

## • General Counsel's December 2005 Activity Report

### Summary

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This report discusses significant matters in which the Legal Department was involved during the month of December 2006.

### Attachments

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None.

### Detailed Report

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#### 1. Litigation/Claims To Which Metropolitan Is A Party

a. *RM Broadcasting v. The Metropolitan Water District of Southern California*

This matter has now been resolved by agreement to a long-term Master Road License. RM Broadcasting LLC, a radio station and radio tower operator in the Palm Springs area, brought an action in February of 2005 asserting that it was entitled to a permanent easement to use West Pushwalla Road, north of Dillon Road, east of Indio in Riverside County. This road and the limited fee properties it passes through are used to support the Colorado River Aqueduct. Apparently RM Broadcasting has been utilizing the road, without authorization, to access its radio towers on an adjacent property for several years. The General Counsel's office successfully demurred to the complaint. However, the Court gave plaintiff leave to amend to better state its theory and suggested that the parties explore reasonable settlement. After lengthy negotiations, RM Broadcasting LLC and Metropolitan have agreed to a Master Road License to use the road for a term of 50 years at a fee of \$4,000 annually (escalated for future inflation), terminable upon notice under stated circumstances after 15 years. The superior court action will be dismissed forthwith.

#### 2. Other Matters Involving Metropolitan

a. *Natural Resources Defense Council, et al. v. Norton, et al.*

On December 12, 2005, the trial court granted the Department of Water Resources' motion to intervene in this action in support of defendants. The action challenges United States Fish and Wildlife Service's Biological Opinion regarding Central Valley Project and State Water Project operations under the Bureau of Reclamation's Operations Criteria and Plan. The State Water Contractors' appeal of the denial of their earlier motion to intervene is still pending.

#### 3. Matters of Interest Not Involving Metropolitan

a. *State Water Resources Control Board Proposed Cease and Desist Order Against the California Department of Water Resources and the U.S. Bureau of Reclamation*

The parties to the State Water Resources Control Board (SWRCB) proceeding on its proposed cease and desist order against the California Department of Water Resources and the U.S. Bureau of Reclamation (including the State Water Contractors) filed their closing briefs on

## Board Report (General Counsel's December 2005 Activity Report)

December 12, 2005. The proposed order accuses the State Water Project and Central Valley Project of a "threatened" violation of SWRCB's salinity objectives for South Delta agriculture.

### 4. **Finances**

Legal staff prepared annual statements of year-end financial information regarding Metropolitan's general obligation and water revenue bonds and filed them with Disclosure USA, an internet-based service for filing and dissemination of continuing disclosure notices for municipal bonds. These filings are required annually under continuing disclosure obligations executed pursuant to Securities and Exchange Commission Rule 15c2-12.

### 5. **Administrative**

Chief Deputy General Counsel Lauren Brainard retired effective December 26, 2005 after more than 24 years of service at Metropolitan. Lauren was responsible for many assignments in the Legal Department, including right of way and real estate matters, annexations, condemnation of Metropolitan property, service connections, construction claims and litigation, and engineering matters. Lauren's expertise will be missed at Metropolitan, and we wish him well in his retirement.