



**TO:** Chairman and Board Members  
**FROM:** John Erwin, Dir. Natural Resources-Planning & Management  
**DATE:** December 6, 2012  
**SUBJECT:** **Request for Board authorization for the General Manager to renew the Legal Services Contract for Susan L. Oldham for provision of legal services related to the Truckee River Operating Agreement for Calendar Year 2013**

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**Recommendation**

Staff requests that the Board authorize the General Manager to execute a contract for legal services between TMWA and Sue Oldham for ongoing legal services germane to TROA. The contract for legal services covers calendar year 2013 for an annual fee of \$60,000.00, which is a 50 percent reduction from calendar 2012 expense levels. The reduction comes about as result of the major components (e.g., California permits/licenses issued, upcoming Orr Court decision) of TROA implementation are at or near completion in 2013.

**Discussion**

There are a number of individuals who have been intimately involved in negotiating and implementing the Truckee River Operating Agreement (TROA) since the process began in 1989 when the Preliminary Settlement Agreement was signed. Staff believes that TROA can be concluded and implemented in a more cost-effective manner by retaining the services of the consultants who have been employed on this project for these many years. These individuals bring a wealth of knowledge regarding the history of the negotiations and the agreements which have been reached, and have established relationships with all the parties to TROA.

Susan Oldham has been one of TMWA’s key negotiators and advisors on TROA since June 2001. She is extremely creative and her solutions have frequently resulted in consensus on key issues among the various parties. She has very strong relationships with the parties to TROA, particularly the Federal team and the Pyramid Lake Paiute Tribe. She is a licensed attorney with her own local firm. The attached scope of service provides some detail as the various and numerous tasks yet to be completed before TROA can be implemented.

**Fiscal Impact**

This expenditure is included in the Board approved FY2013 annual budget and may in part be reimbursable by the grant received for TROA activities.



P.O. Box 1282  
Verdi, Nevada 89439  
(775) 345-1641  
FAX (775) 345-1642

November 8, 2012

Mr. Mark Foree  
General Manager  
Truckee Meadows Water Authority  
P.O. Box 30013  
Reno, Nevada 89520-3013

Re: Proposed Representation of Truckee Meadows Water Authority relating to  
TROA Water Supply and Water Quality Issues

Dear Mr. Foree,

Submitted herewith is an engagement letter proposing to represent the Truckee Meadows Water Authority (TMWA) in the negotiation of issues related to TROA and related agreements including the activities I have listed below as well as negotiation of storage agreements and activities related to the Water Quality Settlement Agreement, storage agreements and water rights purchase programs.

### **Scope of Services**

The following is the work I foresee for the next 6 to 12 months related to TROA implementation and completion:

- Participate with a group of modeling experts, technical people and lawyers to insure the Riverware model accurately reflects the operations of the river with TROA.
- Participate with TROA Lawyers group on (i) Orr Ditch Court approval and preparation of the filing and (ii) agreement for dismissal of litigation.
- Work to ensure new initiatives are consistent with TROA.
- Work on application to California Water Resources Control Board on hydroelectric bypass
- Attend meetings on implementation and providing a simplified roadmap for TMWA or Water Quality schedulers as to how to apply TROA depending on conditions.

- Attend TMWA board, water planning commission or other meetings as requested to explain TROA and its impacts. Assist in use of groundwater for effluent reuse strategy as it relates to potential tribal concerns.

The following is the work I foresee relating to Truckee River Water Quality which include the services previously contracted for by Reno, Sparks and Washoe County.

- Participate in negotiations for post-TROA storage agreements for Water Quality Credit Water.
- Continue negotiations related to the 6700 acre foot agreement with the Tribe to set the rules related to effluent reuse, for early implementation of some TROA provisions and groundwater implications.
- Assist with water supply/water quality interrelationships and recommendation of positions that will ensure consistent approaches in these areas before and after the implementation of TROA.

#### **TMWA Responsibilities**

TMWA agrees to cooperate, communicate, and fully disclose all matters relevant to the aforementioned matters.

#### **Fees and Payment Terms**

I agree to provide work related to the above described tasks for an annual rate of \$60,000 per year or \$5,000 per month plus any extraordinary expenses such as travel expense, recording or filing fees, computerized research costs, telephone charges and extraordinary copy costs. These services assume and promise a commitment to the project through the month of December, 2013. At that time, the arrangement will be reviewed by both parties and either renewed or renegotiated. My billing statements are payable upon receipt. Please contact me if you have any questions or concerns related to the billing.

I agree that I do not now have, nor will I accept representation for another client to pursue interests that are directly adverse to TMWA's interests unless and until I have made full disclosure of all the relevant facts, circumstances and implications of such undertaking unless TMWA consents to such representation.

Nothing in this agreement or in my statements to TMWA will be construed as a promise or guarantee about the outcome of these matters. Any comments about the outcome of this matter are expressions of opinion only and I make no promises or guarantees with regard to such outcome.

This representation is terminable at will by either party subject to the obligation to pay all fees and costs incurred on the client's behalf.

Sincerely,

Susan L. Oldham

TMWA hereby acknowledges that it had an opportunity to review the letter set forth above and agrees to be legally bound by and to all of the terms, limitations and conditions of the engagement.

Dated this \_\_\_<sup>th</sup> day of December 2012.

By: \_\_\_\_\_  
Mark Foree  
General Manager  
Truckee Meadows Water Authority