

**Notice from the Los Angeles Superior Court**  
**re: *CARGILL v. MWD CLASS ACTION LAWSUIT***

**THIS NOTICE IS TO INFORM YOU OF:**

- (1) **THE TERMS OF A TENTATIVE CLASS-WIDE SETTLEMENT,**
- (2) **A HEARING TO CONSIDER FINAL APPROVAL OF THE SETTLEMENT, AND**
- (3) **YOUR OPPORTUNITY TO OBJECT TO THE SETTLEMENT OR TO "OPT OUT" AND BE EXCLUDED FROM THE SETTLEMENT**

**To:** All persons who have provided services to the Metropolitan Water District of Southern California on a full-time basis as "District Temporary Employees," "Agency Temporary Employees" and/or "Consultants".

**Subject:** *Cargill, et al. v. Metropolitan Water District of Southern California, et al.*, Los Angeles Superior Court, Case No. BC 191881.

**Purpose of this Notice:**

- To inform you of the terms of a tentative, class-wide settlement in the *Cargill* case, which creates a settlement fund of \$35,000,000 to be used to compensate class members for not receiving certain non-pension employee benefits, to pay reasonable costs and attorneys' fees to Class Counsel, to compensate those class members who expended time and assumed risk in furthering this lawsuit, and to address wrongful termination claims by the class representatives. The settlement also provides current MWD employees with adjustments to their leave banks, leave accrual rates and wages rates.
- To inform you that this settlement has been given *preliminary* approval by the Court, but the Court has not expressed an opinion on the merits of the claims being settled and has not yet made a final determination that the settlement is fair, adequate, reasonable and in the best interest of the class.
- To inform you that the Court will consider final approval of the settlement at a fairness hearing to be held on **May 31, 2006**, that you have the right to inform the Court of any objections you may have to the settlement, and how to exercise that right.
- To inform you that you have the right to "opt-out" and be excluded from the settlement, in which case you will not be bound by the settlement but will not receive any benefit from the settlement, and how to exercise that right.

**Dates by which you must respond to this Notice:**

- If you wish to benefit from the settlement, you must complete, sign and submit the attached Claim Form to Class Counsel **as soon as possible but no later than December 31, 2006**. For more information, see Section 6 of this Notice.
- If you wish to object to the terms of the settlement, you must file written objections with the Court no later than **April 28, 2006**. For more information, see Section 8 of this Notice.
- If you wish to opt-out of the settlement, you must notify Class Counsel in writing no later than **April 28, 2006**. For more information, see Section 9 of this Notice.

**If you do not submit a timely Claim Form and do not "opt-out" of the settlement, you will receive none of the benefits of the settlement, and you will lose your right to bring a separate action against MWD.**

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<u>TABLE OF CONTENTS</u>		<u>Page</u>
1.	WHAT CLAIMS HAVE BEEN ASSERTED IN THE LAWSUIT?	2
2.	WHAT LEGAL PROCEEDINGS HAVE TAKEN PLACE TO DATE?	3
3.	WHAT CLAIMS WILL BE RESOLVED BY THE TENTATIVE SETTLEMENT?	5
4.	WHO IS COVERED BY THE SETTLEMENT?	6
5.	WHO REPRESENTS THE CLASS?	6
6.	WHAT ARE THE TERMS OF THE SETTLEMENT?	6
7.	WHAT AMOUNT WILL BE SOUGHT AS COSTS AND ATTORNEYS' FEES?	8
8.	WHAT IS THE SETTLEMENT APPROVAL PROCESS?	10
9.	CAN I EXCLUDE MYSELF FROM THE CLASS?	10
10.	WHERE CAN I GET FURTHER INFORMATION?	11

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**1. WHAT CLAIMS HAVE BEEN ASSERTED IN THE LAWSUIT?**

This class action lawsuit alleges that the Metropolitan Water District of Southern California engaged in a practice that deprived a large number of persons who provided personal services to MWD of both (a) non-pension employee rights and benefits to which they were entitled under the statutory provisions governing employment at MWD including, in particular, MWD's Administrative Code ("the Ad Code") and its Memoranda of Understanding with AFSCME Local 1902 ("the MOUs"); and (b) pension rights to which they were entitled under the state Public Employees' Retirement Law, Government Code sections 20000 *et seq.* ("the PERL").

The lawsuit alleges that MWD violated the Ad Code, the MOUs and PERL by maintaining a system of employment categories that failed to take into consideration the eligibility requirements for "regular full-time employee" under the Ad Code and the MOUs and for "employee" under the PERL. The lawsuit further alleges that, instead of recognizing that class members qualified under these laws as MWD "regular full-time employees," MWD treated class members as if they were (i) District Temporary Employees ("DTEs"); (ii) Agency Temporary Employees ("ATEs"); and (iii) Consultants, and on that basis denied them the full non-pension and pension rights and benefits to which "regular full-time employees" are legally entitled. MWD denied the ATEs and Consultants all non-pension and pension rights and benefits and denied the DTEs most non-pension rights and benefits and some pension benefits.

The lawsuit makes two claims for relief against MWD:

**The Ad Code Claim.** Under this claim, the lawsuit seeks to obtain relief for all full-time DTEs, ATEs and Consultants who can be shown to have provided services to MWD as its "regular full-time employees" as that term is defined in the Ad Code and the MOUs. The relief sought for these class members consists of the retroactive and prospective non-pension employee benefits and rights to which they were entitled under the Ad Code and the MOUs as "regular full-time employees". **The Ad Code Claim is the only claim addressed by the tentative settlement discussed by this Notice.**

**The PERL Claim.** Under this claim, the lawsuit seeks to obtain relief for all full-time ATE and Consultants who can be shown to have provided services to MWD as its "employees" as that term is defined in the PERL and for all full-time DTEs who can be shown to be entitled to an earlier CalPERS enrollment date. The relief sought for these class members consists of retroactive enrollment in CalPERS and pension service credit for all of the time they provided services to MWD as "employees" under PERL. **The PERL Claim was the subject of a prior Notice that you already should have received; copies of the PERL Notice and the CalPERS Information Form that will expedite your relief under this claim can be obtained from MWD's or Class Counsel's websites. See Section 3 of this Notice.**

MWD denies that it engaged in any improper practices, denies all allegations made in the lawsuit and denies that class members are legally entitled to the relief sought by the lawsuit.

## **2. WHAT LEGAL PROCEEDINGS HAVE TAKEN PLACE TO DATE?**

The claims underlying this lawsuit were first presented to MWD by various class members in 1997 and 1998, by the submission of a series of administrative claims. All of these administrative claims were denied by MWD. Subsequently, two class action lawsuits were filed with the Los Angeles Superior Court, one on June 1, 1997 and a second on July 17, 1997. The Superior Court consolidated the two cases on November 24, 1998, and the cases have proceeded as a single lawsuit since that date. The attorneys for the two cases joined forces to prosecute the consolidated action. AFSCME Local 1902 intervened as a party aligned with the Petitioner Class on July 13, 2004.

The lawsuit sought relief against MWD under the above-described PERL Claim and Ad Code Claim. It also brought a third claim brought against a number of employment agencies and consulting firms ("the Agency Defendants") alleging violations of the California Unfair Competition Law ("the UCL Claim"). The UCL Claim alleged that the Agency Defendants engaged in fraudulent, unlawful and/or unfair business practices that were likely to mislead class members into believing that they were employees only of the Agency Defendants, and not employees of MWD, and hence that they were not legally entitled to the pension and non-pension benefits provided to MWD employees.

A copy of the Fourth Consolidated Petition for Writ of Mandate and Complaint, in which the allegations underlying all three claims are set forth, can be found on the website for the Cochran-Bond Law Offices: [www.c-blaw.com](http://www.c-blaw.com).

During the initial stage of the litigation, from 1998 through 2000, the lawsuit was subject to a number of legal challenges by both MWD and the Agency Defendants. MWD sought a dismissal of the PERL and Ad Code Claims contending that administrative remedies had not been exhausted prior to filing the lawsuit. The Agency Defendants brought a series of motions seeking a dismissal of the UCL Claim and the striking of certain forms of relief under the UCL Claim. All three claims survived these motions, though the Court struck the request for monetary relief from the Agency Defendants under the UCL Claim, ruling that the mark-up on the class members' pay rates was the Agency Defendants' profit, rather than the class members' earned compensation that, but for the unlawful practices, would have paid for the class members' employee benefits.

During this same time period, all parties engaged in extensive discovery of information from each other, including information and documents related both to the challenged practices engaged in by MWD and the Agency Defendants and to all aspects of the employment of the class members who were hired pursuant to these practices.

On November 3, 1999, the Superior Court found the case appropriate for treatment as a class action and certified a class defined as follows:

**Overall Definition:** "All past and present full-time employees of the MWD whose employment was or is for an indefinite period of time who have been denied pension participation in violation of PERL and/or have been denied compensation, benefits and employment rights in violation of MWD's Administrative Code."

**DTE Subclass:** "Those class members who, while recognized by MWD as being its employees, have been misclassified as being "temporary" and hence have been improperly categorized by MWD as 'district temporary employees'."

**ATE Subclass:** "Those class members who have been misclassified as not being MWD employees and who have been categorized by MWD as 'agency temporary employees'."

**Consultant Subclass:** "Those class members who have been misclassified as not being MWD employees, who have worked as part of an integrated workforce controlled by MWD, and who have been employed specifically to work at MWD as a result of a contract to provide personnel or a single individual entered into under MWD's contracting authority, most of whom have been categorized by MWD as 'consultants' or 'direct consultants'. This category does not include those individuals who were regular employees of a contracting firm prior to their being placed to work at MWD."

MWD reserved its right to seek decertification of the class at a later stage in the litigation.

On February 9, 2001, the Superior Court issued a ruling on *Issue A*, the central issue underlying this lawsuit's PERL Claim: "Whether MWD is mandated by the Public Employees' Retirement Law to enroll all common law employees in CalPERS?" The Superior Court answered this question in the affirmative, ruling that "the Legislature intended to mandate enrollment of common law employees in CalPERS under PERL in the circumstances alleged here by Petitioners." MWD and the Agency Defendants appealed this ruling. On October 16, 2001, the Court of Appeal affirmed the Superior Court and held: "MWD is required to enroll all its common law employees in CalPERS." MWD and the Agency Defendants then sought review by the California Supreme Court. The Supreme Court agreed with both of the lower courts and ruled that MWD is required by state law "to enroll in CalPERS all common law employees except those excluded by specific statutory or contractual provisions." *MWD v. Superior Court (Cargill)* (2004) 32 Cal.4th 491, 496. The Court further concluded that "nothing elsewhere in the PERL, in MWD's administrative code, or in the statutes and regulations addressing joint employment in other contexts supports reading into the PERL an exception to mandatory enrollment for employees hired through private labor suppliers." (*Id.* at 509.)

Upon remand to the Superior Court, MWD sought to have the PERL Claim dismissed, claiming that MWD had no present duty to enroll any class members in CalPERS. On July 15, 2004, the Superior Court denied this motion, ruling that MWD had a "present mandatory duty" obligating it "to make threshold determinations as to enrollment and to enroll those it deems common law employees."

MWD then made a series of threshold assessments which have resulted in 339 class members being identified by MWD as being eligible for enrollment in CalPERS. Based on the information MWD had in its possession, MWD contested the eligibility of approximately 3,939 persons identified as potential class members. Petitioners disagree with MWD's threshold assessments and are in the process of making showings to CalPERS to support the enrollment of all members of the ATE and Consultant Subclasses who worked as part of an integrated workforce controlled by MWD. MWD and Petitioners have agreed to seek initial resolution of the claims of the potential class members who remain in dispute by submitting a series of pilot/test cases to CalPERS, the administrative body with initial authority to make determinations regarding the eligibility of individuals for CalPERS benefits. The administrative process is currently underway.

Through the CalPERS administrative process, the parties currently are seeking determinations by CalPERS regarding: (1) MWD's obligation to enroll these additional class members in CalPERS; and (2)

whether MWD or the class members will be responsible for depositing the employee contributions with CalPERS to pay for the service credit of persons found to be eligible for retroactive enrollment.

Thus far, CalPERS has made an initial determination that MWD is responsible for paying the employee contributions for the first 100 class members who have been enrolled, after finding that MWD knew or could reasonably have been expected to have known that these class members were eligible for enrollment and failed to enroll them on a timely basis. MWD is appealing this determination within CalPERS. Final decisions by CalPERS on both of these issues will be subject to review by the courts, if MWD or Petitioners decide to appeal them.

During the four year period that the PERL claim was proceeding through the court system, the parties continued to litigate the Ad Code Claim and the UCL Claim. With regard to the UCL Claim, the Agency Defendants brought two additional motions, both seeking a dismissal of the claim. The first motion was based on the issue identified by the Superior Court as central to the UCL Claim, *Issue B*. In this motion, an Agency Defendant sought dismissal on the ground that the Petitioners were precluded from seeking injunctive relief from an Agency Defendant that no longer was doing business with MWD. The Superior Court denied this motion on September 5, 2000. The second motion was brought by all of the Agency Defendants on the ground that the action presented insurmountable case management problems and violated the Agency Defendants' due process rights. This motion was denied on November 21, 2001. Finally, Petitioners brought a motion which sought to reinstate their request for monetary relief for the class members from the Agency Defendants based upon two new decisions by the California Supreme Court. This motion was denied on November 17, 2000.

With regard to the Ad Code Claim, the Superior Court authorized MWD to file a motion that sought to strike all claims of class members for retroactive wages, benefits, service payments, and other retroactive relief. The Court also has identified *Issues C* and *D* as two central questions that needed to be answered in order to resolve potential liability under the Ad Code Claim. *Issue C* addressed the question: What criteria should be used to determine whether an MWD employee is "temporary" or "regular" as those terms are defined by the Ad Code and the MOUs? *Issue D* addressed the question: Is MWD mandated by its Ad Code to provide compensation, benefits and employment rights to persons who meet the legal definition of "regular full-time employees" under the Ad Code, but who have been categorized by MWD as "agency temporary employees" and/or as "consultants"?

After conducting extensive legal research and discovery of information from all parties in preparation for the submission of these three Ad Code issues to the Superior Court, Petitioners and MWD agreed to refrain from submitting these issues for resolution by the court in order to engage in a mediation to determine whether they could reach a settlement and avoid a litigation and appeal process that likely would take years. Their first attempt at mediation was presided over by Judge Raul Ramirez (Ret.). The parties engaged in mediation sessions held on October 21, October 22 and November 12, 2003, but a settlement could not be reached. The parties again attempted to negotiate a settlement of the Ad Code Claim in a mediation with Judge Eli Chernow (Ret.) in May 2005. After sessions on May 17 and May 18, the parties both accepted a proposal for settlement made by the Mediator, and on October 6, 2005, the parties reached agreement on the proposed settlement described by this Notice.

### **3. WHAT CLAIMS WILL BE RESOLVED BY THE TENTATIVE SETTLEMENT?**

The tentative settlement, if given final approval by the Court, will resolve the Ad Code Claim only, i.e., the claim for retroactive and prospective non-pension employee benefits and rights. It will cover all such claims that arose prior to November 17, 2005. The Court has not yet expressed a position on the merits of these claims. The tentative settlement discussed in this Notice has nothing to do with either the PERL Claim for pension benefits or the UCL Claim for injunctive relief against the Agency Defendants.

You should have received a *different* notice during the fall of 2005 that addressed the status of the PERL Claim in more detail. A copy of this earlier class notice can be found at [www.c-blaw.com](http://www.c-blaw.com). As described in the Section 2, the PERL Claim currently is proceeding through the CalPERS administrative process. If you have not already submitted a **CalPERS Information Form** to Cochran-Bond Law Offices, it is important that you do so now. Please print a copy from the [www.c-blaw.com](http://www.c-blaw.com) website and mail the completed form as soon as possible.

#### **4. WHO IS COVERED BY THE SETTLEMENT?**

On November 3, 1999, the Court certified the *Cargill* case as a class action on behalf of a class and three subclasses as defined in Section 2 of this notice. The proposed settlement covers all persons who fall within that definition and covers their Ad Code claims through November 17, 2005, unless they have opted out of the settlement. At the time the case was first certified as a class action, class members were given the opportunity to exercise their right to be "opt-out" of the class for purposes of receiving "make whole" relief under the Ad Code Claim. The persons who opted out at that time are not entitled to any relief under the tentative settlement. All persons who fall within the class definition who did not opt-out at that time are covered by the settlement *unless they choose to opt-out on or before April 28, 2006*. (For more information regarding your right to opt-out of the settlement, see Section 9 of this Notice.) **All persons who fall within the class definition and who have not opted out will lose their right to bring a separate action asserting Ad Code claims against MWD for the time period covered by this lawsuit, whether or not they file a timely Claim Form.**

You may or may not be a class member qualified to participate in the Ad Code settlement. You are receiving this notice because you have been identified as a *potential* class member. Under the proposed settlement, Class Counsel will make an initial determination whether or not you qualify for relief based on the information provided by you in the Claim Form as well as the information that has been obtained from the Agency Defendants and MWD during the course of the lawsuit. Class Counsel will assess whether you are eligible for relief on the basis of whether you provided services to MWD on a full-time basis as a common law employee and for an indefinite period of time. No one factor will be conclusive. If a claimant disagrees with a determination by Class Counsel that he or she is ineligible for relief, he or she will be able to challenge the adverse determination through a dispute resolution process set up by the settlement and to have a final decision made by an arbitrator. The arbitration costs and arbitrator fees would be paid by the losing party, and each party would bear its own attorneys' fees and costs.

#### **5. WHO REPRESENTS THE CLASS?**

The Court approved the following individuals as the Class Representatives: Anvar Alfi, Paul Broussard, Dewayne Cargill, Charlotte Manuel, Steven Minor, Lisa Nelson, John Sims, Sun Son and Joseph Zadikany. The Court also approved the following attorneys to serve as Class Counsel: Walter Cochran-Bond of the Cochran-Bond Law Offices (lead class counsel), Judy A. Friedman and Richard N. Grey. Class Counsel can be contacted by mail at Cochran-Bond Law Offices, 624 S. Grand Avenue, Suite 2200, Los Angeles, CA 90017 or by email at [mwdlawsuit@c-blaw.com](mailto:mwdlawsuit@c-blaw.com).

#### **6. WHAT ARE THE TERMS OF THE SETTLEMENT?**

**To obtain relief under the settlement, class members *must* complete, sign and submit the Claim Form attached to this Notice no later than December 31, 2006. You should return the Claim Form as soon as possible so that Class Counsel can begin processing claims.**

The settlement creates a Settlement Fund in the amount of \$35,000,000.00 to be apportioned by the Court to the following four purposes: (1) to compensate class members on a *pro rata* basis for retroactive benefits and wages that they did not receive and to pay the expenses associated with the administration and

distribution of the Fund; (2) to pay an award of reasonable costs and attorneys' fees to Class Counsel, in an amount to be determined by the Court (see Section 7, below); (3) to make service payments to class members who provided extraordinary assistance in the prosecution of the case for their time, energy, expense and risk in furthering the interest of the class, in amounts to be determined by the Court; and (4) to compensate those Class Representatives found by independent fact-finders to have had their work with MWD wrongfully terminated for their lost pay, in amounts to be determined by the fact-finders.

The Settlement Fund will be maintained, until distributed, in a trust account with Citizens Business Bank and invested by the Bank's Trust Department. The only deductions that will be made from this Fund will be for the purposes described above as well as to pay the expenses incurred in connection with the administration and distribution of the Fund. Expenses are expected to include, but not be limited to, those incurred for class notice, postage, messengers, printing, copies, envelopes, checks, bank fees and the preparation of any tax returns and other tax related documents required to be filed on behalf of the Fund. It is estimated that these expenses will not exceed \$25,000. Expenses also may include arbitration costs and arbitrator fees should any Claimants successfully challenge a decision regarding their entitlement to relief.

All persons who submit timely Claim Forms and are found to be eligible for relief ("Eligible Claimants") will share in the amount remaining in the Settlement Fund after it has been apportioned to the four purposes set forth above. Eligible Claimants will receive a *pro rata* share in proportion to their respective maximum potential claims for monetary relief ("maximum potential relief") as calculated by a damages model created for the litigation of this case by Class Counsel and an economic consulting firm.

The calculations under the damages model take into consideration the Eligible Claimants' employment dates, employment status and wage rate information. This information has been compiled by MWD and Class Counsel during the course of the *Cargill* litigation. For some class members, however, this information may be inaccurate, incomplete or missing. Hence, it is important that all claimants do their best to provide complete and accurate information in their submitted Claim Forms. Eligible Claimants will be contacted if the information they provide is at variance with the information already accumulated, and if the discrepancies cannot be resolved, the settlement provides a dispute resolution process whereby an arbitrator will make the final decision. The arbitration costs and arbitrator fees are to be paid by the losing party, and each party is to bear its own attorneys' fees and costs.

**You should return your Claim Form as soon as possible so that Class Counsel may begin evaluating your claim and resolving any discrepancies. It is even more important to submit your Claim Form early if you are unable to provide all of the requested information because Class Counsel may have to obtain the information from other sources. Also, the Claim Form can be supplemented later when you locate additional information. However, you should not fail to submit the Claim Form just because you cannot locate all of the requested information: if you do not return your Claim Form by December 31, 2006, you will be disqualified from receiving any share of the Settlement Fund.**

The damages model is based on the assumption that the class prevailed on every single contested issue, so the calculated damages will be the *maximum potential relief* under the lawsuit. The damages model computes monetary amounts for the following Administrative Code benefits: annual leave; holiday pay; severance pay; 401(k) contributions; retroactive pay adjustments for failure to receive merit pay increases; premiums for health, dental, vision, life and long term disability insurance; and compensation for the availability of paid personal leave, sick leave, disability leave, bereavement leave, military leave and jury leave. It then subtracts the value of the benefits already received by each class member during the relevant time period from MWD, an employment agency or a consulting firm. The damages model will adjust these amounts by including interest from the dates the benefits would have been received to November 17, 2005. (A more detailed description of the damages model can be found on the Cochran-Bond Law Offices' website, [www.c-blaw.com](http://www.c-blaw.com).)

Please note, however, that Eligible Claimants are **not** expected to receive the full amount of the maximum potential relief calculated by the damages model. Each Eligible Claimant will be paid a percentage of his or her maximum potential relief. That actual percentage cannot be known until all Claim Forms have been submitted and analyzed and all of the expenses of administration have been deducted. Since the division of the money in the Settlement Fund among Eligible Claimants will be done on a *pro rata* basis, the actual amount of the monetary relief attributed to each Eligible Claimant will depend upon the number of Eligible Claimants and the cumulative total of their maximum potential relief.

The monetary relief from the Settlement Fund will be distributed after the following matters become final and are no longer appealable: (a) the Court's approval of the Settlement Agreement; (b) the Court's apportionment of the Settlement Fund; (c) the determination of whether MWD or class members will be responsible for making the class members' mandatory pension contributions to CalPERS; and (d) all challenges, if any, by Claimants during the implementation of the settlement.

If it is determined that MWD is responsible for making the class members' mandatory pension contributions, the monetary relief from the Settlement Fund will be distributed directly to the Eligible Claimants. If it is determined that an Eligible Claimant is responsible for making his or her CalPERS pension contributions, the Claimant's monetary relief shall be used first to make any mandatory contributions. Any amount not needed to make the CalPERS contributions will be distributed directly to the Claimants.

The following class members who file valid Claim Forms are subject to additional and/or alternative provisions:

**Current Employees as of May 18, 2005.** For those Eligible Claimants who were MWD regular employees as of May 18, 2005, the settlement requires MWD to provide "make whole" relief directly to the Claimants for the following benefits by crediting them for their entire time as a district temporary employee, an agency temporary employee, and/or a consultant: (1) adjustments to their leave banks for annual leave, sick leave and disability leave; (2) adjustments to their accrual rates for vacation and disability leaves; (3) adjustments to their current wage rates by assigning the wage rates that would have resulted from a minimum of a two-step salary advancement for each full year that they worked until they reached the top step of their then-current job classification; (4) adjustments to their annual performance review dates for future merit increases; (5) adjustments to their seniority dates for purposes of layoffs and displacements; and (6) an opportunity to request classification studies for their current positions to the extent that the opportunity has been unavailable to them in the past. These Eligible Claimants also will have a *pro rata* share of the monetary relief from the Settlement Fund attributed to them, but it will be based only on the value of the following retroactive benefits: holiday pay; 401(k) contributions; retroactive pay adjustments for failure to receive merit pay increases; and health, dental, vision, life and long term disability insurance premiums.

**Participants In A Partial Settlement.** For those Eligible Claimants who are former district temporary employees who participated in an earlier partial settlement, the proposed settlement provides relief only for their unsettled claim for retroactive back pay for MWD's failure, if any, to provide them with merit pay increases during their service as an agency temporary employee and/or as a consultant. For these Claimants, the *pro rata* shares of the Settlement Fund attributed to them will be based solely on the value of that relief.

**Claimants No Longer Employed.** For those Eligible Claimants who no longer work for MWD, but who worked at MWD as a DTE, ATE, Consultant and/or Regular Employee for a total of four years or more and stopped working at MWD after June 1, 1998, the settlement provides for reinstatement rights in accordance with the MOU for a period of two years, starting with the date the approval of the settlement becomes final and non-appealable.

A copy of the entire tentative Settlement Agreement, and all attachments, is posted on the Cochran-Bond Law Offices' website at [www.c-blaw.com](http://www.c-blaw.com).

## 7. WHAT AMOUNT WILL BE SOUGHT AS COSTS AND ATTORNEYS' FEES?

Class Counsel and counsel for AFSCME Local 1902 ("Counsel") intend to request an award of reasonable cost and attorneys' fees to be paid from the Settlement Fund under the common fund and substantial benefit doctrines. Under these doctrines, attorneys may be compensated for their services by awarding them a percentage of the monetary value of the relief obtained through their skill and effort.

Counsel intend to request that the Court apportion from the overall Settlement Fund an award of costs and attorneys' fees equal to: (1) the amount of attorneys' fees previously paid to Class Counsel by those class members who obtained relief from the prior partial DTE settlement; plus (2) an amount based on a percentage of the monetary value of the overall relief obtained for class members under the proposed Ad Code settlement.

(1) Under the partial DTE settlement, the class members paid fees to Class Counsel with the understanding that the class members would be reimbursed for some or all of those fees if Class Counsel were successful in obtaining an award of attorneys' fees paid by MWD. Such an award of fees has been expressly included as part of the overall Settlement Fund created by the proposed Ad Code settlement. Under the individual retainer agreements with these class members, Class Counsel are obligated to request the Court to apportion from the Settlement Fund an amount representing the fees obtained from MWD attributable to the partial DTE settlement. Class Counsel intend to request that the Court apportion an amount equal to the entire amount of fees previously paid by these class members. Whatever amount the Court finds appropriate will be used to reimburse some or all of the fees paid by these class members under the retainer agreements.

(2) Counsel intend to ask the Court to apportion from the Settlement Fund an award of costs and fees based on the following valuation of the overall relief obtained under the proposed Ad Code settlement: (a) the monetary relief obtained for all Eligible Claimants to compensate for the past denial of non-pension benefits; and (b) a portion of the "make whole" relief obtained for those Eligible Claimants employed by MWD as of May 18, 2005.

(a) Counsel intend to propose that the value of the monetary relief obtained for all Eligible Claimants should be the balance of the \$35,000,000 Settlement Fund after subtracting: (a) the class member service awards as determined by the Court; (b) the back pay awards, if any, to the class representatives and the costs of obtaining a neutral determination of those awards; and (c) the amount apportioned to reimburse the fees already paid by those class members who participated in the partial DTE settlement.

(b) Counsel intend to propose that the valuation of the overall relief include, for purposes of the award of costs and fees, a portion of the "make whole" relief obtained for those Eligible Claimants employed by MWD as of May 18, 2005. Counsel will propose to limit the value of the "make whole" relief, for purposes of the award, to the value of the *increases* in their vacation leave banks plus the value of the *increases* in their sick leave banks. Counsel will propose that the value of the increase in vacation leave hours be determined by multiplying the number of additional hours obtained for a class member times the adjusted hourly rate for that class member. Counsel will propose that the value of the increase in sick leave hours be determined by: (i) multiplying the increased number of sick leave hours, to the extent that these hours bring the total in the leave bank up to 1,000 hours, times the class members' adjusted wage rates and then multiplying this amount by 52.2%; and (ii) multiplying the increased number of sick leave hours, to the extent that these hours cause the leave bank to exceed 1,000 hours, times the class members' adjusted wage rates. Counsel will *not* ask the Court to include the value of increases in disability leave banks or the value of prospective benefits resulting from the increases in wage rates and accrual rates for vacation leave, sick leave and disability leave that also will be obtained for these Claimants.

Finally, Counsel intend to ask the Court to award an amount *not to exceed* 30% of the valuation of the overall relief obtained by the settlement as described above. The Court, however, will make the final determination of the actual percentage to be used and the actual manner in which the value of the settlement should be calculated.

Class Counsel believe that such an award is justified in light of the exceptional results obtained for class members through the settlements, the substantial expenditure of costs and time incurred by Class Counsel in prosecuting the Ad Code Claim without being paid, the substantial risk of not being paid at all for their efforts, and the more than seven-year delay in their being paid for their efforts. This award will compensate Class Counsel for their litigation of the Ad Code Claim in the *Cargill* class action and will compensate counsel for Local 1902 for their litigation of the Ad Code Claim in *Cargill* and the related grievances. It also will compensate Class Counsel for the time expended on the normal implementation the settlement.

## **8. WHAT IS THE SETTLEMENT APPROVAL PROCESS?**

On February 6, 2006, the Court gave preliminary approval to the tentative Settlement Agreement as being sufficiently reasonable to warrant more detailed consideration. The Court also approved this Class Notice and the procedures to be used to provide the Class Notice to class members. The Court, however, has not yet made a final determination that the settlement is fair, adequate, reasonable and in the best interest of the class. Accordingly, the Court set the date of **May 31, 2006**, for a hearing at which the Court will consider giving final approval to the settlement. The hearing will be held at 1:30 p.m. in Department 311 of the Los Angeles Superior Court, located at Central Civil West Courthouse, 600 S. Commonwealth Avenue, Los Angeles, CA 90005.

You have the right to object to the terms of the Settlement Agreement on the grounds of the adequacy of the settlement, its fairness, or on any other grounds. You also may object to Class Counsel's request for an award of reasonable costs and attorneys' fees. However, in order to object, you must be a member of the class, and you must file a written Notice of Objection with the Court stating, at a minimum, the following: (1) the case name and number; (2) your name, address and telephone number; (3) whether you intend to be represented by counsel and, if so, the name, address and telephone of the attorney; (4) the reason you believe that you are a member of the class; and (5) a statement of the specific bases for your objections, including any supporting evidence and/or legal support you wish to bring to the Court's attention. The Notice of Objection must be filed on or before **April 28, 2006**, with the Los Angeles Superior Court at the address in the paragraph immediately above, and a copy must be served by mail on Class Counsel, counsel for Local 1902 and counsel for MWD at the following addresses:

Walter Cochran-Bond  
Cochran-Bond Law Offices  
624 S. Grand Avenue, Suite 2200  
Los Angeles, CA 90017

Anthony R. Segall  
Rothner, Segall & Greenstone  
510 South Marengo Avenue  
Pasadena, CA 91101

Gregory M. Bergman  
Bergman & Dacey, Inc.  
10880 Wilshire Blvd., Suite 900  
Los Angeles, CA 90024-4101

If you fail to file an objection in writing on or before **April 28, 2006**, you will be conclusively presumed to have waived any objections and to have agreed to accept and be bound by the terms of the Settlement Agreement and the Court's award of costs and attorneys' fees. Only those class members who have filed timely objections will be permitted to make an oral presentation at the fairness hearing. A copy of the papers supporting the parties' application for approval of the settlement is posted on the Cochran-Bond Law Offices' website at [www.c-blaw.com](http://www.c-blaw.com).

**9. CAN I EXCLUDE MYSELF FROM THE CLASS?**

If you are a member of the class and have not previously been excluded from the class, you will be bound by the terms of the settlement, even if you do not file a timely Claim Form, unless you make a timely election to "opt-out" of the settlement. If you elect to opt-out, you will not be entitled to any benefits under the Settlement Agreement, but you will be entitled to file your own separate lawsuit against MWD regarding the conduct covered by the settlement. To be excluded from the class, you must prepare a letter containing: (1) your name, address and telephone number; (2) the reason you believe that you are a member of the class; and (3) a statement that you wish to be excluded from the class settlement. The letter then must be mailed to Walter Cochran-Bond, Cochran-Bond Law Offices, 624 S. Grand Avenue, Los Angeles, CA 90017, and the letter must be postmarked on or before **April 28, 2006**.

**You have the right to obtain your own attorney to advise you whether it is in your best interest to opt-out of the settlement, to object to the settlement or to file a claim for relief under the settlement.**

**10. WHERE CAN I GET FURTHER INFORMATION?**

This Notice provides you with only a summary of the nature of the *Cargill* action and the terms of the tentative settlement. You may print and review a copy of the *Cargill* Fourth Consolidated Petition for Writ of Mandate, a series of updates regarding the litigation, the Settlement Agreement and the papers supporting approval of the settlement at the Cochran-Bond Law Offices' website, [www.c-blaw.com](http://www.c-blaw.com). You also may request a copy of the Petition and/or the Settlement Agreement by writing a letter to the Cochran-Bond Law Offices, 624 S. Grand Avenue, Los Angeles, CA 90017. The Settlement Agreement and other pleadings on file in this case also can be inspected during regular business hours at the Central Civil West Courthouse, 600 S. Commonwealth Avenue, Los Angeles, CA 90005.

**PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE FOR INFORMATION.**

Carl J. West, Judge of the Los Angeles Superior Court