

Agenda
Sacramento Suburban Water District
Ad Hoc Water Rights Review Committee

3701 Marconi Avenue, Suite 100
Sacramento, CA 95821

Wednesday, March 24, 2015
5:00 p.m.

Where appropriate or deemed necessary, the Committee may take action on any item listed on the agenda, including items listed as information items.

The public may address the Committee concerning an agenda item either before or during the Board's consideration of that agenda item. Persons who wish to comment on either agenda or non-agenda items should fill out a Comment Card and give it to the General Manager. The Committee Chair will call for comments at the appropriate time. Comments will be subject to reasonable time limits (3 minutes).

In compliance with the Americans with Disabilities Act, if you have a disability, and you need a disability-related modification or accommodation to participate in this meeting, then please contact Sacramento Suburban Water District Human Resources at 679.3972. Requests must be made as early as possible, and at least one full business day before the start of the meeting.

Call to Order

Roll Call

Public Comment

This is the opportunity for the public to comment on non-agenda items within the Committee's jurisdiction. Comments are limited to 3 minutes.

Consent Items

1. **Notes of the March 4, 2015 Meeting**
Recommendation: Approve subject notes.

Items for Discussion and Action

2. **Request for Qualification Submittals from Potential Legal Firms**
Review RFQ received from legal firms and select firm.
3. **Scope of Services Review**
Discuss elements to be included in scope of service and provide direction to staff to negotiate a scope of work and execute a contract with the selected firm.

Adjournment

Robert S. Roscoe
General Manager/Secretary
Sacramento Suburban Water District

Ad Hoc Water Rights Review Committee

Agenda Item: 1

Committee Report

Sacramento Suburban Water District
Ad Hoc Water Rights Review Committee
Wednesday, March 4, 2015

Call to Order

Chair Schild called the meeting to order at 5:02 p.m. Director Wichert was absent.

Roll Call

Directors Present: Neil Schild.

Directors Absent: Robert Wichert.

Staff Present: General Manager Robert Roscoe, Dan York, Christine Bosley and Heather Hernandez-Fort.

Public Present: William Eubanks and Brenda Davis Washington.

Public Comment

None.

Items for Discussion and Action

1. Review and Discuss a Scope of Services, Schedule and Potential Legal Firms to Render Opinion Regarding San Juan Water District Water Rights and Contracts

GM Roscoe summarized the Request for Proposal.

Chair Schild voiced his concern regarding Director Wichert's absence and suggested adjourning the meeting. Staff responded that there could not be more than two directors but that one director could still conduct the meeting. Chair Schild also voiced his concern that the District had not reviewed the contracts before this point in time.

There was discussion related to the different water rights contracts and service contracts, which contract covered the surplus CVP water, what limitations in water use there may be if the two districts either merged or didn't merge, and other questions that the selected legal firm could potentially answer for the District.

Chair Schild voiced his concerns regarding the cost for outside legal counsel as well as with making a decision without the other Committee member. Staff responded that sending out the Request for Proposal did not commit money; it would only ask those firms that may be interested in working with the District to submit their qualifications. Brenda Washington Davis stated the Board had already approved the formation of the Committee to have this

review performed. Mr. Eubanks stated that it was Chair Schild that had requested this review be done. Mr. Eubanks did not see a problem with proceeding with receiving qualifications.

Other non-substantial changes in wording were discussed.

Chair Schild directed staff to change the Request for Proposal to Request for Qualifications (RFQ), to forward a copy of the staff report to Director Wichert and give Director Wichert 24 hours to respond with his edits or comments. If Director Wichert had no changes, staff was to move forward with sending out the RFQs.

Adjourned

Chair Schild adjourned the meeting at 5:49 p.m.

Robert S. Roscoe
General Manager/Secretary
Sacramento Suburban Water District



Ad Hoc Water Rights Review Committee

Agenda Item: 2

Date: March 18, 2015

Subject: Request for Qualification Submittals from Potential Legal Firms

Staff Contact: Robert S. Roscoe, General Manager

At the March 4, 2015 Ad Hoc Water Rights Review Committee meeting, the Committee approved to solicit Requests for Qualifications (RFQ) from twelve firms/attorneys. Those firms/attorneys were:

1. Nossaman LLP – Alfred E. Smith II
2. Duane Morris LLP – Thomas M. Berliner
3. Young Wooldridge LLP – Ernest A. Conant
4. Price, Postel & Parma LLP – C.E. Chip Wullbrandt
5. Brenda Davis Law Group – Brenda Davis
6. Abbott & Kindermann LLP – Katherine J. Hart
7. Somach, Simmons & Dunn
8. Downey Brand LLP – J. Mark Atlas
9. Minasian, Spruance, Meith, Soares & Sexton LLP
10. Herum, Crabtree, Suntag
11. Best, Best & Krieger LLP
12. Gallery & Barton – Daniel F. Gallery

The proposals were due by close of business on March 20, 2015. As of this date, March 18, 2015, staff received responses from the following parties:

1. Herum, Crabtree, Suntag (Exhibit 1)
2. Duane Morris LLP (Exhibit 2)

All submittals received by close of business on March 20, will be presented to the Committee at the March 24, 2015 meeting.

MAR 11 2015

SSWD

**PROPOSAL TO PROVIDE
LEGAL REVIEW OF WATER RIGHTS OPTIONS,
LIMITATIONS AND OPPORTUNITIES
FOR SACRAMENTO SUBURBAN WATER DISTRICT**

March 10, 2015

Sacramento Suburban Water District
Robert S. Roscoe, P.E., General Manager
3701 Marconi Avenue, Suite 100
Sacramento, CA 95821-5346

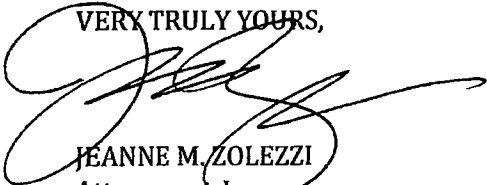
Dear Mr. Roscoe,

Herum\Crabtree\Suntag is pleased to provide this proposal to provide services for Legal Review of Water Rights Options, Limitations and Opportunities for Sacramento Suburban Water District. Our water law department is primarily comprised of two shareholders of the firm: **Jeanne M. Zolezzi**, and **Karna E. Harrigfeld**. Additional information on our firm and biographical information on our attorneys is available at www.herumcrabtree.com.

Herum\Crabtree\Suntag's water credentials are extensive, ranging from a solid knowledge of water rights, environmental, and real estate law, to a thorough understanding of both the technical and logistical aspects of how to use and maintain water rights, particularly pre-1914, riparian, settlement and contract water supplies, and how to work with State Water Resources Control Division of Water Rights staff. We take great pride in our ability to both aggressively defend our client's rights and, at the same time, offer realistic and effective solutions on how to accomplish our client's goals. Our representation of public agencies in California has spanned three decades.

My experience with Pre-1914 appropriative rights in California is extensive. In addition, I have experience working with the reorganization of special districts, as well as working with the Bureau of Reclamation and the Department of Water Resources to expand the use of water under CVP and SWP contracts. My unique combination of know and experience in these areas would serve Sacramento-Suburban Water District well in its current endeavor.

VERY TRULY YOURS,



JEANNE M. ZOLEZZI
Attorney-at-Law

Representative clients and similar work include:

- Stockton East Water District, Scot Moody, General Manager, (209) 948-0333, smoody@sewd.net

Ms. Zolezzi evaluated the potential reorganization and merger of the Stockton East Water District with Central San Joaquin Water Conservation District. This work culminated in obtaining special legislation to govern the newly consolidated district [See AB 1172 2009 and Water Code §74200.5], as well as review of the CVP contracts held by each district for ability to use water supplies under the contracts in the newly consolidated district.

For nearly 30 years, Ms. Zolezzi has worked on conjunctive use projects for the district, and is currently completing CEQA review for a Water Supply Enhancement Project that will utilize newly acquired wet year surface water supplies to recharge a long-term average of 75,000 acre feet annually on over 6,000 acres of recharge basins and flooded fields within the district.

- Patterson Irrigation District, Peter Rietkerk, General Manager, (209) 892-6233, prietkerk@pattersonid.org
- Banta-Carbona Irrigation District, David Weisenberger, General Manager, (209) 835-4670, dweisenberger@banta-carbona.org

Patterson Irrigation District and Banta-Carbona Irrigation both hold pre-1914 rights to the San Joaquin River, as well as CVP contracts for supplemental water supplies. In addition, PID holds a settlement right contract with the Bureau of Reclamation. Ms. Zolezzi has provided evaluations of and recommendations regarding the use, maximization and protection of these pre-1914 rights. Most recently, Ms. Zolezzi had taken an aggressive position with the State Water Resources Control Board limiting its ability to regulate and curtail pre-1914 rights during the current drought.

- West Stanislaus Irrigation District, Bobby Pierce, General Manager, (209) 895-3733, bobby.pierce@weststanislausis.org
- The West Side Irrigation District, Dave Kaiser, Manager, (209) 835-0503, dkaiserbv@hotmail.com
- Solano County Water Agency, David Okita, General Manager, (707) 451-2904, dokita@scwa2.com

Solano County Water Agency holds a State Water Project Contract, and Ms. Zolezzi has negotiated numerous amendments over the years to that contract. In addition, Ms. Zolezzi recently completed settlement of area-of-origin litigation brought by the Agency and other SWP contractors against the Department of Water Resources.

- Mendocino County Russian River Flood Control & Water Conservation Improvement District, Sean White, General Manager, (707) 462-5278, rrfc@pacific.net

Ms. Zolezzi is currently working with the Improvement District to merge with the Redwood Valley Water District and addresses issues both with the Local Agency Formation

documents, travel time, case analysis, and all time spent in court and in depositions and other discovery proceedings. The firm bills in increments of 6 minutes (0.1) per hour.

In addition to fees, we will charge clients for all costs and expenses we incur in performing our services, including, without limitation, expenses for photocopying, messenger and delivery services, computerized research, videotape recording, travel (including mileage, parking, airfare, lodging, meals, tips and ground transportation), and all court costs and filing fees. The firm also includes a "communication fee" of 2% of the fees charged (exclusive of costs and expenses) in bills for telephone, long distance, fax, email and electronic research rather than itemize such expenses.

A copy of Herum\Crabtree\Suntag's legal services agreement is included.

Based on the description of the work included in the Scope of Work, it appears that the documents can be reviewed and an opinion letter prepared in under twenty hours. Based upon Ms. Zolezzi's hourly rate, therefore, our estimate is a legal fee from \$5,000.00 to \$7,500.00 for the initial review and opinion.

5. Information on the availability of the principal attorney and an estimate of the duration of time required.

While Ms. Zolezzi's time is in demand, she will make herself available to provide the requested services to Sacramento-Suburban Water District. It appears that the initial work would include a review of exiting water rights of the San Juan Water District, as well as a review of their contracts and entitlements, and a review of the opinions rendered by Bartkiewicz, Kronick and Shanahan. Presuming the documents are provided in a timely manner, initial review and preparation of a summary memo should not take more than two weeks.

HCS currently has six partners, listed below, along with their primary area of expertise:

Steve Herum	(CEQA, Land Use, Litigation)
Steve Crabtree	(Business, Estate Planning)
Dana Suntag	(Litigation, Personnel)
Jeanne Zolezzi	(Water, Real Estate)
Karna Harrigfeld	(Water, Environmental Law)
Brett Jolley	(CEQA, Land Use, Litigation)

The primary project team would consist of Jeanne Zolezzi and Karna Harrigfeld. Each of these individuals is available for the work that is the subject of this proposal, and would make such work a priority.

Biography

Jeanne M. Zolezzi is a recognized expert in California Water Rights. This expertise is acknowledged by her leadership role in the American Bar Association and Association of California Water Agencies. Her practice includes counseling, administrative matters and water rights litigation. For twenty-five years she has represented public agency and private clients in the acquisition and confirmation of water rights. She handles state and federal litigation against the State Water Resources Control Board and the United States Bureau of Reclamation.

Ms. Zolezzi represented Castaic Lake Water Agency when it implemented the first whole-sale purchase of a district receiving water from the State Water Project; she negotiated and documented the purchase of and transfer of water from the Devil's Den Water District in Kern County to Castaic Lake Water Agency. Ms. Zolezzi routinely negotiates water transfers from her agricultural clients to water users through the State of California.

Ms. Zolezzi has appeared as amicus curie before the Nevada Supreme Court, arguing that the public trust doctrine should be affirmatively applied to Nevada water rights adjudication matters.

Ms. Zolezzi represented the plaintiff in a rare water right adjudication of a stream: Putah Creek in Solano County. The litigation involved hundreds of parties and included lands within Lake, Solano and Yolo Counties. After a decade of litigation, she was able to successfully settle all aspects of the litigation and develop a working partnership among the United States, local governmental agencies and private water right holders.

Representing clients that hold water supply contracts with the United States, Ms. Zolezzi has negotiated renewals of those contracts with the federal government, and processed the CEQA and NEPA documentation required for their approval, guaranteeing a continued long-term water supply to thousands of acres of land. She is currently in litigation with the United States over implementation of the Central Valley Project Improvement Act and its injury to water users within the watersheds of origin in San Joaquin County.

Ms. Zolezzi acts is currently lead counsel for a group of State Water Project contractor Plaintiffs demanding that the State of California recognize their priority to Project water because of their county and watershed or origin status.

In addition to her practice in Natural Resources, Ms. Zolezzi undertakes title and environmental review for the annual acquisition of millions of dollars of agricultural property for clients throughout the western United States.

During law school, Ms. Zolezzi was an intern for Justice Stanley Mosk of the California Supreme Court. Ms. Zolezzi is a fifth generation San Joaquin County farmer, and her family has farmed in that area for over 100 years. She continues to live on orchard lands that she farms with her husband and three children.

Ms. Harrigfeld is retained to find solutions to complex infrastructure controversies threatening the successful developing and siting of proposed public facilities and private projects. For example, Ms. Harrigfeld was instrumental in negotiating for and creating the public agency structure to govern the massive Mountain House Community, the first new town community in Northern California. This effort resulted in Ms. Harrigfeld drafting legislation authorizing the Mountain House Community Services District, a unique community services district having many of the governmental powers traditional exercised by cities. In addition, Ms. Harrigfeld has led the development team in resolving water acquisition and waste water infrastructure questions for the new community.

Ms. Harrigfeld represents clients before many administrative agencies, including the Public Utilities Commission, the State Water Resources Control Board and the Regional Water Quality Control Boards on water rights and quality matters. She has been extensively involved in working with the Central Valley Region in establishing a salinity and boron objectives for the San Joaquin River. Ms. Harrigfeld has also obtained Reports of Waste Discharges for clients, including processing facilities and agricultural operations, including dairies and hog farms. The Regional Water Quality Control Board also enforces clean-up requirements in California, and Ms. Harrigfeld represents clients facing enforcement action, and negotiates revised waste water discharge programs with the regulators.

The Bay-Delta Hearings are a major administrative process before the State Water Resources Control Board, and Ms. Harrigfeld has used her expertise in water law to represent the interests of numerous clients before the board in these hearings. Ms. Harrigfeld works with private and public sector client to obtain water sources for agricultural and development purposes. Specifically, she prepared the documentation for the proposed transfer of all lands in the Widren Water District to a major northern California developer in order to secure the water rights from that district.

Ms. Harrigfeld was counsel in the first decision of the State Water Resources Control Board under Water Code Section 1211, which allows the recapture of reclaimed wastewater previously discharged into natural watercourses. Ms. Harrigfeld has developed an expertise in the application of Proposition 218. Adopted by California voters in November 1996, this law made numerous changes to local government finance law.

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Received

MAR 18 2015

SSWD

March 17, 2015

VIA EXPRESS MAIL

Robert S. Roscoe, P.E.
General Manager
Sacramento Suburban Water District
3701 Marconi Avenue, Suite 100
Sacramento, CA 95821

Re: Response to Request for Qualifications Regarding Legal Review of Water Right Options, Limitations and Opportunities

Dear Mr. Roscoe:

Thank you for considering Duane Morris LLP as counsel to provide legal advice relative regarding San Juan Water District's (SJWD) ability to provide Sacramento Suburban Water District with access to present surface water rights or contract supplies. Based on your RFQ, we understand the assignment to primarily be to provide a second opinion to that of Bartkiewicz, Kronick and Shanahan (BKS) regarding SJWD's rights relative to using their surface water outside of their existing boundaries. We are of course familiar with BKS, having worked with or opposite them on any number of matters over the years. Our familiarity with that firm will not impede our ability to provide you with an independent and critical examination of their opinion as well as the scope of the existing SJWD water rights, contracts and entitlements.

We understand the final scope of work will be negotiated. The scope of work will largely dictate the cost for providing the legal analysis as it is not possible at this time to ascertain with any degree of precision what the work will entail. With that limitation in mind, we endeavor to provide you with the following responses to the issues raised in your RFQ.

DUANE MORRIS LLP

SPEAR TOWER, ONE MARKET PLAZA, SUITE 2200
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Robert S. Roscoe, P.E.
March 17, 2015
Page 3

3. *Information on any Potential Conflicts. Note that this is a key issue as federal contracts are to be reviewed for limitations and opportunities. Specifically list any clients that hold CVP or SWP contracts and specifically list any greater Sacramento region clients.*

DM does not represent any water agencies within the Greater Sacramento region. We have or currently do represent clients that hold CVP or SWP contracts.

For many years, we represented the Santa Clara Valley Water District regarding CVP contract renewal. Through this representation, we became intimately familiar with the issues surrounding the CVP contracts, interests of M&I water users, issues pertaining to M&I as compared to agricultural water contractors, issues pertaining to the American River, and others germane to CVP contract renewal. We also represent the San Joaquin River Exchange Contractors and the Central California Irrigation District, both of which hold exchange contracts with the Bureau of Reclamation. Technically, they are not considered CVP contractors in the sense of either water service or repayment contracts. The exchange contracts are unique but are similar to the settlement contracts in the Sacramento Valley.

Regarding entities with SWP contracts, we have represented the SWC, Inc. for many years on the relicensing of the Oroville Hydroelectric Project and some other matters. We also have represented a number of SWP contractors including Alameda County Water District, Kern County Water Agency, Metropolitan Water District of Southern California, and Santa Clara Valley Water District.

4. *Fee Schedule and Rough Estimate of What may be Expected for Total Fee, Given that the Final Scope of Work will be Negotiated*

As indicated in the introductory comments responding to the RFQ, without knowing the scope of work, it is very difficult to give any meaningful estimate of total fees. Our current rates to governmental entities for 2015 are \$500 an hour for Mr. Berliner and \$435 an hour for Ms. Ansley. We would expect that this work could be performed in 60-90 days. Part of assessing the timeframe within which this work is to be performed is dependent upon the complexity of the issues raised, the degree to which the client is able to supply necessary documents, whether any additional documents search needs to be conducted, and client expectations or needs. We expect that the work would likely cost somewhere between \$50,000-\$100,000.

5. *Information on the Availability of the Principal Attorney and an Estimate of the Duration of Time Required*

Both Mr. Berliner and Ms. Ansley are available to perform this work. While we have other responsibilities, we are diligent and responsive. As such, we will make the time necessary to provide a thorough and comprehensive assessment of the water rights to be considered.



THOMAS M. BERLINER

Partner

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USA

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Thomas M. Berliner focuses his practice on water, energy, environmental and governmental/municipal law and is chair of the Duane Morris Water Resources and Renewable Energy and Sustainability practice groups. Mr. Berliner's practice includes advising public entities and private clients on all aspects of water supply, hydropower, energy development, renewable and sustainable energy practices, natural resources and environmental compliance and litigation. He also advises municipalities, special districts, private individuals and companies on municipal affairs and government procurement. Mr. Berliner represents clients before local, state and federal agencies on administrative, regulatory and legislative matters.

Prior to joining Duane Morris LLP in 1998, Mr. Berliner was the general counsel to the San Francisco Public Utilities Commission (PUC), where for nearly 20 years he advised the PUC and San Francisco's mayor and board of supervisors on matters pertaining to water and energy utilities and municipal affairs. He is a board member of the Water Education Association and a member of the Association of California Water Agencies, the Section of the Environment, Energy and Resources of the American Bar Association and The State Bar of California.

Mr. Berliner is a 1978 graduate of the University of California Hastings College of the Law, where he was a founder of the *Hastings International and Comparative Law Journal*, and a graduate of the University of California at Davis.

Representative Matters

- Litigated and then negotiated on behalf of the Merced Irrigation District a settlement of a major water litigation case in California against a downstream water user who was claiming a perpetual right to water.
- Advising the California Department of Water Resources (CDWR) regarding the renegotiation of the long-term water supply contracts with the customers of the California State Water Project (CSWP), which provides in excess of 2,000,000 acre-feet of water per year to over 25 million

- Prosecution of water rights on behalf of wineries in Northern California.
- Negotiation of streambed alteration permits on behalf of an agricultural water user.
- Recurring advice to numerous clients regarding water transfers and exchanges.
- Representation of water agency regarding acquisitions of another water agency and related water supplies.
- Representation of consortium of major California water users in hydropower relicensing before the Federal Energy Regulatory Commission.
- Represented a public agency before the California Public Utilities Commission regarding divestiture of PG&E's assets.
- Representation on legal and policy matters in all aspects of City of San Francisco's operation of utilities serving retail and wholesale water to 2.4 million customers of the San Francisco Water Department, legal and policy advice regarding development, generation and sales of hydropower with capacity of 400MW for Hetch Hetchy Water and Power Department, and oversight of legal advice regarding wastewater treatment for the San Francisco Clean Water Program.
- Representation of San Francisco in the "Bay-Delta" hearings and other water rights proceedings before the State Water Resources Control Board. Member, Ag/Urban Policy Workgroup. Policy/legal representative for San Joaquin River Group affairs, including negotiation and drafting of Vernalis Adaptive Management Plan.
- Represented San Francisco before the Federal Energy Regulatory Commission (FERC) in landmark proceeding involving establishment of fishery flows and other environmental measures on the Tuolumne River in California. This five-year regulatory proceeding resulted in first-ever mediation conducted under auspices of FERC. Also represented San Francisco in three other proceedings at FERC concerning licensing of hydropower facilities.
- Representation of San Francisco and other California urban water suppliers before the State Legislature, Congress and federal regulatory agencies on matters of concern regarding California and western water issues.
- Representation and advice concerning energy deregulation. Strategic planning and legal advice concerning opportunities created by deregulation.
- Negotiated interconnection agreements, electricity sales contracts, utility undergrounding agreements and load transfer agreements. Negotiated and provided advice regarding financial and strategic partnerships for acquisition/disposition of fossil fuel plants owned by Pacific Gas & Electric Co.
- Drought management issues including rationing programs and negotiation of water transfer contracts.

Areas of Practice

- Water Rights
- Energy Law
- Municipal Law

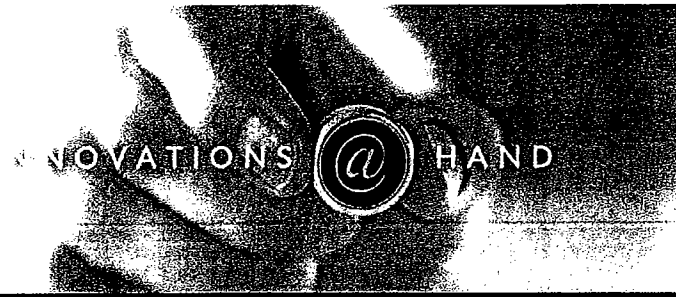
- San Francisco Chamber of Commerce
- Water Committee

Selected Publications

- Author, "California State Water Resources Control Board Issues Drought Regulations Restricting Certain Water Uses and Ordering Curtailments in Several Watersheds," *Duane Morris Alert*, July 30, 2014
- Co-author, "'Not Unbounded': The Reach of State Authority Under Section 401 of the Clean Water Act," *ABA Water Resources Committee Newsletter*, January 2011
- Co-author, "California Leads the Way on Cap and Trade - Will the Nation Follow?"
- Co-author, "New Endorsement of State Authority Under the Clean Water Act: S.D. Warren v. Maine Board of Environmental Protection," *Western Water Law & Policy Reporter*

Selected Speaking Engagements

- Debate Participant, "Proposition F, Should Hetch Hetchy Be Drained?", American Society of Civil Engineers
- Speaker, "A Groundwater Short Course," Marin Conservation League, 2012
- Panelist, Debating Impacts of Climate change on California Water Rights, California Water Policy Conference, 2012
- Panelist, Hydropower Licensing, 401 Certifications, Associate of California Water Agencies ("ACWA"), 2011
- Panelist, Water/Energy Nexus, LSI, 2011, San Francisco
- Program Co-Chair, "The Water/Energy Nexus," LSI, San Diego, 2011
- Speaker, "It's Raining, So What's to Worry?" Episcopal Homes, 2011
- Speaker, "California's Water System," California County Counsel Association, 2010
- Speaker, "Investing In Water," CalCEF Clean Energy Angel Fund, 2010
- Panelist, "Reasonable Use of Water," Hasting College of the Law - Water Law Symposium
- Panelist, "Dam Decommissioning," American Bar Association, San Diego, California
- Panelist, "The Role of Hydropower and Implications for Global Climate Change," Tufts University, Medford, Massachusetts
- Panelist, "Vulnerability Assessments Under the Bioterrorism Preparedness and Response Act of 2002," Association of California Water Agencies
- "FERC Hydro Relicensing, PG&E Bankruptcy, Southern California Edison Settlement, CPUC Divestiture Proceeding, and EBMUD Freeport Project," Association of California Water Agencies Conference, San Diego, California
- "California Bay-Delta: A Microcosm for the Future," Seventh Annual Meeting of the ABA Section of Environment, Energy and Resources, San Francisco, California, October 8, 1999



JOLIE-ANNE S. ANSLEY

Partner

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Jolie-Anne S. Ansley focuses her practice on environmental, water and energy law, representing clients in both judicial and administrative proceedings. An experienced litigator, Ms. Ansley has represented both public entities and private clients in a variety of environmental matters. She represents clients in both litigation and regulatory compliance including CEQA, NEPA, ESA, Clean Water Act, CERCLA and RCRA. In addition, Ms. Ansley represents clients before the CPUC and the SWRCB/RWQCB. With her background in complex litigation, Ms. Ansley also has substantial experience representing both plaintiffs and defendants in a broader array of matters including complex business disputes, insurance coverage actions and bankruptcy proceedings.

Prior to joining Duane Morris LLP, Ms. Ansley served as general counsel to an energy engineering consulting firm.

Ms. Ansley is a 2002 *magna cum laude* graduate of the University of California, Hastings College of the Law, where she was a member of the *Hastings Law Journal*, and a graduate of the University of California, Berkeley (M.S., Wildland Resource Science) and the University of Michigan (B.S., Resource Ecology and Management).

Representative Matters

- Litigated and then negotiated on behalf of the Merced Irrigation District a settlement of a major water litigation case in California against a downstream water user who was claiming a perpetual right to water.
- Represent large prepaid wireless provider in an adjudicatory proceeding at the California Public Utilities Commission and related court actions.
- Represented landowner regarding a water-right permit application.
- Provided advice to water utilities and water contractors regarding water transfers.
- Represented a city regarding pre-1914 water rights and applications to appropriate water.

- Natron Resources, Inc.
 - General Counsel and Board Member, 2008-2010
- Folger Levin & Kahn LLP
 - Associate, 2002-2008

Selected Publications

- Co-Author, "California Enacts Comprehensive Groundwater Management Legislation," *Duane Morris Alert*, October 15, 2014
- Ansley, Jolie-Anne S. 1998. Temporal and spatial forest dynamics in an old-growth mixed conifer forest of the northern Sierra Nevada. M.S. Thesis, University of California, Berkeley.
- Ansley, Jolie-Anne S. and John J. Battles. 1998. Forest composition, structure, and change in an old-growth mixed conifer forest in the northern Sierra Nevada. *Journal of the Torrey Botanical Society* 125(4): 297-308.
- Ansley, Jolie-Anne S. and John J. Battles. 1997. Temporal and spatial dynamics in an old-growth mixed conifer forest in the Sierra Nevada. *Bulletin of the Ecol. Soc. of Am.* 78 Suppl.: 216.



Ad Hoc Water Rights Review Committee

Agenda Item: 3

Date: March 18, 2015

Subject: Scope of Services Review

Staff Contact: Robert S. Roscoe, General Manager

At the March 4, 2015 Ad Hoc Water Rights Review, staff presented a Draft Request for Proposals which included a brief description of the Scope of Work (see Exhibit 1).

The attorney solicitation was largely based on qualifications and potential conflicts with the scope of work to be negotiated with selected firm. Staff would like input from the Committee on the appropriate level of review of San Juan Water District's water rights, contracts and/or entitlements. Staff anticipates taking Committee direction on the scope of services, negotiate a legal services contract, and bringing that contract to the April regular Board meeting for approval.

DRAFT

Request for Proposal

Legal review of water rights options, limitations and opportunities

Background

For the past three years, the Sacramento Suburban Water District (SSWD) and the San Juan Water District (SJWD) have been in discussions regarding how to increase water supply reliability for their customers. SJWD serves water to customers in northeast Sacramento County and south Placer county, including wholesale water services to Citrus Heights Water District, Fair Oaks Water District, Orange Vale Water Company and the portion of the City of Folsom north of the American River. SJWD relies on surface water from Folsom Lake. SSWD serves retail customers in north Sacramento county, operating a conjunctive use water supply with access to surface water only in wet years and wet times, relying solely on groundwater in dry times.

Both districts have perceived an erosion of water supply reliability in recent years. For SJWD, federal operations at Folsom Reservoir have resulted in nearly exposing the drinking water intakes that are the only present source of surface water. Projections for future operations indicate Folsom Reservoir may be drawn to below drinking water intakes more frequently than previously assumed. For SSWD, continued reliable access to contracted surface water supplies for conjunctive use purposes appears to be at greater risk with new temperature and flow requirements in the lower American river and potential changes in in-stream flow requirements associated with relicensing of upstream hydroelectric projects. Continued access to surface water supplies for conjunctive use is important for maintaining groundwater sustainability goals set by the Sacramento Groundwater Authority and those that will be required by the new Sustainable Groundwater Management Act of 2014.

One of the options the districts are investigating is a potential merger or consolidation or reorganization (hereafter “merger”), where all water resources assets of both districts would be managed by a single public agency under a single elected Board of Directors. It is believed that such an arrangement could increase overall water supply reliability through allowing the present SJWD area to access to SSWD groundwater resources, and allowing the present SSWD area more reliable access to surface water for conjunctive use purposes.

Exhibit 1

Both Districts contract with Bartkiewicz, Kronick and Shanahan (BKS) for General Counsel Legal Services. SJWD has requested a legal opinion from BKS on SJWD's rights relative to using their surface water outside their existing boundaries. SJWD holds pre-1914 water rights, a CVP Contract, and a contract to purchase water from Placer County Water Agency (PCWA). As access to surface water from SJWD is central to future decisions on whether or not the districts should continue to discuss merging, the SSWD Board of Directors would like to engage an independent, second opinion from qualified outside counsel. It is expected that the selected person or firm would provide legal advice relative to the ability of SJWD, either with or without merging of the districts, to provide SSWD access to present surface water rights or contract supplies.

Scope of Work

While the final scope of work will be negotiated with the selected counsel, it is expected to include a review of existing SJWD water rights, contracts and entitlements (information will be provided by SJWD), and a review of opinions presented by BKS. SSWD would like to know if this review results in concurrence with the BKS opinions, or, if not, why not.

Proposal Requirements

Please include the following information in your proposal.

1. General firm background, contact information, and the name and qualifications of the principal attorney to conduct the work, and the office location where the work will be performed.
2. Representative clients and similar work performed by the principal attorney to be assigned.
3. Information on any potential conflicts. Note that this is a key issue as federal contracts are to be reviewed for limitations and opportunities. Specifically list any clients that hold CVP or SWP contracts, and specifically list any greater Sacramento region clients.
4. Fee schedule and a rough estimate of what may be expected for total fee, given that the final scope of work will be negotiated.
5. Information on the availability of the principal attorney and an estimate of the duration of time required.
6. Submit proposals by the close of business on _____,2015