

**Email from Justin Scott-Coe dated April 19, 2022**

**Watermaster Response in “Orange” below provided April 27, 2022**

**From:** Justin Scott-Coe <jscottcoe@mvwd.org>

**Sent:** Thursday, April 21, 2022 9:11 AM

**To:** Joe Joswiak <JJoswiak@cbwm.org>

**Subject:** RE: NOTICE: April 19, 2022 10:00 a.m. Fiscal Year 2022/23 CBWM Budget Workshop No. 1

Hi Joe,

Thank you for Tuesday’s budget workshop and appreciate your patience as we work through the materials. I thought it might be helpful to follow up by email with some of our initial thoughts/questions expressed during the workshop:

- MVWD’s understanding is that budget transfers in excess of 20% of a budget category or budget amendments/adjustments should come through the Advisory Committee for review and recommendation prior to Watermaster approval (Judgment paragraph 30). We would recommend that Watermaster bring a budget amendment through the approval process for the unbudgeted expenditures described in the presentation (i.e., the footnote to the “Amended Budget” on slide 14). **Watermaster Response: If a Budget Amendment is needed it will be presented to Advisory Committee for review and recommendation.**
- When MVWD presents a proposed budget to our Board, we include anticipated end-of-year expenditures for the current fiscal year per budget line item. Watermaster should consider providing similar information, if available (similar to the “Projected at Fiscal Year-End” legal expenses included on the bar chart on slide 26). **Watermaster Response: The monthly B-5 report already provides a year-end projection.**
- Thank you for providing the per-task cost breakdown for the OBMP Update item (6906.26). To confirm, Task 1: \$173k; Task 2: \$57k; Task 3: \$29k. **Watermaster Response: Yes, the dollars by Task are correct.**

Does approval of budgeted expenditures for the OBMP Update item (6906.26) require consensus of the Peace Agreement parties, due to it being discretionary and pertaining to updating (i.e. amending) the OBMP Implementation Plan and the Peace Agreement? **Watermaster Response: Answer to be determined. Watermaster’s budget process is provided in the Judgment and the Peace Agreement does not alter it. Peace Agreement section 10.14’s provision that all parties to the Peace Agreement must approve any amendment thereto does not require the pre-amendment agreement by all parties to Watermaster expenditures supporting the process of the exploration and negotiation of such an amendment.**

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- Similar to the OBMP Update item (6906.26), please provide a per-task cost breakdown for the Safe Yield Court Order item (7614). **Watermaster Response: See chart below:**

<b>Task</b>		<b>Budget</b>
Task 1	Update Safe Yield Reset Methodology	\$85,453

Task 2	Collect data and prepare data collection/evaluation report for FY2021/22 data	\$112,296
Task 3	Update hydrogeologic conceptual model	\$258,839
Task 4	Project management	\$19,732
<b>Total</b>	-	<b>\$476,320</b>

- MVWD understands that a multi-year projection of expenses related to Implementation of the Safe Yield Court Order (7614) has been developed, which MVWD appreciates and is looking forward to reviewing. [Watermaster Response: A memorandum for the full scope of work has been prepared and includes a budget approximation for 4 years. The work is ongoing and being reviewed with parties, including discussion of the full scope of work.](#)

The following are some additional questions after further reviewing the proposed budget materials:

- We appreciate the definition of “unanticipated expenses” included in the legal services memo. Does this definition apply only to the Unanticipated Activities item (6907.9), or does it apply as well to the Miscellaneous item (6078)? [Watermaster Response: The BHFS memorandum \(page 2\) provides the following information:](#)

Definition of “unanticipated expenses”: For the purposes of this memorandum, “unanticipated expenses” refers to an amount of money that is budgeted to account for legal issues that may arise post budget approval that were not anticipated in the budget, or to account for underestimates in the budget for the anticipated matters as a result of unforeseen complexity. Historically, the Watermaster budget preference had been to under fund all parts of the budget, including contingency, so as to not create an expectancy of the higher expenditure. Experience suggests that the Watermaster Board and the Parties to the Restated Judgment have been more comfortable with assigning additional funding to a matter after the actual need has been identified. Such funds whose use requires a Board-approved budget transfer/amendment are sometimes identified as “contingency.” This analysis uses the term “unanticipated expenses” in the first sense to refer to an amount of money that is budgeted to account for unanticipated expenses.

[The BHFS memorandum \(page 3\) provides the following information:](#)

**Interagency Issues and Miscellaneous (6074 and 6078)** \$264,036  
 There are always a variety of day-to-day matters that arise throughout a month concerning questions that require interpretation of the Restated Judgment, Rules, agreements, etc. Herrema (190 hours) is the attorney responsible for these matters, with assistance from Slater (100 hours) and Yraceburu (140 hours), with an approximate cost of \$222,420.

To the extent that agreements between the parties arise, there will likely be a nominal involvement from legal counsel. In addition, it is likely that several interagency agreements will be required in FY 2022-2023 as in past years. These activities assume the work will be done by Herrema (72 hours) for an approximate total of \$41,616.

[The BHFS memorandum \(page 5\) provides the following information:](#)

**Unanticipated Activities (6907.9)** \$ 35,605  
 Regarding the unanticipated activities that may occur during the year (please see the discussion on page 1, above), Slater has been budgeted at (25 hours) and Herrema is budgeted (35 hours) for an approximate total of \$35,605.

The April 28, 2017, Court Order states: “4.5 Annual Data Collection and Evaluation. In support of its obligations to undertake the reset in accordance with the Reset Technical Memorandum and this order, Watermaster shall annually undertake the following actions: ... (d) As part of its regular budgeting process, develop a budget for the annual data collection, data evaluation, and any scheduled modeling efforts, including the methodology for the allocation of expenses among the Parties to the Judgment.

Such budget development shall be consistent with section 5.4(a) of the Peace Agreement.” MVWD requests that a detailed budget for these efforts be provided, including a methodology for allocation of expenses consistent with Peace Agreement 5.4(a) as interpreted by the May 28, 2021, Court Order.

**Watermaster Response:** Your question is unclear. Please clarify. The budget for the referenced efforts (7614) is included in the Watermaster OBMP Implementation budget and allocated among the Pools on the basis of production. Allocation of the OAP expenses among the members of the AP is on the basis of the OAP re-allocation. The May 28, 2021 Court Order is not relevant to these allocations as it addresses expenses that would be included in Pool budgets.

The April 28, 2017, Court Order states: “4.6 Modeling. Watermaster shall cause the Basin Model to be updated and a model evaluation of Safe Yield, in a manner consistent with the Reset Technical Memorandum, to be initiated no later than January 1, 2024, in order to ensure that the same may be completed by June 30, 2025.” Under the Safe Yield Court Order item (7614), why is Watermaster proposing to update the basin model prior to January 1, 2024? **Watermaster Response:** The start date for the model update and evaluation of the Safe Yield has been moved forward to January 1, 2023 for two main reasons:

1. The Parties have asked for a robust Peer Review process, which also is anticipated to be a longer, more labor intensive process, especially considering the potential to use an updated methodology.
2. The potential updated methodology to evaluate Safe Yield (including an uncertainty analysis) is anticipated to be a longer, more labor intensive process.
3. [additional observations added as a result of the conversation during the 4/26/22 workshop]: The schedule of the work was initially reviewed with the Pool Committees in August 2020; the following is from the proposed process to comply with the Court Order:

*“Watermaster assumes that it will take two years to complete the technical work to estimate net recharge and Safe Yield and prepare a final report pursuant to the updated methodology, plus six months to complete the peer review process (see section 4.7 below) for the pools and other stakeholders. The technical work for the 2025 SYR should start in fiscal year 22/23 for completion by June 30, 2025.”*

Thank you!  
Justin



Justin Scott-Coe, PhD, CSDM  
General Manager  
Monte Vista Water District  
O: 909.267.2125 | C: 909.238.6199

