



Legislation Details (With Text)

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**Title:** \*\*\* RESOLUTION - 19th amendment to the Annual Appropriation Resolution (AAR) No. 2015-104 to transfer \$500,000 from the MTBE Settlement Fund to the TCP Settlement Fund to fund outside counsel legal services costs related to prosecution of the TCP liability claims case (Citywide) (Requires five affirmative votes)

**Sponsors:** Department of Public Utilities

**Indexes:**

**Code sections:**

**Attachments:** 1. Reso 19th TCP Settlement Efforts .pdf

Date	Ver.	Action By	Action	Result
12/3/2015	1	City Council	approved	Pass

**REPORT TO THE CITY COUNCIL**

**December 3, 2015**

**FROM:** THOMAS C. ESQUEDA, Director  
Department of Public Utilities

**THROUGH:** BUD TICKEL, Water Systems Manager  
Department of Public Utilities - Water Division

**BY:** HENRY McLAUGHLIN, Business Manager  
Department of Public Utilities - Water Division

**SUBJECT**

\*\*\* RESOLUTION - 19th amendment to the Annual Appropriation Resolution (AAR) No. 2015-104 to transfer \$500,000 from the MTBE Settlement Fund to the TCP Settlement Fund to fund outside counsel legal services costs related to prosecution of the TCP liability claims case (Citywide) (Requires five affirmative votes)

**RECOMMENDATIONS**

Staff recommends that City Council approve the 19th Amendment to the AAR No. 2015-104.

**EXECUTIVE SUMMARY**

The City of Fresno has approximately 260 active wells that produce on average 88% of the water supplied to over 135,000 customers. Some wells within the City service area are threatened by various chemical contaminants, including 1,2,3-trichloropropane (TCP). In March 2007, Council approved the City joining in a lawsuit against TCP manufacturers to protect the City's claims and seek recovery of clean-up costs. On September 24, 2015, Council approved the expenditure of funds, consistent with the legal services agreement, to cover the cost of litigation. The recommended source of funding for these costs is a transfer from the Methyl Tertiary Butyl Ether (MTBE) Settlement Fund.

## **BACKGROUND**

The City of Fresno supplies approximately 88% of the water delivered to over 135,000 customers through 260 active wells (the remaining 12% is from surface water treatment facilities). Ground water contamination from various chemicals including TCP has threatened this water supply and required well closures and installation and operation of expensive well head treatment facilities. The City's complaint against the TCP manufacturers was filed on March 21, 2007, in San Francisco Superior Court, *City of Fresno v. Shell Oil Co. et.al.*

On September 24, 2015, Council approved the expenditure of funds, consistent with the legal services agreement, to cover the ongoing costs associated with the litigation.

The recommended source of funding for this cost are the settlement proceeds that have been deposited in the MTBE Settlement Fund. The use of these funds for litigation costs to help mitigate the groundwater contamination caused by TCP has been reviewed and approved by the City Attorney's Office.

## **ENVIRONMENTAL FINDINGS**

Adoption of this AAR Amendment is not a "project" for the purposes of CEQA Guidelines § 15378.

## **LOCAL PREFERENCE**

Local preference is not applicable because the AAR Amendment does not involve a bid or award of a purchase or services contract.

## **FISCAL IMPACT**

There is no impact to the General Fund. Funding for the legal services will come from the MTBE Settlement Fund. The funds were received from several defendants in settlements resulting from MTBE groundwater contamination within the City. The current fund balance is \$2.6 million.

Attachment:

19th Amendment to the Annual Appropriation Resolution No. 2015-104