Great Basin Unified
Air Pollution Control District

2012-2013 Fiscal Year
SB270 Budget and Fee Assessment

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2012-13 Fiscal Year
SB 270 Budget and Fee Assessment

Budget and Fee Assessment Summary

Introduction

The annual SB 270 fee assessment is the Great Basin Unified Air Pollution Control District's estimate of the reasonable cost of maintaining the level of effort necessary to address violations of state and federal air quality standards due to water-gathering activities by the City of Los Angeles (City) within the District's boundaries (Inyo, Mono and Alpine Counties). The assessment is a reasonable fee as provided for in Section 42316 of the California Health and Safety Code. The fee funds the cost of monitoring air quality affected by the City's water-gathering activities, the development of air quality plans, monitoring the City's implementation of control measures, enforcing control measure performance, and control measure research. The fee includes the costs associated with all District employees working on SB 270 matters, general recurring operating costs, the cost of enforcing air quality requirements, long-term or ongoing project costs, funding for dust source research and consulting (professional services) and material/equipment costs. For 2012-13 the fee continues to include costs for equipment and consulting associated with the implementation of the Settlement Agreement entered into with the City of Los Angeles in December 2006 pertaining to supplemental dust control measures at Owens Lake (Settlement Agreement) and the resulting 2008 SIP[1] and EIR[2] that were adopted on February 1, 2008.

SB 270 Fee Components

The SB 270 fee includes the estimated cost of all District employees, operating costs (rent, utilities, insurance, supplies, travel and professional services associated with regular budget activities) and equipment costs. The proposed assessment total is $5,106,350. Compared to the 2011-12 assessment total of $4,730,000[3], the proposed assessment represents a 7.96% increase (+$376,350) over fiscal year 2011-12. The 2012-13 budget contains adjustments in each category to meet commitments made by the District in the 2006 Settlement Agreement and 2008 SIP & EIR, including: 1) maintenance and replacement of air monitoring equipment at Owens Lake; 2) consultant fees necessary to carry out committed regulatory and compliance tasks at Owens and Mono Lakes; and 3) legal fees related to the mandatory 2011 Supplemental Control Requirements Determination (SCRD) which has been appealed to the California Air Resources Board by the City of Los Angeles and related lawsuits filed in the Los Angeles County Superior Court. In addition, as the District is required to issue a 2012 SCRD, it anticipates there will be legal fees associated with this action as well. The assessment is summarized in Table 2 and details on some of the categories are shown in Table 3. The personnel associated with the SB 270 assessment are summarized in Table 4.

A graphic comparison of this year's assessment with previous years is shown in Figure 1. The increase is primarily attributed to the legal fee assessment otherwise there would be a 12.80% decrease (-$573,650) in total costs. Compared to 17 years ago in 1995, the proposed FY 2012-13 SB 270 budget has increased a total of $419,936 (+8.96%). Compared to the 1998 assessment of $5,246,725when the City litigated the District's decisions, the FY 2012-13 assessment is $140,375 less or -2.68%.

[1] 2008 Owens Valley PM10 Planning Area Demonstration of Attainment State Implementation Plan (SIP)
[2] 2008 Subsequent Environmental Impact Report (EIR)
[3] $4,480,000 was assessed on May 16, 2011 and paid. $250,000 was assessed on December 5, 2011 but not paid.

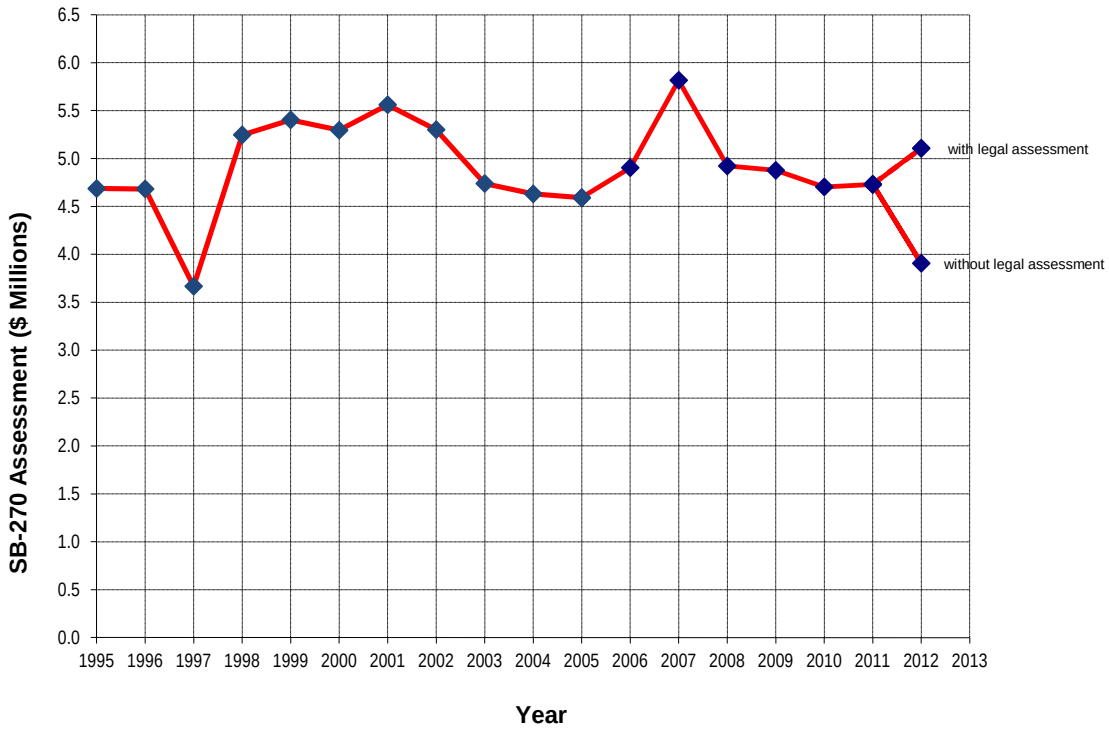
TABLE 1 DRAFT

FY 2012-13 SB 270 Total Fee Assessment Summary

	2011-12		2012-13	% Change
Assessment				
I. Employee Costs	2,853,000		2,872,000	0.67%
II. Operating & Compliance	1,423,000		1,024,350	-28.01%
III. Materials & Equipment	204,000		10,000	-95.10%
Sub-Total SB 270 Fee Assessment	**4,480,000**		**3,906,350**	**-12.80%**
	Paid		-573,650	
IV. Special Legal Fee Assessment	**250,000**	*	**1,200,000**	**380.00%**
	Unpaid		950,000	
Total SB 270 Fee Assessment	**4,730,000**		**5,106,350**	**7.96%**
			376,350	

* Board Order No. 111205-01a: Appeal filed by the LADWP to CARB on January 9, 2012; currently unpaid.

Figure 1 - Historic SB 270 Fee Assessments



Year	Amount
1995	4,686,414
1996	4,682,317
1997	3,666,543
1998	5,246,725
1999	5,403,643
2000	5,295,089
2001	5,561,270
2002	5,300,597
2003	4,739,313
2004	4,631,000

Year	Amount	
2005	4,591,000	
2006	4,903,825	
2007	5,816,250	
2008	4,922,265	
2009	4,876,300	
2010	4,703,600	
2011	4,730,000	
2012	3,906,350	w/o Legal Assessment
2012	5,106,350	w/ Legal Assessment

Fee Assessment Details

Fee Assessment Details

Introduction

The 2012-13 SB 270 total is $5,106,350. This should be compared to the 2011-12 fee assessment total of $4,730,000[4]. The proposed assessment represents a 7.96% increase (+$376,350) compared to fiscal year 2011-12. The assessment is summarized in Table 2 and details on some of the categories are shown in Table 3. The 2012-13 budget contains adjustments in each category to meet commitments made by the District in the 2006 Settlement Agreement and 2008 SIP & EIR, including: 1) maintenance and replacement of air monitoring equipment at Owens Lake; 2) consulting services necessary to carry out committed regulatory and compliance tasks.; and 3) legal fees related to the 2011 and possible the 2012 Supplemental Control Requirements Determinations. The 2011 determination has been appealed to the California Air Resources Board by the City of Los Angeles and related lawsuits have been filed in the Los Angeles County Superior Court. The personnel associated with the SB 270 assessment are summarized in Table 4.

I. Employee Costs

The SB 270 fee assessment pays for a total of 18.86 full-time-equivalent employees (FTE), including 18.55 regular employees and one part-time (.31 FTE at 16 hours/week) non-benefited employee (see Table 4 - Employee Time Allocation). This is reduction of 1.50 FTE compared to FY 2011-12. The proposed assessment includes a previously approved 1% cost of living adjustment for all regular employees (except the Air Pollution Control Officer) for the 2012-13.

Total employee costs are $2,872,000, an increase of 0.67% (+$19,000) over FY 2011-12. The increase is primarily attributable to an increase in health care costs and slight increases in retirement costs. This cost category includes wages, retirement costs, medical benefits, taxes, unfunded future liability for retiree medical insurance costs and workers compensation insurance. The City has been assessed an annual amount since the 2005-06 FY to pre-fund the unfunded liability of SB 270 retiree medical costs. The $348,000 amount for FY 2012-13 remains the same as FY 2011-12. In 2009 the District adopted and partially funded an IRS §115 trust under Governmental Accounting Standards Board (GASB) 45 requirements. An actuarial valuation was completed as of July 1, 2010 to reflect this change in status of retiree health funds for future budgeting purposes. Another valuation will be conducted at the beginning of the 2013-14 FY. Depending on the rate of return and various other factors that are analyzed, the price-index-adjusted contribution could be required anywhere from 2 to 5 more years. Thereafter, lower annual normal service costs (present value of benefits accruing in the current year) will be assessed as determined by the actuary. The last valuation in 2010 for estimated contributions was based on a 5.5% rate of return. The 12 months ending December 2011 saw a reduced return rate of 3.48%.

As mentioned above, the assessment shows an overall decrease of 1.50 employees for the 2012-11 fiscal year. During the 11-12 FY, two contract employee positions (benefited) in the Keeler office staff were eliminated and two regular positions created to respond to changing duties. In addition, one Keeler office position remains unfunded and vacant for the 2012-13 fiscal year. The Bishop office saw the retirement and re-structured position replacement of its

[4] $4,480,000 was assessed on May 16, 2011 and paid. $250,000 was assessed on December 5, 2011 but not paid.

primary fiscal services employee. Another long-time employee (Air Monitoring Technician II) also retired and a replacement employee was hired. The changes along with regularly scheduled salary increases resulted in a negligible changes in salaries. No other staffing changes are planned for FY 2012-13.

There are 10.50 full-time-equivalent FTEs to perform air quality monitoring and dust source identification both on and off the exposed beds of Owens Lake and Mono Lake, including design, purchasing, installation, data collection, maintenance, calibration, filter weighing, quality assurance, data review, and supervision. There are 2.95 FTEs to do data processing and analysis, preparation of maps and figures, maintenance of the GIS system, operation of the Owens Lake Health Advisory network, and purchasing and maintenance of all computer hardware/software. There are 3.10 FTEs to cover all administrative tasks such as policy recommendations to the Board, overall supervision, project design and management, contract management, document preparation, technical supervision, engineering design, compliance enforcement, government agency coordination, budget preparation, technical support to legal consultants, risk manager, personnel manager and public information. There are 2.31 FTEs to act as administrative assistants, receptionist, document copier, mail clerk, file clerk, supply clerk, billing clerk, fiscal supervisor, fiscal clerk/technician, safety clerk, and board clerk.

II. Operating Costs

This category includes rent for all offices (two offices in Bishop and the Keeler office), utilities, insurance, office supplies and equipment, travel and professional services. Materials and equipment in this category generally have a cost of less than $5,000 each and/or a short life. Operating costs are $1,024,350 and will decrease by 28.01% (-$398,650) compared to FY 2011-12. The items in this category that require more explanation are described below.

II.C. – Equipment: Scientific, Computer, Software, Furniture, Office, Safety & General (<$5,000)

This category encompasses items costing $5,000 or less and includes new scientific equipment (calibration devices, etc.) and related equipment (electronic test equipment, digital multimeters, etc.), computer equipment (including printers, scanners and parts), software (office upgrades, data logger, GIS, accounting software, anti-virus), furniture, office machines and safety equipment. Monies are budgeted for replacement of wind, humidity, temperature, barometric pressure and precipitation equipment as the sensors in the field range in age from three to ten years old. The budget includes funds for 17 new Sensits and datalogger upgrades, along with needed camera and network communication upgrades ($85,000) for the Dust ID system. The current Dust ID network consists of approximately 170 Sensit sites 18 cameras, and a lakewide wireless broadband communication system. The information collected from the Dust ID network has been highly successful in supplying real time data to the District, LADWP and the public. District staff working out of the Keeler office extensively use this information to make decisions when and where to collect field data during and directly after dust events.

The cost to purchase, maintain and upgrade items in this category will be $140,000. This category shows a decrease of $57,000 or -28.93%.

II.G.2. – Leases and Rents

Rental and lease costs are up slightly this year ($2,200 or 2.13%) due to expected increases in office rents.

II.H. – Maintenance of Equipment – Labor

Included in this category are: annual certifications of laboratory equipment, including balances and standard weights. These certifications are a requirement for the District to maintain an EPA- certified laboratory for particulate matter filter processing. Additionally, all calibration and audit equipment used by the District's air monitoring technicians must be certified annually. These devices (the District owns twelve) must be sent out to the manufacturer for certification. These certifications are required by EPA regulations for all entities conducting air quality monitoring. This category also includes vehicle maintenance, i.e. tires, oil changes, tune-ups, etc. for the District's 15 vehicles allocated to SB270 activities. ($40,000)

II.I. – Maintenance of Equipment – Materials

The District operates twenty-three (23) or more (depending on special projects) PM monitors in the Owens Lake and Mono Basin networks. Items included in this category for those monitors include: pumps, filters, solar panels, air inlets, bearings, rebuild kits, and other associated equipment This category also includes the cost to maintain 170+ Owens Lake Sensit sand-motion monitoring sites, existing ATV's, vehicles, plus monitoring stations (shelters, tubes, rails, pipes). Further, maintenance items have been included for the seventeen (17) meteorological stations with sensors that can be repaired and/or refurbished. $55,000 has been budgeted for this equipment.

II.K.15. – EIR Monitoring

Sapphos Environmental, the District's consultant that prepared the EIR for the 2008 SIP, will continue to assist District staff with ongoing environmental compliance monitoring and special environmental consulting. Sapphos will provide on-call field services for biological and archaeological issues and will track compliance with all environmental impact mitigation measures. The budget contains $25,000 for this item. A more detailed description of Sapphos Environmental's work efforts is found below.

II.K.16 – Owens Lake Air Quality Modeling

The District has retained the services of Mr. Ken Richmond to conduct Owens and Mono Lake air quality modeling since the early 1990s. Mr. Richmond has worked for a number of consulting firms over the years and now works for Environ. Mr. Richmond has been invaluable in assisting the District with the development of the dust monitoring program at Owens Lake and Mono Lake. The proposed assessment includes $200,000 for Mr. Richmond to continue to assist the District. This is the same as the 2010-11 and 2011-12 assessments.

II.K.17 & 18 – Dust Control Measure Compliance Using Satellite Imagery

Because of the very large areas involved with dust control at Owens Lake, the District uses satellite imagery to evaluate the City's continued compliance with the performance requirements associated with the managed vegetation and shallow flooding dust control measures. This component of the assessment is for the satellite imagery and compliance analysis efforts. This cost category has been reduced from $205,000 in the 2011-12 fiscal year, as District staff has started conducting much of the compliance analyses in-house as

opposed to through a consultant. The $50,000 being assessed for 2012-2013 is for technical support in conducting the compliance analyses. An additional $10,000 is budgeted for purchase of satellite images for the compliance monitoring and enforcement. Cost details and a description of work are provided below.

II.K.19 and II.K.20 – Owens Lake History & Science; Owens Lake Water Simulation

Over the past year, the City has brought up several concerns with regard to the water level and the shoreline history of Owens Lake. The two items budgeted here for 2012-2013 are included to provide the District with technical support with regard to these contentious issues for a total of $75,000. Of this, $25,000 is budgeted for Dr. Scott Stine, an expert in historical and ancient lake and climate history and $50,000 is budgeted for the Desert Research Institute (DRI) in Reno for modeling of Owens Lake water levels. In 1997, the District had DRI conduct a model of Owens Lake in which the water level of the lake was simulated from the time of diversions by the City of Los Angeles through 1995. The money budgeted here is for updating the model to present (up to 2012) and making possible refinements that may improve model results.

II.L. – Supplies and Tools

Budgeted items for this category include general office supplies, use supplies, computer supplies and in-field supplies and materials. Items in this category typically have a limited operating life. Backup meteorological and flow rate calibration and audit equipment and miscellaneous tools are required for the District to maintain all of the monitoring equipment in good operating order. Many of the District's meteorological systems are more than 10 years old, as is the equipment used to audit them. It is important to keep the calibration and audit equipment in good working order and to have funds available to procure additional equipment, should the aging equipment in use fail.

Respirators, replacement parts, cartridges and safety training materials are all necessary parts of the District's safety program. Every staff member that spends any time in the field has a respirator and gets annual training on its use. Air-purifying cartridges for the respirators require regular replacement and the respirators themselves wear out and require replacement parts or full replacement in order to ensure employee safety. $30,000 has been budgeted for the Supplies and Tools category.

III. – Materials and Equipment Costs

This category includes materials and equipment not associated with general support. This equipment has a higher per item cost (more than $5,000 each or as a whole) and a longer life. Materials and equipment costs in this category for 2012-13 total $10,000. This is a decrease of $194,000 or –95.10% from FY 11-12.

III.A. – Equipment: Scientific, Computer, Office, & General (>$5,000)

This category encompasses items costing more than $5,000 and includes new or replacement scientific equipment, air monitors and related parts, certain computer equipment, software (office upgrades, data logger, GIS, accounting, anti-virus), furniture, office machines and safety equipment.

The air quality monitoring equipment the District currently uses will typically have an operational lifespan of five to seven years, given the harsh environment in which it functions.

Some of the older monitors currently in operation were purchased in 1995, are worn out and need replacement. Equipment failures are sure to follow given the age of the monitoring equipment currently in place. In order to address these failures and avoid data loss, jeopardizing the District's ability to determine the efficacy of the LADWP mitigation measures, sufficient funds need to be budgeted for replacement equipment each year. During the 2008-2009 fiscal year, the District started capital accrual accounts for equipment replacement. In order to minimize the impact that wholesale equipment replacement would cause in any single budget year, District staff proposed spreading the equipment replacement over several years, thereby reducing the impact in any one year and smoothing out year-to-year budget variations.

Additional accrual account funds have been removed from the FY2012-2013 budget due to the fact that the company that produced the TEOM monitors (Rupprecht & Patashnick) was purchased by Thermo Fisher Environmental. Thermo will discontinue support of the R&P model 1400a(AB), which comprises all the monitors in the District's current stock, within five years. Thermo has produced an upgraded version of the TEOM that collects both PM2.5 and PM10 data that the District is interested in procuring, however, that instrument has not yet passed EPA certification for PM10 monitoring (the monitor has received EPA certification for PM2.5 monitoring). For FY 2012-2013, staff has determined the more prudent course is to hold off on further accruals for instrument purchase until such time as the upgraded TEOM PM2.5/PM10 monitor achieves EPA certification for PM10 monitoring or until an alternative continuous PM2.5/PM10 monitor is approved by EPA and tested by District staff.

Mono Lake (>$5,000): The District has operated the Mono Lake monitoring network for over twenty years. Over the next year it is anticipated that the replacement of some or all of the meteorological monitoring equipment and or solar components at the Mono Shore site will be required. Most of equipment at the Shore site has been in place for eleven years. The typical lifespan of such equipment on Owens Lake has be anywhere from 5 to 10 years, thus replacement of the meteorological equipment in the 2012-2013 fiscal year will be necessary.

Owens Lake PM Monitoring Network Upgrades (> $5,000): The same reasoning for the Mono Lake budget holds true for the Owens Lake budget as well. Many of the meteorological stations have been in place since 2001, and at least a few of the meteorological monitoring sensors will likely require replacement in 2012-2013 fiscal year. The cost of a single wind speed/wind direction sensor (an R. M. Young Model 05103 Wind Montior) is approximately $1,200.

III.B. – Vehicles and ATVs

The District relies daily on off-road vehicles and all-terrain vehicles (ATVs) for transportation from and to monitoring stations at Owens Lake and Mono Lake. The District policy on replacement of vehicles states that field vehicles may be replaced after they have accumulated 110,000 miles, or when staff determines significant maintenance and/or safety issues warrant replacement. Staff may determine that vehicles be kept beyond the 110,000 mile limit but must inspect the vehicles regularly and annually reassess them.

No funding for vehicles or ATVs is anticipated for the 2012-2013 fiscal year.

Workplan

The following efforts will take place under the SB 270 Assessment:

Air Quality Monitoring

For fiscal year 2012-13 the SB 270 program will operate 23 air quality monitors (17 TEOMS and 5 Partisols in operation; 1 TEOM in repair, 5 ready for deployment) at 14 separate sites at Owens Lake and 2 sites at Mono Lake. In addition to the air quality monitors, there are 19 meteorological sites at Owens Lake and 1 at Mono Lake (many of the meteorological sites are located at air monitoring sites). District personnel are responsible for the operation and maintenance of the monitoring equipment as well as installing and removing filters, weighing filters, validating data, conducting quality control checks, conducting quality assurance audits, and data reporting. Some of these responsibilities will increase as a result of the District becoming a primary quality assurance organization, separate from the California Air Resources Board, reporting directly to EPA.

Dust ID Program

The District will continue to operate the Owens Lake and Mono Lake Dust Identification Programs. The effort at Owens Lake consists of operating approximately 170 Sensit sand motion sensing devices on the lake bed, and within the Keeler Dunes, mapping the location of dust emissions during dust storms, time-lapse video recording of dust events and GPS mapping the location of emission areas on the lake bed after dust storms.

The Dust ID program at Mono Lake consists of 10 Sensit sites collocated with Cox Sand Catchers (CSCs), and fifteen additional CSC-only sites. The purpose of this network is to characterize the exposed playa source area contribution to the PM10 impacts on the northeast shore of Mono Lake.

The Dust ID Program at Owens Lake is an ongoing effort to identify dust source areas at the Lake, and to quantify their dust emissions and impacts on air quality. The program was initiated in 1999 and includes an extensive network of erosion monitoring equipment, time lapse cameras, PM_{10} monitors, and meteorological towers. The Dust ID Program also provides resources for personnel to map source area boundaries and dust plumes, and to collect and analyze the information.

The Dust ID Program at Owens Lake is a required program in the 2008 SIP and is the primary method used to identify dust source areas that cause or contribute to exceedances of the PM_{10} standard. These would include new sources of the dust that may need control or controlled areas that are out of compliance with SIP requirements.

TABLE 2 DRAFT

FY 2012-13 SB 270 Fee Assessment

EXPENSES	11-12	12-13	% change
I. Employee Costs			
A. Employee Wages	1,472,000	1,471,000	-0.07%
B. Retirement	359,000	363,000	1.11%
C. Insurance Benefits	400,000	422,000	5.50%
D. Taxes	246,000	242,000	-1.63%
E. Retiree Medical Insurance Unfunded Liability	348,000	348,000	0.00%
F. Worker's Compensation Insurance	28,000	26,000	-7.14%
Employee Costs	**2,853,000**	**2,872,000**	**0.67%**
		19,000	
II. Operating & Compliance			
A. Advertising - Legal Notices & Ads	4,400	4,500	2.27%
B. Dues, Subscriptions, Education, Use Tax & Fees	28,000	28,000	0.00%
C. Equipment: Computer, Furniture, General, Office, Safety, Scientific, Software (<$5,000 ea)	197,000	140,000	-28.93%
D. Fuel & Gasoline	30,000	30,000	0.00%
E. Health & Safety	4,000	4,000	0.00%
F. Insurance - Liability, Fire & Casualty	53,000	51,000	-3.77%
G. Leases & Rents: Equipment, Office, Site, Storage	103,300	105,500	2.13%
H. Maintenance & Repairs of Equipment - Labor	45,000	40,000	-11.11%
I. Maintenance & Repairs of Equipment - Materials	55,000	55,000	0.00%
J. Postage & Shipping	4,000	4,000	0.00%
K. Professional & Special Services	780,600	453,850	-41.86%
L. Supplies & Tools (In-Field, Office, General Use)	33,000	30,000	-9.09%
M. Transportation & Travel	26,000	25,000	-3.85%
N. Utilities	59,700	53,500	-10.39%
O. Project Demonstration: Control Measure Testing	0	103,200	
Operating & Compliance Costs	**1,423,000**	**1,024,350**	**-28.01%**
		-398,650	
III. Materials & Equipment			
A. Equipment: Computer, Furniture, General, Office, Scientific, Software, Furniture (>$5,000 ea)	126,000	10,000	-92.06%
B. Vehicles & ATVs	78,000	0	-100.00%
Materials & Equipment Costs	**204,000**	**10,000**	**-95.10%**
		-194,000	
SB 270 ExpensesTotal (Parts I, II, III)	**4,480,000**	**3,906,350**	**-12.80%**
		-573,650	

IV. Special Legal Fee Assessment

2011 SCRD: Appeal by the LADWP with CARB and lawsuits filed in Superior Court

A. LADWP filed an appeal with CARB on Dec. 2, 2011 over the 2011 Supplemental Control Requirements Determination.

B. LADWP filed an appeal with CARB on Jan. 9, 2012 over the $250,000* legal fee assessment relative to its appeal of the 2011 Supplemental Control Requirements Determination.

C. LADWP incrceased a contract for its outside attorneys on the 2011 SCRD matter by $850,000 on February 7, 2012 for a total of $1,450,000.

D. LADWP filed two (2) lawsuits in Los Angeles County Superior Court on Feb. 14 & 17, 2012 over the 2011 SCRD CARB procedures (outside attorneys) and over the $250,000* legal fee assessment respectively.

Legal fees to defend the 2011 SCRD and related matters pursuant to Health & Safety Code § 42316	*250,000	1,200,000	380.00%
Special Legal Fee Assessment	**250,000**	**1,200,000**	**380.00%**
		950,000	

*Board Order No. 111205-01a: Appeal filed by the LADWP to CARB on January 9, 2012; currently unpaid.

FY 2012-13 SB 270 Total Fee Assessment (Parts I, II, III, IV)	**4,730,000**	**5,106,350**	**7.96%**
		376,350	

FY 2012-2013 DETAILS **TABLE 3**

	II.C. - Equipment (<$5k)	**SB270**
1	Computers, Printers, Scanners, Parts	20,000
2	Furniture	-
3	General Use & Safety	1,000
4	Office	500
5	Scientific (SB270: 25 Sensits & Datalogger Upgrades; Wind Sensors	88,500
6	Software	30,000
	Equipment (<$5k)	**140,000**

	II.G. - Leases & Rents	**SB270**
1	Bishop - Main Office	67,200
2	Bishop - Tech Workspace	6,400
3	Bishop / White Mtn Research	-
4	Equipment	5,000
5	Keeler - Office (Owens Lake)	8,500
6	Keeler - Office Portable Trailer (Owens Lake)	6,000
7	Lone Pine - Site	1,800
8	Mammoth Lakes - Site	-
9	Mono Lake - Simis Site + Storage Site	2,100
10	Olancha - Site w/ Utilities	3,000
11	Parking	3,000
12	Storage	2,500
	Leases & Rents	**105,500**

	II.H. - Maintenance & Repairs of Equipment - Labor	**SB270**
1	Laboratory certifications, etc.	15,000
2	Contingencies, tires, tune-ups, oil changes, repairs	18,000
3	Vehicle washing, etc.	3,000
4	Transportation/Installation of short-term monitors	-
5	Safety respiratory screen	4,000
	M&R-Labor	**40,000**

	II.I. - Maintenance & Repairs of Equipment - Materials	**SB270**
1	TEOM & Partisol Parts	15,000
2	Laboratory and QA Equipment	8,000
3	General Equipment Parts, Batteries, Expenses	7,000
4	Sensit Network	25,000
	M&R-Materials	**55,000**

	II.K. - Professional & Special Services	**SB270**
1	Board Stipend	4,200
2	Board Stipend - Hearing Board	1,000
3	Payroll & Financial Software Support	6,800
4	Human Resources Consulting	3,400
5	Independent Fiscal Auditor	7,500
6	Fiscal Services & Consulting	4,250
7	Inyo Co. Auditor: Fiscal Support	4,250
8	Inyo Co. Counsel: Legal	11,900
9	Janitorial Services: Bishop & Keeler	9,000
10	Respiratory Testing	3,000
11	USC: Landscape Architecture	2,500
12	Consulting Services: IT, Data Mgmt, Web	2,550
13	Air Monitoring Consulting Services	8,500
14	Legal Services: General	25,000
15	Environmental Consulting	25,000
16	Owens Lake Air Quality Modeling Consulting	200,000
17	Dust Compliance Measurement & Enforcement Consulting	50,000
18	Dust Compliance Measurement & Enforcement: Satellite Imagery	10,000
19	Owens Lake History & Science Consulting	25,000
20	Owens Lake Water Simulation: Model Update Consulting	50,000
	Professional & Special Services	**453,850**

FY 2012-2013 DETAILS

TABLE 3

II.N. - Utilities		**SB270**
1	Electric/Water/Gas/Trash	21,000
2	Communications/Internet/Telephone	24,000
3	Cell Phones	8,500
	Utilities	**53,500**

II.O. - Project Demonstration: Control Measure Testing		**SB270**
1	Permitting	2,000
2	Straw Bales & Labor	7,200
3	Plant Materials & Propagation	3,000
4	Equipment & Instrumentation: Sensits & Met	41,000
5	Control Effectiveness Consulting	30,000
6	Plant and Remote Sensing Consulting	20,000
	Control Measure Testing	**103,200**

III.A. - Equipment: Scientific, Computer, Office, Furniture(>$5k)		**SB270**
1	Replacement PM Filter Monitors, @$18,000 ea.	-
2	Backup TEOM Replacement, @$36,000 ea.	-
3	Off-grid TEOM system - Mono Shore	-
4	Mono Network Upgrades	5,000
5	Owens Lake PM Monitoring Network Upgrades	5,000
6	Replacement Lab Temp/RH Control System	-
	Equipment (>$5k)	**10,000**

III.B - Vehicles & ATVs		**SB270**
1	Replacement Vehicles (Capital Expediture Fund Reserves)	-
2	Replacement ATVs	-
		-

TABLE 4

FY 2012-13 Employee Time Allocation	District	SB-270	FTE	
Regular Employees				
Air Pollution Control Officer (TS)	0.10	0.90		
Deputy Air Pollution Cont Officer (DO)	0.20	0.80		
Air Quality Specialist II (JS, JB)	2.00	-		
Director Technical Services (NB)	-	1.00		
Field Services Technician I & II (JJ)(SG)(BR)		3.00		
Sr. Systems & Research Analyst (PK)	0.05	0.95		
Systems Research Analyst (MS)	-	1.00		
Systems Research Analyst (CH)	0.10	0.90		
Geologist (GH)	-	1.00		
Administrave Projects Manager (SO)	0.15	0.85		
Admin Asst/ Board & Permit Clerk (TD)	0.25	0.75		
Fiscal Services Technician (PG)	0.15	0.85		
Air Monitoring Specialist (CL)	0.15	0.85		
Air Monitoring Technical Specialist (DJ)	-	1.00		
Air Monitoring Tech II (SM, SD)	-	2.00		
Air Monitoring Tech II (GD, VT, SW)	0.30	2.70		
Subtotal Regular Employees	**3.45**	**18.55**	**22.00**	
Contract Employees				
Admin Clerk (PT/No Benefits)	0.06	0.31		
Subtotal Contract Employees	**0.06**	**0.31**	**0.37**	
TOTAL 2012-13 FTE	**3.51**	**18.86**	**22.37**	-1.50
TOTAL 2011-12 FTE	3.58	20.29	23.87	
TOTAL 2010-11 FTE	3.55	21.07	24.62	
TOTAL 2009-10 FTE	3.66	22.71	26.37	
TOTAL 2008-09 FTE	3.65	22.72	26.37	

Additional Details Regarding Professional Services Items II.K.15, II.K.17, II.K.18, II.K.19, II.K.20.

The Professional Services sub-budget contains funds for contracts with consultants for technical support in remote sensing techniques for dust control measure compliance enforcement, for science and history of Owens Lake, for modeling of Owens Lake water levels and for environmental services associated with the implementation of the 2008 SIP EIR. Additional details on the scope of work for these contracts are provided below.

II.K.15 – Environmental Services Assistance – Sapphos Environmental

The 2008 Owens Valley SIP and EIR contain a considerable number of mandatory mitigation measures to reduce the environmental impacts caused by the dust control project. The District has implemented an Environmental Quality Assurance program (EQAP) to ensure objective and timely compliance and reporting pursuant to the Mitigation Monitoring and Reporting Program (MMRP). The MMRP is a mandatory component of the 2008 EIR and is required by the California Environmental Quality Act (CEQA). The efficient implementation of the EQAP and MMRP involves coordination, communication, and reporting among the District, the City of Los Angeles Department of Water and Power (City), responsible public agencies, interested public agencies, and the public. These other agencies mainly include the California State Lands Commission and the California Department of Fish and Game. This effort involves reviewing the adequacy of compliance plans submitted to the District by the City in fulfillment of mitigation measure requirements to avoid and/or reduce environmental impacts. As the MMRP is implemented, the District will be responsible for ensuring compliance with dozens of subtasks within the MMRP and compliance programs. Where compliance is achieved, the District intends to document it and report it to responsible agencies and the public.

The budget contains a total of $25,000 for both the compliance monitoring and reporting and for general environmental issues assistance.

II.K.17. – Dust Control Measure Compliance and Enforcement – HydroBio, Inc.

The FY 2012-2013 budget contains $50,000 for the continuation of dust control measure compliance enforcement and support by the District's remote sensing consultant, HydroBio. HydroBio will provide services for technical support for the District's dust control compliance and enforcement efforts. Work tasks provide for consultation services with District staff for operational evaluation of the Shallow Flood compliance, compliance and continuity measurements for the Managed Vegetation Area, and research for determining a compliance measurement method for a hybrid Shallow Flooding-Managed Vegetation dust control measure. Each task is discussed in more detail below.

Shallow Flood Compliance

HydroBio, Inc. has conducted analyses of the Shallow Flooding areas on Owens Lake over the past 6-7 years to determine compliance with the requirements for the 2008 SIP. During this time they researched and developed a robust method that uses LandSat imagery. District staff conducted the compliance analyses during the 2011-2012 fiscal year using the methodology developed by HydroBio and will continue to do so in the 2012-2013 fiscal year. Evaluations for Shallow Flooding dust control measure compliance will be performed at approximately monthly cycles from early October through June. The methodology to be used is the well-established LandSat TM Band 5

technique, when possible, that has proven to be an accurate and reliable method over the last few years. Starting in early 2013, a new LandSat satellite is supposed to be launched and will replace the LandSat5 satellite that died in late 2011 (leaving only LandSat7). The professional services of HydroBio will be retained over the next year to provide technical assistance with the Shallow Flooding compliance monitoring especially in transitioning from the current LandSat7 to the new satellite launched in 2013. A portion of the HydroBio II.K.17 budget will be used to provide technical support in this effort.

Managed Vegetation Compliance

An evaluation measuring the saltgrass vegetation cover on the Managed Vegetation dust control measure will be completed using satellite imagery. The evaluation of the plant cover will be performed in the fall of October 2012. The District is currently learning how to conduct the compliance analysis from the 2011 growing season and is planning on taking over the evaluation and analysis of the data from 2012. A portion of the HydroBio II.K.17 budget will be used to provide technical support in this effort.

Hybrid Shallow Flooding-Managed Vegetation Compliance

The City has successfully created wetland areas within the Shallow Flooding dust control measure in several areas on the lake bed. These wetland areas are composed of a mix of vegetation, standing water, and exposed soils. Current dust control compliance determinations are based on whether an area meets either the Shallow Flooding wetness cover OR the Managed Vegetation cover requirement with credit only allowed for one measure of the other. This task is to continue to work in the establishment of a method for determining compliance in an area with mixed vegetation and water such that both control techniques are credited and factored into the compliance call.

II.K.18. – Satellite Images

District staff will be conducting the Owens Lake dust control compliance determinations in 2012-2013 instead of having an outside consulting company, as in the past. Due to the large areal extent of the dust control areas (currently approximately 40 square miles), the only practical way to conduct the compliance determinations is through analysis of satellite imagery.

The method used for compliance calls on the Shallow Flooding areas has been done in the past using LandSat imagery. This imagery is obtained at no cost from the U.S.G.S.. Prior to the fall of 2011 there were two LandSat satellites – LandSat TM5 and LandSat TM7 that provided an image of the Owens Lake area every 8 days. The LandSat TM5 satellite was preferred due to higher data quality. However, in November 2011, this satellite failed and is no longer available. This leaves only LandSat TM7 which has lower data quality and only provides an image of the lake every 16 days. This frequency and lower data quality is sufficient most of the time but restricts the District in its ability to conduct wetting calls in the Shallow Flooding. This was particularly evident in December 2011 and January 2012 when there were three successive LandSat TM7 overpasses that were not useable for a wetness call due to cloudy conditions.

Fortunately, there is another satellite that provides largely the same information as LandSat called SPOT which can be tasked to collect and image of Owens Lake on a specific date. However, unlike the LandSat images which are free, there is a cost of approximately $2,000 for the SPOT imagery. The District plans to use the LandSat TM7 image overpasses as the primary

compliance tool for the Shallow Flooding areas in 2012-2013. The SPOT images will be used for compliance analyses of the Shallow Flooding areas when needed either due to weather conditions making the use LandSat TM7 impossible or "on demand" when there is a concern that certain areas are not meeting the dust control wetness requirements. Additionally, a new LandSat satellite is scheduled to be launched in early 2013. The District will investigate the use of this imagery for Shallow Flooding compliance.

There is $10,000 budgeted in II.K.18 for purchase of satellite imagery for the 2012-2013 year so that the District can conduct the required DCM enforcement of the Shallow Flooding areas.

II.K.19. – Owens Lake History and Science – Scott Stine

The District considers the historic shoreline of Owens Lake for regulatory purposes to be 3,600 ft above mean sea level. Recently this shoreline elevation has been challenged by the City of Los Angeles. The funds budgeted in item II.K.19 are to provide the District with the professional services on the scientific basis for the history of Owens Lake. The District plans to retain Dr. S. Stine, a well known expert in the field of lake level and climate changes throughout California and the Great Basin physiographic region in order to provide knowledge with respect to the history and changes at Owens Lake. Budget item II.K.19 contains $25,000 for this work.

II.K.20. – Owens Lake Water Simulation: Model Update – Desert Research Institute

In 1997 the Desert Research Institute (DRI) completed a lake level simulation model for Owens Lake. In this model, the waters that used to flow into the lake from the Owens River and other streams and creeks were returned starting in 1913 when the City of Los Angeles began exporting water from valley. This model was used to demonstrate that Owens Lake would have recovered without water diversions and export. The model used data that extended through 1995. In the current disputes with the City, there has been discussion on the lake level history and shoreline elevation of historic Owens Lake. The work in II.K.20 is for updating the model from 1995 up to 2012 as well as possibly refining the previous work. Fortunately, the primary person involved in the model development from 1997 still works for DRI and will be used for the update and refinement of the previous model. Budget item II.K.20 contains $50,000 for this work.

Additional Details Regarding: Project Demonstration: Control Measure Testing, Item II.O.

The City is interested in transitioning some of the existing dust control areas from Shallow Flooding to Managed Vegetation. The transition is being considered in order to reduce the amount of water needed for dust controls on the lake bed. One of the main concerns with the transition process is that the vegetation used takes time to grow, establish and mature such that there will be a period of time in which the transitioned areas will not meet the required dust control levels. The 2008 SIP does not allow a transitioned area to cause or contribute to violations of the PM10 standard at the shoreline. This makes transitioning from Shallow Flooding to Managed vegetation very difficult.

The project included here plans to use straw bales placed on the surface to provide temporary dust control while the planted vegetation grows. This use of straw bales has been tested

successfully in other locations in the world to provide roughness to an area and thereby stabilize the surface and reduce dust emissions. In addition to providing temporary control of the surface emissions, the straw bales also provide protected locations and mulch for planting of vegetation, especially shrubs. Research on the control effectiveness of roughness elements show that the height of the element is important in its ability to control the surface such that the taller the element the more protection it provides. The relationship between control effectiveness and element size is exponential such that establishment of shrubs or taller vegetation provide much more protection of the surface downwind that a plant of shorter stature.

While the use of straw bales may be applied to any soil type for dust control, the test planned for 2012-2013 will be located on sandy soils due to the plants preference to sandy substrate. The project is planned for an area currently outside of the required dust control area in a location adjacent to Owens Lake. The test area is planned to be 50x100 meters (1.3 acres) in size and will be instrumented with sand motion monitoring sites (a mix of Sensits and CSCs) and meteorological sites (towers up to 5 meters in height). Approximately 570 bales of straw will be placed on the ground at set locations providing temporary stabilization of the surface. Approximately 225 native shrubs will be planted within the project adjacent to straw bales and monitored throughout the project.

The funds budgeted for this item include money for permitting, scientific instrumentation, control effectiveness monitoring, data evaluation and analysis, straw bale purchase and implementation, and growing and planting of native shrubs. The total budget is $103,200. A budget table is provided below.

II.O. - Project Demonstration: Control Measure Testing		**SB270**
1	Permitting	2,000
2	Straw Bales & Labor	7,200
3	Plant Materials & Propagation	3,000
4	Equipment & Instrumentation: Sensits & Met	41,000
5	Desert Research Institute: Control Effectiveness	30,000
6	HydroBio: Plants and Air Photos	20,000
	Control Measure Testing	**103,200**

IV. Legal Fee Assessment

The District is estimating that it will continue to incur considerable legal service costs to defend the APCO's 2011 Supplement al Control Requirements Determination (SCRD) in FY 2012-13. During the 2011-12 fiscal year, the LADWP took the following actions:

- LADWP contracted with the law firm of Jackson-DeMarco-Tidus-Peckenpaugh in the amount of $600,000 on September 6, 2011 to assist with Great Basin legal issues.

- LADWP filed an appeal with CARB on October 17, 2011 over the extension of Morrison and Foerster's existing legal services contract.

- LADWP filed an appeal with CARB on Dec. 2, 2011 over the 2011 Supplemental Control Requirements Determination.

- LADWP filed an appeal with CARB on Jan. 9, 2012 over the $250,000 legal fee assessment relative to its appeal of the 2011 Supplemental Control Requirements Determination.

- LADWP increased a contract for its outside attorneys on the 2011 SCRD matter by $850,000 on February 7, 2012 for a total of $1,450,000.

- LADWP filed two (2) lawsuits in Los Angeles County Superior Court on Feb. 14 & 17, 2012 over the 2011 SCRD CARB procedures (handled by outside attorneys) and over the $250,000 legal fee assessment (handled by City Attorneys) respectively. On February 29, 2012, the LADWP filed an Ex Parte Application in court regarding the 2011 SCRD requiring a response by the District's legal counsel in these matters.

The CARB has determined that outside legal counsel fees necessary for the District to implement, defend and enforce SIP requirement are a permissible category of fees under H&S §42316.

In 1997 the LADWP appealed a District fee assessment to the CARB. Among the fees disputed by the LADWP were costs associated with legal counsel retained by the District. In a decision dated June 25, 1998, the CARB found that:

> The outside legal counsel fees at issue in this appeal are a permissible category of fees under Health & Safety Code section 42316.

In support of this finding, the CARB stated:

> The language of Health & Safety Code section 42316 is sufficiently broad to permit an interpretation allowing the District to defend its orders on appeal to the [C]ARB. This interpretation is supported both by the strong fee-shifting concerns that motivated passage of section 42316, and by the larger statutory scheme, promoting self-supported District operations, in which it operates.

Thus, CARB has determined that the cost of legal counsel is a permissible category of fees.

Background

Supplemental Control Requirements Determination Process

The District's 2008 SIP contains a requirement for an annual SCRD. The SIP requires the District to continue to monitor air quality at Owens Lake and, as a mandatory contingency measure required by the federal Clean Air Act, determine if additional controls are required beyond those directly ordered in 2008. The LADWP must control all additional areas on the lake bed necessary to attain the air quality standards "as expeditiously as practicable" (Sections 172(a)(2) and 172(c)(9) of the Clean Air Act). After carefully analyzing data collected during the 4-year period from July 2006 through June 2010, the District determined that exceedances of the PM_{10} National Ambient Air Quality Standard (NAAQS) were caused by air pollution emitted from areas on the Owens Lake bed beyond those directly ordered for control in the 2008 SIP. Therefore, as required by law, on April 7, 2011, the APCO issued a preliminary SCRD to the Los Angeles Department of Water and Power (LADWP) requiring air pollution controls on an additional 2.93 square miles of the dried Owens Lake bed. The APCO believes there is very strong evidence that these controls are needed in order to meet the PM_{10} NAAQS in the southern Owens Valley.

As provided in the 2008 SIP, on June 3, 2011, the LADWP submitted an alternative analysis of the District's data and argued that no additional controls were required at this time. In addition to responding to the District's determination, the LADWP raised a number of legal and policy issues unrelated or only peripherally related to the SCRD. In addition, the LADWP raised issues that were barred under the 2006 Settlement Agreement between the District and the LADWP. On August 1, 2011, after carefully reviewing and responding to the LADWP's alternative analysis, the Air Pollution Control Officer issued a final SCRD. The final SCRD confirmed the preliminary determination. The District responded to all the LADWP's issues. [Note: The control area was slightly reduced by 0.07 square miles to 2.86 square miles in a revised final SCRD on November 18, 2011]

On August 8, 2011, the LADWP responded to the final SCRD by initiating the dispute resolution process provided for in the 2008 SIP. The SIP provides for a 60-day mediation process that was extended by mutual consent until November 11, 2011. The parties agreed upon a mediator, prepared and filed briefs and met one time with the mediator during the 95-day mediation period. The mediation did not result in agreement on the SCRD. The SIP provides for the LADWP to appeal the final SCRD to the CARB. LADWP appealed the final SCRD on December 4, 2011. Although the SIP specifies that CARB has 90 days to hear the appeal, a procedural order issued by CARB scheduled the appeal hearing for mid-May 2012. Upon completion of the CARB appeal process, either party can take the matter to court.

SCRD-Related Legal Fees

In support of the lengthy and somewhat complicated SCRD process, the District has engaged the services of its longtime outside legal counsel, Morrison and Foerster. Morrison and Foerster and the primary attorney on this matter have worked extensively with the District since 1998. Their expertise, knowledge and professional legal services on a vast number of Owens Lake issues have been invaluable in helping to develop the necessary agreements, language and

documentation to control the air pollution due to the LADWP's water diversions from Owens Lake.

The District budgeted and original contracted with Morrison and Foerster for outside legal services in the amount of $25,000 for the 2011-12 fiscal year. This amount is generally sufficient, as long as no significant special legal services are required. However, the legal issues and proceedings initiated by the LADWP over the 2011 SCRD represented additional needs for outside legal services. At subsequent Governing Board meetings in FY 2011-12, the Board increased Morrison and Foerster's contract limit to $825,000. These additional funds came from the District's SB 270 general reserves.

During the SCRD process, legal services and fees are being incurred by the District in order to enforce and defend the determination and the 2008 SIP Board Order. An additional legal fee assessment is needed to meet these current and anticipated expenses brought on by the LADWP's actions. If LADWP appeals the 2012 SCRD to CARB or files suit on the 2011 SCRD in another venue, additional legal fees will be incurred and are justified.

Legal counsel for the LADWP includes multiple Assistant City Attorneys and, in addition, it has historically contracted with outside counsel to assist with matters involving the District. In February 2006, during similar circumstances, the LADWP approved an initial $600,000 contract with the Los Angeles-based law firm of Mannatt, Phelps & Phillips, LLP for legal services pertaining to the 2005-2006 SCRD and associated lawsuits.

On May 18, 2011, the Office of the City Attorney for the LADWP solicited proposals from law firms to assist the City Attorney with Owens Lake air quality issues. On September 6, 2011 the LADWP Board approved a contract with the law firm of Jackson, DeMarco, Tidus and Peckenpaugh with an initial allocation, once again, of $600,000. On February 7, 2012, the LADWP Board approved an increase in this contract by $850,000 for a total of $1,450,000. As detailed in the LADWP's Board Letter dated August 24, 2011, the City Attorney's Office recognizes that retention of outside legal counsel with particular air quality experience and an expertise in administrative proceedings before State regulatory agencies is critical to the LADWP's efforts. It also states that the City Attorney's office, while regularly handling air quality compliance and environmental legal matters, does not currently have sufficient attorneys with the necessary level of expertise to adequately represent the LADWP on critical air quality issues.

Unlike the LADWP, the District does not have any in-house legal counsel. While the District utilizes the Inyo County Counsel's office for routine legal matters (personnel issues, labor law, administrative and procedural questions), the County Counsel does not have sufficient time or expertise in air quality and related issues that are required for this case. The District's current contract with Inyo County Counsel office is for $12,500.

Based on the recent expenditures made by the LADWP's Board of Commissioners ($1,450,000 for outside legal services), current and anticipated legal proceedings before CARB and lawsuits filed in Los Angeles County Superior Court and the District's recent legal fees of about $100,000 per month, the District proposes to assess a fee to the City of Los Angeles and its Department of Water and Power in the amount of $1,200,000 for legal fees and services during FY 2012-13.

This amount will enable the District to defend and enforce its 2011 SCRD and existing orders and agreements as well as respond to other legal actions initiated by the LADWP and enforce District orders and notices of violations.