

Agenda Item

7

Budgeted: No

Budget amount: \$ 45,000

Line Item: 12-5015-02, 12-5017-02

Legal Counsel Review: Yes

Meeting Date: January 19, 2022

TO: SOCWA Project Committee 12 Members

FROM: Betty Burnett, SOCWA General Manager

STAFF CONTACT: Amber Baylor, Director of Environmental Compliance

SUBJECT: Management Support Services for Agenda Item 7

Summary

The 2020 Salt and Nutrient Management Plan was submitted to the San Diego Regional Water Quality Control Board (SDRWQCB) on August 17, 2021. According to the 2018 Recycled Water Policy, the SDRWQCB has six months to review the SNMP to determine if the Plan is compliant with the 2018 Recycled Water Policy. On December 21, 2021 SOCWA received a comment letter on the SOCWA 2020 SNMP which deemed portions of the SNMP non-compliant with the 2018 Recycled Water Policy. SOCWA staff is holding biweekly calls with the SDRWQCB to address the concerns articulated in the letter. SOCWA staff is seeking the technical permit engineering services of Dr. Michael Welch, independent consultant. Staff is also seeking legal support for Theresa Dunham, attorney with the firm Kahn, Soares, and Conway, LLP. Ms. Dunham is an industry expert with the 2009 Recycled Water Policy. The 2020 SOCWA SNMP is the first SNMP in the state of California to be reviewed under the 2018 Policy. It is the intent of the additional management and legal support services to provide actionable guidance for a compliant SNMP with the 2018 Recycled Water Policy.

Discussion/Analysis

SOCWA previously submitted the first SNMP to the SDRWQCB in July 2014 with SOCWA Board adoption of the plan through resolution. SOCWA submitted an updated SNMP in August 2016 when the Regional Board provided comments related to implementation measures which included an updated monitoring and reporting program. The 2009 Recycled Water Policy did not include time constraints on review and acceptance by Regional Boards leaving the SOCWA SNMP in a non-approved but submitted status.

Through a succession of a draft updated recycled water master permit and SOCWA contract for support for staff at the SDRWQCB in the triennial review process, the SDRWQCB indicated that SOCWA would need to submit an updated SNMP that would be compliant with the 2018 Recycled Water Policy. SDRWQCB provided additional comments to the 2016 SNMP and SOCWA staff and consultants held a series of meetings which reviewed interim work products for an updated SNMP to be produced in compliance with the 2018 Recycled Water Policy. Through these meetings it was determined that due to the technical modeling experience of the

Wildermuth Firm, that SOCWA consultants would proceed with the production of the 2020 SNMP.

The 2020 SNMP was reviewed with SOCWA PC12 and comments were included prior to submittal to the SDRWQCB. Due to previous confusion of Regional Board staff regarding draft versus the final SNMP plan, SOCWA indicated that the 2020 SNMP is the final version for review to also provide more regulatory certainty. SOCWA PC12 members have spent over \$240,000 on the 2020 SNMP and there still remains an uncertain compliance pathway by the SDRWQCB.

Retention of legal services by Theresa Dunham is requested to provide legal certainty related to the non-self executing 2018 Recycled Water Policy for the ability to apply recycled water in areas of the San Juan Creek Watershed where water quality objectives exceed basin plan standards. Ms. Dunham's legal rate of service is \$400 per hour. It is requested that services for Ms. Dunham not exceed 87 hours for FY 21-22.

Prior Related Project Committee or Board Action(s)

At the December 9, 2021 SOCWA Board meeting, the SOCWA Board approved consulting services for Dr. Michael Welch in an amount not to exceed \$15,000 per fiscal year. Dr. Welch is engaged in other permit related services regarding the NPDES permits. SOCWA staff is requesting a FY 21-22 budget adjustment and contract authorization to include \$10,000 for up to 51 hours of work from Dr. Welch on the 2020 SNMP at a rate of \$195.00 per hour.

Fiscal impact

Services for Ms. Dunham requires a PC12 budget adjustment and authorization for engagement in contract services for 12-5017-02 in the amount not to exceed \$35,000. Dr. Michael Welch requires a PC12 budget adjustment and authorization for contract services for line item 12-5015-02 not to exceed \$10,000. Requested action is for authorization for Dr. Welch's board approved contract to be allocated to PC12, management support services.

Recommendation

PC12 Members are requested to approve a budget adjustment not to exceed \$35,000 for legal services and contract authorization for Ms. Theresa Dunham.

PC 12 Members are requested to approve a budget adjustment not to exceed \$10,000 for management support services and contract authorization for Dr. Michael Welch.