

JUL 11 1995



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

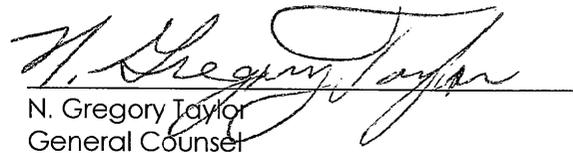

EXECUTIVE SECRETARY

June 26, 1995

To: Board of Directors (Legal and Claims Committee--Information)
From: General Counsel
Subject: Legal Department Report for June 1995

RECOMMENDATION:

For Information Only


N. Gregory Taylor
General Counsel

(LINOMO\KLT\LEGAL06.95)

EXECUTIVE SUMMARY:

This report discusses significant matters with which the Legal Department was concerned during June 1995.

DETAILED REPORT:I. Litigation

A. Proceedings in Which Metropolitan is a Party

1. San Joaquin Tributaries Association v. State Board

The above action, challenging the State Water Resources Control Board's (SWRCB) recently adopted Bay/Delta Water Quality Control Plan, was served on the SWRCB June 16, 1995 by the Association, Modesto Irrigation District, Merced Irrigation District, Turlock Irrigation District, Oakdale Irrigation District and South San Joaquin Irrigation District (plaintiffs). The complaint seeks an order setting aside the Plan in its entirety; a declaration that the Plan was adopted without proper notice, proper evidence or proper authority, and that it is an unlawful allocation of water to the export projects; and an order preliminarily and permanently enjoining SWRCB from implementing the Plan. No immediate hearing has been requested for the preliminary injunction.

This matter is the subject of a separate letter from the General Counsel seeking authority to intervene in the litigation.

2. SWRCB Adoption of Order Amending D-1485

On May 8, 1995, the SWRCB adopted its order making certain narrow modifications to conditions imposed in D-1485, the water rights permit for the state and federal water projects. The Department of Water Resources and Bureau of Reclamation sought the modifications to eliminate conditions that were inconsistent with, or replaced by, requirements contained in the Board's May 1995 Bay/Delta Plan. Additionally, the order allows the projects to divert at each other's pumping facility when appropriate and consistent with other requirements contained in the Plan and relevant biological opinions. Metropolitan, as part of the "CUWA/Ag" group, submitted testimony in support of the petition.

3. Mayers, et al. v. MWD

On May 31, 1995 the Court granted a Petition to be Relieved of Notice of Claim Requirements thus allowing the plaintiffs to file, if they so chose, a Complaint against Metropolitan without need to file further claims pursuant to the Government Tort Claims Act. This matter arises out of the Winchester fires in which the Plaintiffs may seek to hold Metropolitan liable for damages arising out of the fire.

4. Domenigoni Valley Reservoir Project Matters

Trial continued in the Domenigoni and Patton cases, with staff continuing to work with Special Counsel on trial strategy and witness coordination. Work also continued on nine other condemnation matters.

5. Nolen v. MWD

In Nolen v. MWD, Metropolitan's Motion for Summary Judgment was granted by Judge Ricardo Torres. Plaintiff, a former security guard with Metropolitan's security contractor Pedus Security, alleged he suffered personal injury while investigating an incident for Metropolitan. Metropolitan contended Plaintiff was Metropolitan's special employee at the time of the alleged incident and that Metropolitan was therefore immune from liability under the exclusive remedy provision of the workers' compensation law.

6. Van't Hof v. MWD

Nonsuit was granted by Judge Robert Higa in Van't Hof v. MWD. Plaintiff, a former Metropolitan employee, sued alleging various causes of action including breach of contract; breach of the implied covenant of good faith and fair-dealing; intentional interference with prospective economic advantage; discrimination; wrongful disclosure; and intentional infliction of emotional distress. After Plaintiff's opening statement, Metropolitan moved for nonsuit based on Plaintiff's failure to present facts constituting legally sufficient claims.

B. Proceedings of Interest to Metropolitan

None to report.

II. Resource Matters

1. State Water Project

A member of staff continued to devote nearly full time in assisting in the preparation of the necessary implementing documentation for the Monterey Principles. Significant work remains to be done on the white papers which have been previously described to your Board.

2. Colorado River Matters

A member of staff continued to provide support to the General Manager as efforts get underway with regard to a Regional Solution to better manage the Colorado River. As previously discussed with your Board, Secretary of the Interior Bruce Babbitt has commenced a process with interests in the lower basin, involving the use of a facilitator to see if a consensus can be reached to better manage the resources of the river.

III. Claims

None to report.

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