field surveys, environmental documentation, and to obtain the regulatory approvals needed for implementation of the BDCP. The supplemental DHCCP funding agreement also includes a provision to commence discussions and seek agreement with all other SWP Contractors regarding terms for funding actions beyond the planning phase, including the construction and implementation phases of the DHCCP.

### **Proposed adjustments to Water Supply Allocation Plan**

In April, the MWD board authorized maintaining a water supply "Condition 3 – Water Supply Allocation" and continuing with the Water Supply Allocation at Level 2, effective July 1, 2010 through June 30, 2011. As reported last month, staff was still contemplating the right level of allocation at which to set the Water Supply Allocation Plan (WSAP). This month, staff provided the board with recommendations resulting from a lengthy review process coordinated with MWD member agencies. MWD staff has identified the following six recommended modifications and will seek board action on the proposed recommendation in the August 2010 timeframe:

1. Remove references to Gains and Losses of Local Supply
2. Remove references to Regional Shortage Percentage
3. Include the Retail Impact Adjustment in Regional Shortage Level 1 and Level 2
4. Revise the accounting for Extraordinary Supplies
5. Include a Minimum Per-Capita Water User Threshold
6. Exclude seawater barrier deliveries from the WSAP Formula

**Other items discussed or approved by board committees or at the board meeting:**

- Authorized oppose position to SB 972 (Wolk-Davis) regarding indemnity for design professionals;
- Authorized taking no position on SB 565, (Pavely-Augora Hills, and Steinberg-Sacramento) – Water Resources;
- Authorized \$7.2 million increase to existing \$7 million appropriations to purchase up to an additional 36,000 af of water transfers from Yuba County Water Agency; and,
- Heard oral reports on cyclic storage agreements, the process for department heads performance evaluations, and updated language in the energy management policy principles.

**State Water Contractors (SWC).** The SWC met on June 17. Staff reported that of the 14 State Water Project (SWP) reservoirs, only four have boat inspection programs for quagga mussels (three of the four programs are staffed by the Department of Parks and Recreation). Additionally, the Department of Water Resources is not implementing preventive measures to reduce the risk of infestation in its facilities. Given the challenges of the State budget, the SWC discussed the potential termination of existing programs leaving the reservoirs vulnerable to infestation. As a result, the SWC directed its General Manager to advise DWR Director Mark Cowin of SWC concerns over the existing situation. The SWC also requested that DWR either obtain non-SWP funding sources to provide for quagga mussel inspection of SWP reservoirs or to close SWP reservoirs to recreational boating use.

With the recent increases in SWP Table A allocations, staff reported that four of the original eight SWC member agencies who had signed contracts with the SWC remain in the 2010 Dry Year Transfer Program (DYTP), which includes MWD. The total supply for the DYTP is slightly over 100,000 acre-feet and is composed of fallowed and groundwater substitution supplies. MWD indicated (and its board approved) it would purchase up to 100,000 acre-feet of the DYTP supplies, if available. The SWC also reported receiving notice from DWR that its model illustrates ample capacity to move 300,000 acre-feet of transfer water through Banks Pumping Plant.

The next SWC meeting is scheduled for July 15.

Prepared by: Julia Velez, Assistant Water Resources Specialist

Reviewed by: Amy Chen, MWD Program Chief

Attachment: State Water Contractors Board of Directors Meeting Board Actions for June 17, 2010

**STATE WATER CONTRACTORS  
BOARD OF DIRECTORS  
BOARD ACTIONS  
JUNE 17, 2010**

The following actions were taken at the State Water Contractors (SWC) Board of Directors June 17, 2010 meeting upon motions duly made, seconded and unanimously passed.

1. In Closed Session: Approved the recommendations of the Personnel Committee regarding SWC employee salary and benefits for FY 2010-11.
2. Approved the Consent Calendar, including Draft Annual Membership Meeting Minutes from May 20, 2010, Draft Board Minutes for May 20, 2010, the Financial Report, and May 2010 Consultant Reports.
3. Authorized the General Manager to send a letter to the Department of Water Resources (DWR) authorizing DWR to retain \$5 million from the Natural Gas Hedging Program account for collateral requirements and to retain \$500 to hold the natural gas hedging account open.
4. Authorized the SWC General Manager to send a letter to the Governor's Office to timely waive restrictions imposed on DWR out-of-state travel.
5. Approved the State Water Contractors Work Objectives for Fiscal Year 2010-11, with the addition of SWC staff effort for each objective.
6. Directed the General Manager to send a letter to the Legislature supporting the appointment of Richard Roos-Collins to the Delta Stewardship Council. A draft letter of support will be provided to individual SWC members who are encouraged to send similar letters of support.
7. Directed the General Manager to advise the DWR Director of SWC concerns about the existing situation that requires emergency action to either obtain non-SWP funding sources to provide for quagga mussel inspection of SWP reservoirs or to close SWP reservoirs to recreational boating use.

Other Actions:

1. Requested that Assembly Bill 2092 providing for development of a financing plan for the Delta Stewardship Council be distributed to SWC member agencies for their consideration and possible support.



July 14, 2010

**Attention: Imported Water Committee**

**CLOSED SESSION:**

**Conference with Legal Counsel – Existing Litigation**

**Government Code §54956.9(a)**

**Name of Case: QSA Judicial Council Coordination Proceeding No. 4353**

**Purpose**

This memorandum is to recommend that the committee by motion hold a closed session, pursuant to Government Code §54956.9(a) to discuss the above-referenced matter at the July 22, 2010, Board meeting.

A closed session has also been included on the agenda of the formal Board of Directors' meeting. Unless the Board desires additional discussion, it is not staff's intention to ask for a closed session with the full Board at that time, but staff may request action to confirm directions given or action recommended by the committee.

Prepared by: Daniel S. Hentschke, General Counsel



July 14, 2010

**Attention: Imported Water Committee**

**CLOSED SESSION:**

**Conference with Legal Counsel – Existing Litigation**

**Government Code §54956.9(a) – SDCWA v Metropolitan Water District of Southern California; LASC Case No. BS126888**

**Purpose**

This memorandum is to recommend that the committee by motion hold a closed session, pursuant to Government Code §54956.9(a) to discuss the above-referenced matter at the July 22, 2010 Board meeting.

A closed session has also been included on the agenda of the formal Board of Directors' meeting. Unless the Board desires additional discussion, it is not staff's intention to ask for a closed session with the full Board at that time, but staff may request action to confirm directions given or action recommended by the committee.

Prepared by: Daniel S. Hentschke, General Counsel

**ENGINEERING AND OPERATIONS COMMITTEE**

AGENDA FOR

**JULY 22, 2010**

Gary Arant – Chair  
Richard Smith, Vice Chair  
Jim Bowersox  
Trish Hannan  
Mike Hogan  
Jeremy Jungreis

Bill Knutson  
Ralph McIntosh  
Ron Morrison  
Vincent Mudd  
Bud Pocklington  
Javier Saunders  
Tom Wornham

1. Roll call – Determination of quorum.
2. Additions to agenda (Government Code Section 54954.2(b)).
3. Public comment – opportunities for members of the public to address the Committee on matters within the Committee’s jurisdiction.
4. Chair’s report.  
4-A Directors’ comments.

**I. CONSENT CALENDAR**

1. Professional services contracts for as-needed construction management support services. Gary Bousquet  
Staff recommendation: Award a professional services contract to Butier Engineering, EPC Consultants, Inc., and R.W. Beck for as-needed construction management support services to support the Capital Improvement Program projects, for an amount not-to-exceed \$2 million each, or for a period of five years, whichever occurs first. Award a professional services contract to Malcolm Pirnie for as-needed construction management support services to support the Capital Improvement Program projects, for an amount not-to-exceed \$1 million or for a period of five years, whichever comes first.  
(Action)



II. ACTION/DISCUSSION

III. INFORMATION

IV. CLOSED SESSION

1. CLOSED SESSION:  
Conference with Legal Counsel – Existing Litigation  
Government Code §54956.9(a)  
Name of Case: SDCWA v Nissho Iwai American Corporation;  
Sojitz Corporation of America  
County of Orange Superior Court Case No. 30-2008-00106181

Dan Hentschke

V. ADJOURNMENT

Doria F. Lore  
Clerk of the Board

**NOTE:** This meeting is called as an Engineering & Operations Committee meeting. Because a quorum of the Board may be present, the meeting is also noticed as a Board meeting. Members of the Board who are not members of the Committee may participate in the meeting pursuant to Section 2.00.060(g) of the Authority Administrative Code (Recodified). All items on the agenda, including information items, may be deliberated and become subject to action. All public documents provided to the committee or Board for this meeting including materials related to an item on this agenda and submitted to the Board of Directors within 72 hours prior to this meeting may be reviewed at the San Diego County Water Authority headquarters located at 4677 Overland Avenue, San Diego, CA 92123 at the reception desk during normal business hours.

July 14, 2010

**Attention: Engineering and Operations Committee**

**Professional services contract for as-needed construction management support services.  
(Action)**

**Staff Recommendation**

Award a professional services contract to Butier Engineering, EPC Consultants, Inc., and R.W. Beck for as-needed construction management support services to support the Capital Improvement Program projects, for an amount not-to-exceed \$2 million each, or for a period of five years, whichever occurs first. Award a professional services contract to Malcolm Pirnie for as-needed construction management support services to support the Capital Improvement Program projects, for an amount not-to-exceed \$1 million or for a period of five years, whichever comes first.

**Alternative**

Do not award the contracts and direct staff to negotiate with other consultants or solicit new proposals.

**Fiscal impact**

Funds in the amount of \$7 million for this contract are available in project budgets and the 2010/2011 Capital Improvement Program appropriation. All rate categories are involved depending upon which projects fund individual as-needed services.

**Background**

These contracts will augment Water Authority staff by providing construction management services for our Capital Improvement Program, through 2015. Instead of soliciting independent requests for proposals, project specific teams will be built using a blend of consultants and Water Authority staff. The contracts will also allow us to meet discrete special construction management needs such as such claim support services, electrical and instrumentation support, tunneling expertise, geotechnical support, mitigation biologists, welding inspection, and environmental stormwater experts required for specialized projects such as the San Vicente Dam Raise, Nob Hill improvements and relining projects. These contracts will support emergency repairs that may occur during this time requiring immediate staffing in order to minimize aqueduct shutdown time and expeditiously return service to our Member Agencies. We also have an immediate need to continue specialized claims support on the Lake Hodges Projects until current disputes are resolved.

**Discussion**

A request for proposals for construction management support services was advertised on May 5, 2010. Nine firms submitted proposals: Butier Engineering, Inc.; EPC Consultants Inc., Infrastructure Engineering Consultants; Jacobs Engineering; Malcolm Pirnie; R.W. Beck; TCM Group; URS; and Valley Construction Managers. The Water Authority staff evaluated the written proposals, conducted interviews and selected four firms who demonstrated a clear understanding of the scope of work in the written proposals to participate in the interview phase.

Based on staff's evaluation of the written proposals and oral interviews with the four firms, Butier Engineering, Inc.; EPC Consultants, Inc.; Malcolm Pirnie; and R.W. Beck are the most qualified firms for this work. Key selection factors considered as the basis for staff's recommendation are their past experience in performing similar work, their comprehensive understanding of project needs, and a proposed scope of services that demonstrates their ability to meet the anticipated and unanticipated construction work over the next five years. Butier Engineering, Inc.; EPC Consultants, Inc.; and R.W. Beck demonstrated broader team depth, thus the larger recommended contract amount. Staff negotiated professional services contracts with Butier Engineering, Inc., EPC Consultants, Inc., Malcolm Pirnie, and R.W. Beck, subject to the Board's approval, to provide as-needed construction management support services. The contracts require all firms to provide construction managers, engineers, field inspectors, and administrative support staff on an as-needed basis.

A list of projects these contracts may staff is attached as Table 1. These projects are likely to be staffed by individuals from multiple contracts, as well as with Water Authority staff. Consideration will be given to each firm's experience and available expertise prior to staffing projects. For example, EPC and Malcolm Pirnie's experience with relining would prove valuable on the Pipelines 3 & 4 Relining-Miramar Hill to Scripps Ranch and Pipeline 4 Relining-State Route 52 to Lake Murray projects. R.W. Beck and Butier Engineering's experience managing flow control facilities would be applicable to the San Diego 24 Flow Control Facility and Fallbrook 7/Rainbow 14 Flow Control Facilities projects.

As we move forward, we plan to meet our continuing CIP construction management needs by supplementing the Water Authority's base construction administration staff with a blend of consultant staff to build effective construction management project teams. By doing so, we take advantage of consultant technical expertise within our region, job-specific experts for specialized construction such as dam building and, as well as staff's knowledge of Water Authority policies, practices, and procedures to provide efficient and effective construction management of our CIP projects and ensure equity and fairness in distributing the work between these contracts.

SCOOP staff has verified all contractors' good faith efforts to conduct outreach to qualified small businesses, including but not limited to, outreach to minority and women-owned businesses. The small business participation for this contract is 58 percent. The minority and women-owned business participation for this contract is 28 percent. This information is provided for statistical purposes.

Prepared by: Mike Kenny, Principal Construction Manager  
Reviewed by: Michael T. Stift, Director of Engineering  
Approved by: Frank Belock, Jr., Deputy General Manager

Attachments:

Table 1 – Potential Projects for As-Needed Contract Staffing