**Legal Affairs Office Weekly Report: June 29 – July 3, 2020**

**ADMIN**: -Rebecca, Jennifer, and Brenda worked in the office at least one day each last week, separately. **Jennifer and Rebecca will be on telework status, but reporting to office on as-needed basis.**

Continue to focus this week on catching up with a) FOIA, b) contract reviews, and real estate

matters; c) directive on camera drafted – out for review by agency.

**ISSUES**: -Ethics: Confidential filers all in; completed reviews and certified. Cleared departing employees in Paper-vision; New Entrant Training scheduled for TBA; Completed Ethics handbook and PowerPoint. Preparing Annual Ethics training for staff via PowerPoint; preparing departing employee handouts for ethics closeouts

- EEO: 3 cases, all at EEOC: Supply person, Former Real Est. Chief, & Former Chief of ACQ;

Informal stage: Admin. (moved to formal complaint, willing to mediate); HR employee (EEO) mediation did not resolve issue letter advising of formal complaint rights issued; San Diego-Civil Engineer filed informal complaint for non-selection. Mediation of Ms. Houglin’s scheduled for June 23rd. Jennifer will be the agency representative. Planning a joint Legal EEO Directive.

- FOIA: 31 requests pending 3 Closed this week. 4 new; No appeals pending. Annual report and raw data completed. Working on Chief FOIA Officer report; reviewed more than 500 documents on Fischer for posting on website, which will provide responses to numerous FOIA requests. Sending prepared documents to outside agencies who also need to review. Reviewed, redacted, and processed approximately 570 documents with response to Fisher. Started consults and once released will allow us to close approximately 10 FOIAs.

- We Build the Wall: (*Sunland Park*) Waiting for CBP response to draft MOA between USIBWC and CBP re operation of private gate. Working with Real Estate re: status of WBTW permit request - no response from WBTW to USIBWC’s list of additional documents for gate permit. Information that has been released pursuant to FOIA about WBTW Sunland Park project is now available on Agency website. Email sent to DHS informing them that analysis complete; Letter with model results and model sent to Fischer.

(*Mission, TX*). modeling completed and sent to Mexico for review. 10% deflection into US may be mitigated with gate. Mexico preliminary response received. Joint meeting sought with DHS. . Status hearing held May 6. Court extended modeling work 60 days. Mexico responded hopes to have their modeling done by end of May.

- New River Concerns: Met with County to work toward Minute and obtaining money for feasibility study funded by NADBANK, and possible treatment plant.

**CASES** - AZ v. USIBWC (v. City of Nogales): DOJ Lead, U.S Dist. Court Environmental case based on

metals in effluent and alleged leaking IOI; Settlement meeting homework completed except for deliverables by City of Nogales. Easements for IOI rehab project ongoing. 3 changes to settlement and MOA from City received. USIBWC staff completed rough estimate of new pipeline at a minimum $85 M. Final offer sent to Arizona. Status check on settlement due to Court May 12. Offer to settlement by USIBWC accepted by Arizona. Pending DOJ approval, which is now before the very last person to approve, so should occur soon. Arizona AG has completed review and approved settlement. AZ financial contribution to occur in 2 checks. Still waiting on DOJ approval.

- San Diego (Wastewater): DOJ Lead; 3 cases in US Dist. Ct.: **(#1**) Filed 3/2/18 by Imperial Bch

(IB), Port of SD, & Chula Vista; **(#2**) Filed 7/18/18 by Surfrider, & **(#3**) Filed 9/5/18 by Water

Brd; California Land Commission and City of San Diego moved to intervene in Water Board

case. Cases in discovery. Answer to Investigative Order submitted to State Water Board on March 12th; receipt confirmed.

Joint Motion to Modify Dates granted by Judge, moving dates by 60 days. All depositions set in April have been continued. Staff consulted and direction given to DOJ regarding Veolia Settlement; Offer of Judgment and final SOW transmitted to Plaintiffs. Pre-settlement conference call with DOJ and Plaintiffs set for April 28; Plaintiffs have submitted new dates for USIBWC depositions. Return to Court set May 11. USIBWC prepared list of purchases to make for TJ for short-term impacts to region and submitted offer to Plaintiffs. EPA USMCA stakeholder meeting on June 2. Plaintiffs accepted equipment offer; motion to extend discovery granted by court; Plaintiffs taking Offer to Stay of Case to boards, councils and commission until June 23. State Water Quality Board denied Petition for Review of Administrative Order. Appeal is due July 11th.

- Taylor: Waiting for EEOC decision on Mot. to Dismiss/for Summary Judgment

- Scott: EEOC case, awaiting ruling on dispositive motion filed Nov. 30, 2018

- Buie: EEOC case filed 6/24/2019; no action by EEOC.

- Nogales Collection Action: DOJ Lead; Draft complaint with DOJ, linked to AZ v. USIBWC

- Serna: Civilian (Ms. Serna) accident involving USIBWC vehicle (Mercedes field office personnel) on 5/30/2018. Very minor damage. Agency settled with Serna’s insurance company. Then, she filed a separate tort claim filed with agency which was denied. She filed a complaint in federal on 10/8/2019; USIBWC answer filed 12/9/2019. Answers to Interrogatories and Responses to Request for Production of Documents completed. Settlement for nominal amount ideal. Reviewed medical records and discussed with AUSA a potential settlement. Agreed to start with a low offer of $10,000 but would consider up to $20,000. Mediation possible if no settlement; Offered $9000 to settle; Plaintiffs countered with $15000; accepted offer. Drafting settlement and release of all claims; notified Diana of settlement.

- TX v. NM and CO, US SC case; US (DOJ) entered litigation on TX’s side; Discovery ongoing;

US SC ruling allows USG to litigate with Texas, federal interests include 1906 Convention

responsibilities; NM counterclaims: #8 attacks USIBWC river maint. & #9 attacks USIBWC

water deliveries to Mexico; reviewing microfiche documents for possible production

during discovery; counsel for all parties met in Las Cruces on May 22, 2019, follow up

meeting to be scheduled. IT is working on electronic discovery through Daniel Ramirez. Refinements of searches being completed. DOJ has contacted us regarding provider support to review documents.

-Minute 320: Bylaws with drafting group.

-Minute 319/323: MX administrative charges issue discussed with State funders; another call will be held to discuss transfer of water.

-OSC Complaints/Investigation- Complaint filed on Aranda hiring and org chart cleanup. Met with J. Rife and obtained documents to respond to OSC. Response to OSC sent. Additional documents sent to OSC. Additional documents requested by OSC.

Partying/motorized Vehicles on Upper Valley Levees: Received numerous citizen complaints regarding trashing/partying/motorized vehicles on levees; coordinating with Operations, Admin, Security to address; meeting with Aaron/Sheriffs to enforce/citations – MOU with El Paso County sent – call to DA to finalize EP City Police MOU; follow-up on installation of signage.

-D7 Study/IBWC Coordination: Telecon with BOR for brainstorming IBWC coordination set for June 29th.