



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** County Counsel  
**Department No.:** 013  
**For Agenda Of:** June 25, 2024  
**Placement:** Administrative  
**Estimated Time:**  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** 4/5

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**TO:** Board of Supervisors  
Board of Directors, Flood Control and Water Conservation District  
Board of Directors, Water Agency

**FROM:** Department Rachel Van Mullem, County Counsel (805) 568-2950  
Director(s)  
Contact Info: Amber Holderness, Chief Assistant County Counsel, (805) 568-2950

**SUBJECT:** **Outside Counsel Contracts – Miliband Water Law**

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**County Counsel Concurrence**

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Recommended Actions:**

County Counsel recommends that the Board of Directors, Flood Control and Water Conservation District:

- a) Approve, ratify, and authorize the Chair to execute the Agreement for Professional Legal Services between the Santa Barbara County Flood Control and Water Conservation District and Wesley A. Miliband of Miliband Water Law, through June 30, 2026, for a total not-to-exceed amount of \$300,000; and
- b) Determine that the above actions are not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(5) of the CEQA Guidelines, because they consist of administrative activities of government that will not result in direct or indirect physical changes in the environment.

County Counsel recommends that the Board of Directors, Water Agency:

- a) Approve, ratify, and authorize the Chair to execute the Agreement for Professional Legal Services between the Santa Barbara County Water Agency and Wesley A. Miliband of Miliband Water Law, through June 30, 2026, for a total not-to-exceed amount of \$100,000; and
- b) Determine that the above actions are not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(5) of the CEQA Guidelines, because they consist of

administrative activities of government that will not result in direct or indirect physical changes in the environment.

County Counsel recommends that the Board of Supervisors:

- a) Approve, ratify, and authorize the Chair to execute the Agreement for Professional Legal Services between the County of Santa Barbara and Wesley A. Miliband of Miliband Water Law, through June 30, 2026, for a total not-to-exceed amount of \$50,000; and
- b) Determine that the above actions are not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(5) of the CEQA Guidelines, because they consist of administrative activities of government that will not result in direct or indirect physical changes in the environment.

**Summary Text:**

The County, the Water Agency and the District are all involved in complicated legal matters regarding water. County Counsel retained the firm Atkinson, Andelson, Loya, Ruud & Romo to provide legal counsel to the County, Water Agency and District on water issues based on then partner Wesley Miliband's experience in working with public entities on water-related issues. Mr. Miliband has recently formed his own firm- Miliband Water Law- who we now seek to contract with to continue to retain Mr. Miliband's expertise on the following matters.

The District is party to breach of contract litigation involving the State Water Project contract brought by the Central Coast Water Authority (CCWA) and other CCWA members. The matter is pending in the Santa Barbara Superior Court. The proposed agreement will allow Miliband Water Law to continue to represent the District in the CCWA litigation within the contract term for \$300,000.

The Water Agency is funding a study to assess the feasibility of improving treatment processes and facilities at the Laguna County Sanitation District wastewater reclamation plant in order to create a new supply of potable water for the Orcutt area. The proposed contract will allow Miliband Water Law to continue to provide legal advice to the Water Agency and Laguna County Sanitation District in connection with the Indirect Potable Reuse Project and other potential water-related projects within the contract's term and \$100,000 limit.

The County is a party to an adjudication concerning the Cuyama Valley Groundwater Basin, *Bolthouse Land Company, LLC, et al. v. All Persons Claiming a Right to Extract or Store Groundwater in the Cuyama Valley Groundwater Basin* (No.3-013), et al., BCV-21-101927. The proposed agreement will authorize Miliband Water Law to provide legal advice to the County in connection with the Cuyama adjudication within the contract's term and \$50,000 limit.

**Fiscal and Facilities Impacts:**

Budgeted:

- District Agreement: Outside Counsel Designation: \$300,000 paid by Department 054, Fund 2400, Line Item 7508.
- County Water Agency Agreement: Outside Counsel Designation: \$100,000 paid by Department 054, Fund 3050, Line Item 7650.

- County Agreement: Outside Counsel Designation: \$50,000 paid by Department 013, Fund 0001, Line Item 7650.

**Fiscal Analysis:**

Each Agreement has a set not-to-exceed amount and any increase in the amount would require an amendment to the contract and Board approval.

**Key Contract Risks:**

County Counsel views these Agreements as low risk because the involved attorney is highly experienced and has worked successfully with the District, the County and the Water Agency and with other government agencies for several years.

**Staffing Impacts:**

Contracting with outside counsel will allow the District to obtain the specialized legal services needed in this matter without hiring additional staff attorneys.

**Special Instructions:**

Please send the executed Agreements to Amber Holderness in the County Counsel Office.

**Attachments:**

1. Agreement for Professional Legal Services- District
2. Agreement for Professional Legal Services- County Water Agency
3. Agreement for Professional Legal Services- County

**Authored by:**

Chief Assistant County Counsel, Amber Holderness