



TO: Board of Directors
FROM: Michael Pagni, General Counsel
Paul Miller, TMWA Water Operations & Quality Manager
DATE: June 6, 2016
SUBJECT: **Discussion and action on possible settlement of Pall Corporation claims against Washoe County and TMWA regarding the South Truckee Meadows Water Treatment Plant**

RECOMMENDATION

TMWA staff recommends the Board approve the settlement agreement to pay Pall Filter corporation \$243,000 in full and complete satisfaction of all claims alleged against Washoe County and TMWA arising from alleged work performed in connection with the County's proposed South Truckee Meadows Water Treatment plant.

DISCUSSION

One of the liabilities assumed by TMWA in the Merger with the Washoe County Department of Water Resources (WCDWR) was a potential and disputed \$2.1 million claim from Pall Corporation related to a filter system Pall Corporation claims it manufactured for the South Truckee Meadows Water Treatment Plant (STMWTP). Pall Corporation was the low bidder for the filter and a contract was signed between Pall Corporation and Washoe County on May 31, 2006. However, the County later elected not to construct the South Truckee Meadows Water Treatment Plant and no award of contract was made to a contractor to construct that project. The general conditions to the Contract with Pall require WCDWR to issue a Notice to Proceed before Pall Corporation commence the manufacture of the filter components. Initial design was done for the filter system by Pall Corporation and was reviewed by WCDWR's consulting engineers (Carollo). However, no official Notice to Proceed was issued to Pall Corporation. On June 22, 2009, WCDWR notified Pall Corporation that the South Truckee Meadows Water Treatment Plant was officially "on hold" and that WCDWR was not moving forward with the project due to economic conditions.

Following completion of the merger, Pall Corporation invoiced WCDWR claiming approximately \$2.1 million was due for the filter system components that Pall Corporation claimed it constructed for the STMWTP, as well as charges for storage and interest on sums due. TMWA has denied any payment is due. After extensive settlement discussions, TMWA staff proposed, subject to TMWA Board approval, to settle the dispute for a payment of \$243,000, which is the contract amount that was alleged due after County approval of the shop drawing. Pall is agreeable to settling the dispute for that amount. Staff recommends the Board accept the settlement proposal, and authorize the General Manager to negotiate and execute appropriate settlement documents to resolve all claims in exchange for that payment.