

Agenda Item: 8.

MEMORANDUM

TO: Finance, Legal and Expenditure Subcommittee

FROM: Martin P. Cleveland, Construction Engineer

SUBJECT: Account Over 110%
Account # 01-03-590-4392
Maintenance, Dams – Attorney Fees

DATE: November 30, 2016

District policy 7.5 FEL Subcommittee- Budgetary Oversight states, “If, at any time during the fiscal year, the District expenditures from any budgetary account, for which more than \$10,000 was budgeted for that fiscal year, exceed the amount budgeted by more than 10%, the Chairperson of the FEL Subcommittee may call a meeting of such Subcommittee to consider recommendations to the Board with respect to such accounts.”

The referenced account is submitted for review:

1. Account # 01-03-590-4392 (Maintenance, Dams – Attorney Fees)
2. Fiscal Year 2017 Budget: \$40,000
3. Anticipated account status with December 2016 expense: \$44,480 (111.20% of budget)

District counsel has provided legal assistance for a number of dam maintenance projects during this fiscal year, but the majority of the effort and associated cost has been spent on preparing for the upcoming Papio Creek Watershed Structure W-3, John Camden right-of-way eminent domain trial, set for January 2017. The work has included responding to Camden’s attorney’s questions on behalf of the District, preparing questions for Camden’s attorney, conducting depositions of Camden’s expert witnesses, preparation and attendance at court meetings. There is additional preparatory work to be done prior to January 2017 and attendance at the trial. It is estimated by Husch Blackwell that an additional \$46,000 will be expended on Papio W-3 trial preparation and attendance prior to the end of Fiscal Year 2017. In addition, there could be other dam related legal services needed besides Papio W-3, perhaps as much as \$10,000 prior to the end of Fiscal Year 2017. Therefore, the total expenditures in this account could reach as high as \$100,000 in Fiscal Year 2017.

It is recommended by Management that the Subcommittee recommend to the Board of Directors that Account # 01-03-590-4392 (Maintenance, Dams – Attorney Fees) be allowed to exceed 110% of the Fiscal Year 2017 budgeted amount.

File: 502 (MaintenanceDamsFEL memo 11_30_16)