



JAMES A. NOYES, Director

# COUNTY OF LOS ANGELES

## DEPARTMENT OF PUBLIC WORKS

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February 20, 2003

IN REPLY PLEASE  
REFER TO FILE: **W-0**

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 37, ACTON  
REQUEST FOR APPROPRIATION ADJUSTMENT  
SUPERVISORIAL DISTRICT 5  
4 VOTES**

**IT IS RECOMMENDED THAT YOUR BOARD:**

As the governing body of the Los Angeles County Waterworks District No. 37, Acton:

Approve the enclosed request for Appropriation Adjustment to transfer \$486,000 from the District's Accumulative Capital Outlay (ACO) Fund, to the District's General Fund, to provide funding and appropriation for the payment of legal fees and litigation costs incurred in the civil actions of Tower Acton Holdings LLC vs. the District, and B & C Land and Water LLC vs. the District.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

Fiscal Year 2002-03 budgeted appropriations for the District's General Fund must be supplemented by an additional \$486,000 to allow for the payment of legal fees and litigation costs incurred in defense of the cases of Tower Acton Holdings LLC vs. the District, and B & C Land and Water LLC vs. the District. Reimbursement from the District's ACO Fund is necessary for the continuation of normal operations in the District's General Fund and to provide uninterrupted water service to approximately 1,150 customers in the Acton area. In Fiscal Year 2000-01, the Board approved a \$715,000 transfer from the District's ACO Fund to the District's General Fund for payment of the legal fees and litigation costs for these court cases. County Counsel estimates the fees and costs for these cases will be approximately \$1.5 million.

With respect to the Tower Acton Holdings LLC lawsuit, the case went to trial and the jury returned a verdict in favor of the plaintiffs. The District appealed the decision and recently the Court of Appeals overturned the jury verdict and directed that the trial court enter judgement in favor of the District. The plaintiffs may appeal to the California Supreme Court.

With respect to the B & C Land and Water LLC lawsuit, on February 10, 2003, the trial court sustained without leave to amend the Districts' demur, meaning that the plaintiff's case has been dismissed.

### **Implementation of Strategic Plan Goals**

This action meets with the County Strategic Plan Goals of Fiscal Responsibility and Service Excellence. This action requests a budget adjustment for funding the operational needs of the District and ensuring uninterrupted water service to our customers in the Acton area.

### **FISCAL IMPACT/FINANCING**

There will be no impact on the County's General Fund as a result of this action.

Financing for the \$486,000 Appropriation Adjustment will be provided by \$262,000 of Designation of Water System Improvements and \$82,000 of Appropriation for Contingencies, which were established in the Fiscal Year 2002-03 approved budget of the District's ACO Fund N50, plus \$142,000 from Fixed Assets - Buildings and Improvements. This will provide for the subsequent \$486,000 operating transfers from the District's ACO Fund N50 to the District's General Fund N49 for the payment of the legal fees and litigation costs.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

Not applicable.

### **ENVIRONMENTAL DOCUMENTATION**

This action does not constitute a project and is, therefore, exempt from the requirements of the California Environmental Quality Act.

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**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

There will be no negative impact on current County services for the District's ACO Fund. This Appropriation Adjustment and subsequent transfer of funding from the District's ACO Fund to the General Fund is necessary to provide uninterrupted water service to our customers in the Acton area.

**CONCLUSION**

Please return one adopted copy of this letter and the enclosed Appropriation Adjustment to Public Works, Waterworks and Sewer Maintenance Division, and forward one copy of both documents to the Auditor Controller.

Respectfully submitted,

JAMES A. NOYES  
Director of Public Works

RL:nm  
BDL2134

Enc.

cc: Auditor-Controller  
Chief Administrative Office  
County Assessor  
County Counsel