

Agenda Item: 8.

MEMORANDUM

TO: Finance, Expenditure and Legal Subcommittee

FROM: Martin P. Cleveland, Construction Engineer

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

DATE: January 28, 2013

The budget Account 01 03 590 4392 is for attorney fees for dam maintenance. This account in the budget provides for legal services associated with the Districts existing dam sites. There are 85 existing dams owned and operated by the District.

As of January 24, 2013, the District has expended \$13,757.72 of the \$19,000 line item budget (72%) in this account, see attached general ledger report. Most of this has been for the Papio Site W-3 Camden Case.

We have received a new statement from Paul Peters for Camden Case (Papio Site W-3) legal services through January 23, 2013 and the total cost is \$12,393.56. The payment of this invoice will result in a total Account 01 03 590 4392 expenditure of \$26,151.28, which is 38% over the budget number.

The before mentioned expenditure is for ongoing legal services to defend the District in the Papio W-3 Camden right-of-way eminent domain action. The services included several depositions and preparation for court trials in late January and February. District Board policy is that the Board must approve expenditures exceeding 110% of the budgeted amount.

Management recommends that the Subcommittee recommend to the Board that Account 01 03 590 4392 Maintenance, Dams Attorney Fees be allowed to exceed 110% of the budgeted amount of \$19,000.

Papio Missouri River NRD General Ledger Report

Date	Trans.	Journal	Reference	Debit Amount	Credit Amount	Balance
01-03-590-4392						
Account: 01-03-590-4392 (ATTORNEY FEES & LEGAL COSTS) - Expenses as of 12/19/12 (Dam Maintenance)						
7/1/2012			<i>Account Beginning Balance</i>			\$0.00
7/31/2012	818-1	GENERAL LEDGER	Correct legal expense coding	\$854.98		
9/30/2012	872-1	GENERAL LEDGER	LEGAL FEES	\$927.50		
11/28/2012	901-188	ACCOUNTS PAYAB	PAUL F PETERS, PC-LEGAL EXPEN	\$3,820.48		
11/30/2012	905-89	ACCOUNTS PAYAB	PAUL F PETERS, PC-LEGAL EXPEN	\$924.98		
12/19/2012	930-47	ACCOUNTS PAYAB	PAUL F PETERS, PC-LEGAL EXPEN	\$7,229.78		
			<i>Account Subtotals</i>	\$13,757.72	\$0.00	
6/30/2013			<i>Account Net Change</i>			\$13,757.72
6/30/2013			<i>Account Ending Balance</i>			\$13,757.72

Paul F. Peters, PC
Statement for services rendered

1-Dec-2012	Retainer	Monthly retainer for November, 2012	-	-	\$365.00
1-Jan-2013	Retainer	Monthly retainer for January, 2012	-	-	\$365.00
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					\$730.00
21-Dec-2012	Beehive contract	Reviewed proposed contract and preparation of memo to Brian Henkel	1.90	\$175.00	\$332.50
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					\$332.50
6-Dec-2012	Board of Directors	Review proposed policy amendments; preparation of suggested amendments	1.50	\$175.00	\$262.50
12-Dec-2012	Board of Directors	Reviewed resolutions; e-mail to Jean Tait	0.30	\$175.00	\$52.50
12-Dec-2012	Board of Directors	Paid to Appraisal Foundation for 2012 USPAP manual	-	-	\$85.50
7-Jan-2013	Board of Directors	Attended Coordination meeting	2.20	\$175.00	\$385.00
9-Jan-2013	Board of Directors	Preparation of orientation materials	0.80	\$175.00	\$140.00
10-Jan-2013	Board of Directors	Conference with Judge Derr	0.30	\$175.00	\$52.50
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					\$978.00
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2-Dec-2012	Camden case	Preparation of discovery responses	7.80	\$175.00	\$1,365.00
3-Dec-2012	Camden case	Conference at NRD with Martin Cleveland, etal	2.50	\$175.00	\$437.50
3-Dec-2012	Camden case	Complete preparation of discovery responses; conference with Martin Cleveland in office; phone conferences with Marlin Peterman	5.30	\$175.00	\$927.50
9-Dec-2012	Camden case	Preparation for deposition of Lewis	4.50	\$175.00	\$787.50
11-Dec-2012	Camden case	Preparation of e-mail to Camden attorneys	0.20	\$175.00	\$35.00
17-Dec-2012	Camden case	E-mail to Martin Cleveland	0.20	\$175.00	\$35.00
17-Dec-2012	Camden case	Legal research	2.20	\$175.00	\$385.00
18-Dec-2012	Camden case	Phone conference with Tom Stevens	0.30	\$175.00	\$52.50
22-Dec-2012	Camden case	Preparation of discovery letter	3.20	\$175.00	\$560.00
4-Jan-2013	Camden case	Phone conferences with Tom Stevens, District Court Judge, Martin Cleveland and Oliver Jenkins	0.90	\$175.00	\$157.50
7-Jan-2013	Camden case	Phone conference with Court Reporter; continued review of appraisal; preparation for hearing	3.10	\$175.00	\$542.50
8-Jan-2013	Camden case	Phone conference with Court and counsel	0.30	\$175.00	\$52.50

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Paul F. Peters, PC
Statement for services rendered

11-Jan-2013	Camden case	Phone conferences with Tom Stevens, Oliver Jenkins, Gary Thibault, Ken Alford, clerk of Cuming County Dist. Ct., and John Winkler; preparation of email to Alford; review Camden case law	4.80	\$175.00	\$840.00	
15-Jan-2013	Camden case	Preparation for deposition of Jerald Lewis; conference in office with Ken Alford	3.90	\$175.00	\$682.50	
16-Jan-2013	Camden case	Preparation for deposition of Jerald Lewis	4.80	\$175.00	\$840.00	
17-Jan-2013	Camden case	Travel to West Point for deposition of appraiser Jerald Lewis	5.70	\$175.00	\$997.50	
17-Jan-2013	Camden case	157 mile trip to West Point @ \$0.58/mile	-	-	\$91.06	0
17-Jan-2013	Camden case	Receipt and review of new data from witness Pam Dingman; phone conferences	1.60	\$175.00	\$280.00	
18-Jan-2013	Camden case	Deposition of Pam Dingman; preparation for deposition; phone conferences with court reporter, Judge Samson, Martin Cleveland and Marlin Petermann	5.30	\$175.00	\$927.50	
21-Jan-2013	Camden case	Review Order of January 18; preparation of memo to GM Winkler; phone conference with Mr. Winkler	3.60	\$175.00	\$630.00	
22-Jan-2013	Camden case	Conference at NRD with Marlin Petermann and Martin Cleveland re Cleveland deposition; preparation for conference	3.90	\$175.00	\$682.50	
23-Jan-2013	Camden case	Preparation for deposition of Martin Cleveland; represented NRD at deposition; receipt and review of transcripts of Lewis deposition	6.20	\$175.00	\$1,085.00	
						\$12,393.56
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5-Dec-2012	Dam Site 15A	Preparation of easement language	1.10	\$175.00	\$192.50	
10-Dec-2012	Dam Site 15A	Preparation of flowage easement	4.70	\$175.00	\$822.50	
14-Dec-2012	Dam Site 15A	Conference at NRD with Marlin Petermann re easement form	2.90	\$175.00	\$507.50	
						\$1,522.50
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11-Dec-2012	Elk Creek Project	Preparation of temporary easement form	0.50	\$175.00	\$87.50	
12-Dec-2012	Elk Creek Project	Completed preparation of temporary easement form	2.50	\$175.00	\$437.50	
8-Jan-2013	Elk Creek Project	Preparation of Knudsen and Nelson purchase agreements	3.00	\$175.00	\$525.00	