



- General Counsel's 2008/09 Business Plan - Semiannual Report

## Summary

---

The semiannual report on the General Counsel's 2008/09 business plan describes the Legal Department's activities from July 1, 2008 through December 31, 2008, toward accomplishing the goals and objectives in the business plan that was approved by the Board in July 2008.

## Attachments

---

General Counsel's Business Plan for Fiscal Year 2008/09 Semiannual Report

## Detailed Report

---

The attached report provides detailed information regarding the Legal Department's activities during the first six months of the 2008/09 fiscal year in achieving the objectives set forth in the General Counsel's business plan. Some of the more significant activities are summarized below:

### Water Supply

- In the Bay-Delta Endangered Species Act cases, the Legal Department advised staff and the Board on potential legal actions in response to the Delta smelt biological opinion and the Department of Fish and Game's take regulation for longfin smelt. Attorneys evaluated alternative paths for ESA compliance and actively participated in proceedings in federal and state courts on the Delta smelt and salmon. Additionally, staff developed strategies for actions against other stressors that adversely impact threatened and endangered species in the Bay-Delta. Legal staff helped prepare a joint responding and opening brief supporting the successful CEQA challenge to the Sacramento Regional Wastewater Treatment Plant Expansion Project in Sacramento Sanitation District's appeal of that ruling.
- Legal staff argued successfully before the Court of Appeal in the two state court cases challenging the All-American Canal Lining Project, obtaining affirmation of the dismissals in both cases.
- Metropolitan attorneys filed a successful motion for judgment on the pleadings in *Cadiz, Inc. v. Metropolitan*. Staff attorneys filed and responded to numerous motions in the cases brought by challengers of the Quantification Settlement Agreement regarding Colorado River supplies.
- Staff defended Metropolitan's Water Supply Allocation Plan in *Central Basin MWD v. Metropolitan*, and provided legal advice pertaining to the 2009 Water Bank and water transfers.

### Energy

- The staff prepared for and helped conduct the first phase of the trial in the Hyatt-Thermalito litigation.
- Legal staff also analyzed and advised Metropolitan regarding rulemaking for AB 32, California's landmark Global Warming Solutions Act, and the implementation of the California Independent System Operator's new market design.

### Communications

- The Legal Department initiated development of protocols for use in responding to e-discovery and Public Records Act Requests, drafted litigation hold procedures to comply with new legal rules on discovery of electronic documents and helped analyze e-discovery software and hardware.

## Board Report (General Counsel's 2008/09 Business Plan - Semiannual Report)

### Capital Projects

- In *Hills for Everyone v. Metropolitan*, legal staff defended and successfully settled a CEQA challenge to the Final Environmental Impact Report for the Diemer North Access Road Project. Staff advised on legal issues involving the Inland Feeder Project construction and negotiated with the San Manuel Band of Serrano Mission Indians regarding their request for compensation.

### Workforce

- The Legal Department defended numerous matters before the Public Employment Relations Board and obtained dismissals of nine of the sixteen active matters, reduced the backlog of active hearing officer matters in AFSCME grievances and appeals from 79 to 49 and handled two employment lawsuits in-house, negotiating a settlement of one case and obtaining removal to federal court and successfully challenging a number of claims.

### Finance

- Legal staff worked with Finance staff to respond to the global recession and frozen credit markets, including analysis and documentation for bond insurer downgrade disclosure, replacement of remarketing agents and extension of liquidity facilities; prepared Metropolitan's claim in the Lehman Brothers bankruptcy and drafted amendments to the investment policy to address sudden downgrades of highly-rated investments; and assisted with bond issues to refund insured variable rate bonds and finance capital investment projects.

The above are just a few highlights of the many accomplishments of the Legal Department staff during the first half of this fiscal year. I am proud of the work of the Department and believe that we are well positioned to continue to serve the needs of Metropolitan.

BLA #6433

Metropolitan Water District of Southern California

**General Counsel's Business Plan**  
**for**  
**Fiscal Year 2008/09**

**Semiannual Report**  
**July 1, 2008 to December 31, 2008**



Goal  
1

## Water Supply

Provide legal support in carrying out the Board of Directors' priority of ensuring the long-term sustainability of the region's water supply, including Bay-Delta resources, the Colorado River Aqueduct supply and local resources programs and strategies.

## Activities

## State Water Project/Bay-Delta

Provide legal support in carrying out the Board of Directors' policies related to the State Water Project (SWP), including defending litigation, assisting with development of the Bay-Delta Conservation Plan (BDCP) and emergency response plans, maintaining long-term source protection, water quality improvements, and protecting Metropolitan's interests in the State Water Contract.

**Endangered Species Act**

Delta Smelt: Continued to monitor proceedings in the delta smelt case, *NRDC v. Kempthorne*. Coordinated the legal analysis and comments, and helped draft other science-based comments that were submitted by the State Water Contractors (SWC) for the Section 7 Operation Criteria and Plan (OCAP) consultation. Provided analysis of legal options for challenging the OCAP biological opinion that was released on December 15, 2008.

Continued to monitor proceedings in *Watershed Enforcers v. Department of Water Resources*, now on appeal, which challenges the California Endangered Species Act (CESA) authorization for operation of the SWP. Assisted in formulation of legal and regulatory strategy for obtaining CESA authorization for SWP operations.

Salmon: Provided legal assistance to the SWC in connection with the interim remedies proceedings in the salmon case, *PCFFA v. Gutierrez*.

Longfin: Provided comments and analysis for the Department of Fish and Game's take regulation for longfin smelt. Provided legal analysis and assistance for the new lawsuits filed by state and federal contractors on December 8, 2008, that challenge the longfin regulation.

Other Stressors: Continued to analyze and evaluate possible enforcement actions against other stressors that adversely impact threatened and endangered species in the Bay-Delta. Assisted with the effort to coordinate the science research effort among federal and state contractors to analyze other stressors on threatened and endangered species, including ammonia discharges into the Delta. Provided legal advice regarding projects that address threatened and endangered species issues in the Bay-Delta.

**Central Basin MWD v. Metropolitan Water District**

Defended Metropolitan's Water Supply Allocation Plan in *Central Basin MWD v. Metropolitan Water District*. Prepared and certified administrative record with the court and successfully

opposed a motion to depose Metropolitan employees based on the argument that the case must be heard on the administrative record without additional discovery.

#### **Bay-Delta Conservation Plan**

Provided legal assistance on California Environmental Quality Act (CEQA), National Environmental Policy Act (NEPA), and state and federal Endangered Species Act (ESA) issues for the BDCP. Developed alternative approaches and language for governance arrangements for and implementation of the BDCP and alternative Delta conveyance.

Drafted agreements for implementing pre-construction phases of a Two-Gate Fish Protection Pilot Project.

#### **Solano County Water Agency v. Department of Water Resources**

Successfully intervened in support of DWR's administration of the State Water Contract's shortage provisions and organized other interested State Water Contractors' joint participation.

#### **Butte Environmental Council v. Richvale Irrigation District**

Provided legal support to Richvale Irrigation District in its successful defense of a challenge to CEQA compliance regarding 2008 water transfers to Metropolitan and other SWC.

#### **Sacramento Regional County Sanitation District Plant Expansion**

Assisted in preparation of a joint responding and opening brief in the appeal of the CEQA challenge to the Sacramento Regional Wastewater Treatment Plant Expansion Project in the Third District Court of Appeal.

#### **State Water Resources Control Board (SWRCB)**

Participated with other SWC and Central Valley Project contractors in SWRCB workshops and hearing regarding potential amendment to the Water Quality Control Plan for the Bay-Delta. Successfully convinced SWRCB not to hold a redundant "fact-finding" hearing process in addition to the normal water quality control plan process.

#### **2009 State Water Bank**

Provided legal advice and drafting for rules regarding participation in the 2009 Water Bank and on terms of agreements for transfer of water to the bank. Provided legal advice on a proposed program for member agencies to purchase bank water through Metropolitan.

#### **Yuba County Water Agency Transfer**

Provided legal advice on implementation issues in the long-term transfer of water from Yuba County Water Agency to Metropolitan and other SWC.

#### **Semitropic Water Storage District Arsenic Treatment Pilot Program**

Developed agreement to fund a pilot project in which Semitropic treated groundwater to reduce arsenic to safe levels for delivery to Metropolitan under the existing groundwater storage agreement with Metropolitan. The program resulted in delivery of additional water to Metropolitan in 2008 and could lead to increased deliveries in future years.

## Colorado River

Provide legal support for the Board's policy of ensuring a long-term reliable aqueduct supply.

### **Quantification Settlement Agreement (QSA)**

Filed or responded to numerous pretrial motions, including motions to augment the administrative records, motions regarding the scope of the validation proceeding, and what claims may be appropriately brought in the direct validation case; motions for class certification; motions to strike portions of certain petitions in intervention; motions for discovery; motions and orders regarding statements of issues for trial, as well as various status conference statements. The QSA cases continued to be handled entirely by Metropolitan's in-house legal staff.

### **All-American Canal Lining Litigation**

Represented Metropolitan at the argument before the Court of Appeal on the appeals in the two state court cases challenging the All-American Canal Lining Project. The Court of Appeal issued its decision on November 24, 2008, affirming the dismissal of both cases. This litigation was handled entirely by Metropolitan's in-house staff.

### **Cadiz, Inc. v. Metropolitan**

Filed successful motion for Judgment on the Pleadings, the court finding no legal basis for the sole remaining issue, fiduciary duty. Cadiz filed a third amended complaint (TAC), and Metropolitan filed a demurrer seeking dismissal of the TAC. A hearing on the demurrer is scheduled on February 4, 2009. Utilized in-house staff as primary drafters of the motion and to successfully argue the motion, resulting in significant reduction in outside counsel costs.

### **Lower Colorado River Multi-Species Conservation Plan**

Provided legal advice related to management of the annual financial contributions required by Metropolitan and other California agencies to support the plan. Coordinated with Bureau of Reclamation (Reclamation) on calculating correct contribution levels and long-term financial management to accommodate future program needs.

### **Indian Water Supply Issues**

Provided legal support on issues relating to provision of water to the Pechanga Tribe, including research and negotiations regarding potential annexation, transactions with Colorado River Indian Tribes, and sale to the United States.

Continued to provide legal support on issues relating to compensation of the San Luis Rey Indian Tribes for conserved water and an agreement to provide the energy to move water to the San Luis Rey settlement parties. Monitored, reviewed, and provided comment on proposed agreement among the San Luis Rey to settle ongoing litigation as it relates to Metropolitan's Colorado River and other rights.

### **Conservation**

Drafted agreement and provided legal advice related to Coachella Valley Water District's 4,000 acre-feet reduction in the use of water conserved under the Metropolitan-Imperial Irrigation District water conservation program of 1988.

Drafted agreement amendments, assignments, and easement transfers related to the sale of lands enrolled in the Palo Verde Fallowing and Land Management Program. Provided

legal advice on proposals to expand the existing program or to establish new water conservation projects within the Palo Verde Irrigation District.

### **New Supplies**

Provided legal assistance in drafting preliminary documents for one-year pilot run of Yuma Desalting Plant. Provided legal support for proposed binational process to develop water management programs to benefit both United States and Mexico. Provided legal assistance in amending Tijuana emergency water delivery agreement.

### **Intentionally-Created Surplus (ICS) Program**

Provided legal support with consultations with Reclamation regarding implementation and accounting for recovery of ICS Metropolitan created in prior years. Provided legal assistance in resolution of discrepancies in prior decree accounting reports by Reclamation.

### **Glen Canyon Trust v. U.S. Bureau of Reclamation, et al.**

Provided legal assistance to the United States in obtaining dismissal of claims attacking process for developing annual operating plans for Colorado River operations. Continued consultation with federal government, Basin States, and water users on remaining claims.

## Integrated Resources Plan

Provide legal support for regional resource development and updating the Integrated Resources Plan.

### **Water Supply Allocation Plan**

Provided legal advice on process for implementation of Metropolitan's Water Supply Allocation Plan.

### **Integrated Area Study**

Reviewed and commented on the study. Provided legal support on acquisition of property for a future treatment plan in Riverside County and on amendments to the MWD Administrative Code to accommodate longer outages on raw water conveyance pipelines as identified by the study.

### **San Diego County Water Agency (SCDWA) Exchange and Conveyance Agreement**

Developed and negotiated an exchange/conveyance agreement with SDCWA for transfer water SCDWA purchased in 2008. The water was made available for use by Metropolitan in 2008, subject to return to SDCWA in a future year.

## Local/Regional Water Resources

Provide legal support in the continuing development and operation of Local/Regional Resources Programs pursuant to board-adopted policies, including evaluation of proposed changes to programs, proposed projects for inclusion in programs, and the execution of related agreements.

**Orange County Water District v. Northrop Grumman Corp., et al.; Northrop Grumman v. Metropolitan, et al.**

Participated in court-ordered mediation and discovery regarding sources of perchlorate in the Orange County groundwater basin.

**San Gabriel Basin Water Quality Authority, et al. v. Aerojet-General, et al., Aerojet v. Metropolitan**

Continued to monitor mediation in *Aerojet* perchlorate litigation in the Main San Gabriel groundwater basin.

**Groundwater Recovery and Storage**

Participated in workgroup sponsored by Santa Ana Watershed Project Authority to formulate recommendations to regional water quality control board regarding salts and emerging constituents (e.g., pharmaceuticals) in groundwater storage of imported water supplies. Provided legal assistance in analysis and review of proposed new SWRCB guidelines for groundwater storage of recycled water.

Drafted agreements for Metropolitan's assistance in accelerating a groundwater recovery project in Los Angeles Department of Water and Power's Tujunga Well Field.

**Other Programs**

Participated in stakeholder workgroups regarding conjunctive use of groundwater and availability of replenishment water by Metropolitan. Participated in ocean desalination policy advisory group with member agencies. Provided legal assistance in the development of model water conservation ordinance for local governments within service area. Provided legal analyses of legislative proposals for statewide reductions in urban water use.

Goal  
2

## Energy

Provide legal support to protect and maximize Metropolitan's existing energy assets and planning for future needs.

### Activities

**Hyatt-Thermalito**

Represented Metropolitan's interests in litigation involving energy cost allocation issues. Completed discovery and prepared for the first phase of trial on contract interpretation. This work included: (1) completing all written discovery; (2) preparing for, defending, and/or taking additional depositions; (3) drafting a joint Statement of Undisputed Facts, which contained over 200 factual stipulations; (4) preparing and/or compiling nearly 1,000 evidentiary and demonstrative exhibits; (5) drafting Intervenors' 50-page opening trial brief; (6) preparing Intervenors' opening statement and accompanying PowerPoint presentation, and assisting DWR and the Attorney General (AG) in preparing theirs; (7) compiling and organizing various witness-specific documents (8) drafting outlines of anticipated testimony and preparing proposed questions for 22 potential trial witnesses; (9) preparing 14 witnesses slated to testify

on behalf of DWR and/or Intervenors; (10) preparing and/or defending five evidentiary motions, all of which were decided favorably to Intervenors; and (11) attending and participating in various meetings, conferences, and hearings. Conducted 22-day trial on contract interpretation and participated in daily strategy sessions with outside counsel, DWR, and the AG during such trial.

### **Oroville Reservoir**

Provided legal support in connection with the ongoing relicensing process for the hydroelectric facilities at Oroville Dam. Worked on maintaining support for the settlement agreement executed in March 2006, which contains the proposed terms and conditions for the new license. Assisted in defending a CEQA lawsuit filed by the Counties of Butte and Plumas in August 2008, which challenges the environmental impact report (EIR) prepared by DWR in support of the new license.

### **Energy Contracts**

Provided legal support regarding amendments to existing power contracts to accommodate the implementation of the California Independent System Operator's (CAISO) new market design. Provided legal support concerning amendment of Metropolitan's Phase I small hydro agreement with DWR to accommodate Metropolitan's use of Yorba Linda Power Plant energy to serve Diemer Water Treatment Plant load.

Provided legal advice and drafted federal legislation in support of renewal of the Hoover power contract based on existing terms authorized by the Hoover Power Plant Act of 1984.

### **State Water Project Power Issues**

Protected the interests of Metropolitan and SWP as the CAISO determined additional tariff modifications were necessary to ensure promised priority treatment for the transmission rights of Metropolitan and SWP in its new market redesign.

### **Strategic Power Plan**

Provided legal support and review of Metropolitan's Strategic Power Planning effort, including approaches to and documentation of agreements for installation of solar generation facilities at various Metropolitan plants.

### **Electric Reliability Standards**

Provided legal support regarding reporting and compliance with new electric reliability standards. Provided legal support for audit of Metropolitan's compliance with delegated tasks under Metropolitan's Reliability Standards Agreement with Southern California Edison.

### **Climate Change**

Provided legal support and review of the rulemaking for AB 32, California's landmark Global Warming Solutions Act, including review and response to the statewide scoping plan for emission reductions

Goal  
3

## Communications

Provide legal advice on utilization and implementation of new communications technology in accordance with applicable laws and court rules, including e-discovery requirements.

## Activities

### **E-Discovery**

Provided legal assistance with mapping District-wide use of various computer applications as a prerequisite to determining the most appropriate e-discovery software and hardware. Participated in interviews of various vendors and review of products and services. Provided legal assistance in the development of an RFP for e-discovery services. Drafted litigation hold and related procedures. Initiated development of protocols for use in responding to e-discovery and Public Records Act requests. Developed system to better track responses to requests and time necessary to response.

### **Board Communications**

Continued to provide comprehensive, timely, and accurate reports to the Board.

### **Public Records Act**

Responded directly to the public and provided legal support in responding to numerous Public Records Act requests.

### **Telecommunications**

Provided legal support on licensing requirements for new District-wide unified radio system, including negotiations with other utilities regarding frequency sharing.

Goal  
4

## Capital Projects

Provide legal support in the planning, environmental compliance and construction of the board-approved Capital Investment Plan.

## Activities

### **Perris Valley Pipeline**

Continued to represent Metropolitan in the sole remaining pending eminent domain action (*Metropolitan Water District v. Lewis Street Properties*) to acquire easement rights for construction of the South Reach. Drafted and provided legal advice relating to agreements to allow construction to timely proceed pending completion of transactions to acquire remaining easements. Negotiated settlement of potential inverse condemnation claim related to interference with access and water rights on the North Reach of the project.

Provided legal support in management of the construction contract, change orders, and notices of claim.

### **Diamond Valley Lake**

Provided legal support on issues related to DVL Visitors Center, including meeting with several entities in an attempt to develop a long-term use proposal for the site. Provided legal advice relating to, and participated in the evaluation of, the request for qualifications

for development of Metropolitan's property, including the recreation areas. Provided legal advice on the potential for working with Eastern Municipal Water District to create a reclaimed water storage facility on Metropolitan's property.

#### **Inland Feeder Project**

Provided legal support on continued management of the construction contract and contracting to sell surplus equipment. Negotiated with representatives of the San Manuel Band regarding their request for compensation and provided legal support on agreement for provision of compensation to the Band.

#### **Diemer North Access Road Project**

Defended and successfully settled a CEQA challenge to the Final EIR in *Hills for Everyone v. Metropolitan*. Provided legal support for initial regulatory and construction activities.

#### **San Diego Pipeline 6**

Provided legal advice regarding the potential for acquiring rights-of-way for the project through lands owned or held in trust for Indian tribes. Continued to provide legal support on issues relating to alignment.

Goal  
5

## Operations

Provide legal advice on statutory and regulatory requirements and compliance for operations programs.

### Activities

#### **Water Quality Issues**

Continued to provide legal support and responded to public inquiries about the fluoridation program implemented in 2007.

#### **Service Connections**

Provided legal assistance for agreements regarding new and modified member agency service connections. Provided legal support for compliance with and drafting of board-approved non-member agency interconnection agreements, including agreements with San Bernardino Valley Municipal Water District, Castaic Lake Water District, and San Gabriel Valley Municipal Water District.

#### **Relocations**

Provided legal support in the relocation of Metropolitan facilities, including the Santa Monica Feeder and the Sepulveda Feeder and drafted related agreements.

#### **Sacramento Office**

Provided legal support for nine-year lease extension for the Sacramento office with substantial tenant improvements.

**Real Estate Issues**

Provided legal counsel on third-party property rights requests and inquiries on such matters as leases, licenses, entry permits, and road easements. Provided legal counsel regarding the acquisition of property interests necessary for Metropolitan operations, including access and telecommunication leases. Provided legal assistance with responses to and removal of encroachments on Metropolitan property.

**Risk Management**

Provided legal assistance on risk management and insurance-related matters, including Metropolitan's claims and Workers' Compensation programs. Analyzed and negotiated potential Employment Practices Liability Insurance policy. Provided legal advice regarding dispositions of claims filed under the Government Claims Act, including the rejection of such claims when appropriate. Approved several Workers' Compensation settlements within delegated authority. Provided legal advice in a major Workers' Compensation excess insurance coverage issue.

**Workplace Health and Safety Issues**

Provided legal assistance in responding to citations issued to Metropolitan by Cal/OSHA alleging violations of various health and safety regulations.

Goal  
6

## Workforce

Provide legal support on various human resources issues to ensure a stable and productive workforce.

### Activities

**Labor Agreements**

Provided legal assistance in interpreting and implementing the existing bargaining unit MOUs with a focus on ensuring proper, uniform, and equitable application.

**Cargill v. Metropolitan**

Provided oversight on this litigation involving three consolidated class action lawsuits challenging Metropolitan's past use of District temporary employees, independent consultants, and temporary agency workers. Directed ongoing implementation of the settlement agreement, with a current focus on further limiting liability and assisting Human Resources in submitting enrollment applications for individual class members eligible for CalPERS benefits, resulting in savings of approximately \$2.4 million.

**Support of Human Resources**

Expanded the Legal Department's ability to provide legal advice to Human Resources and to represent Metropolitan in personnel litigation, employee relations, and administrative matters. Handled most matters in-house during the past six months. A working committee consisting of the General Counsel, Assistant General Counsel, and two staff attorneys responsible for human resources issues meets regularly to coordinate representation of Metropolitan in employment/labor issues. In addition, a working committee representing the Legal Department,

Employee Relations, and Water Systems Operations meets regularly to discuss employee relations matters and to limit the number of PERB and grievance challenges being lodged.

### **Litigation**

Handled employment lawsuits in-house: *Gregg Whittlesey v. MWD* (alleging wrongful termination in violation of public policy, defamation, and intentional infliction of emotional distress) and *Juli Smith v. MWD, et al.* (alleging violation of a whistleblower protection statute, wrongful termination in violation of public policy, gender discrimination and harassment, and intentional infliction of emotional distress). Litigated the *Whittlesey* case for eleven months and negotiated the settlement of the case prior to trial. *Whittlesey* case work included written and document discovery, depositions, preparation of a summary judgment motion, and a mediation. Litigated the *Smith* case for the past eight months, representing Metropolitan and five employee defendants. *Smith* case work included preparation of a successful removal to federal court, preparation of motions to dismiss and strike which resulted in the plaintiff's removal of the challenged claims, and discovery. This case is scheduled for trial in June 2009.

### **PERB Unfair Labor Practice Charges**

Defended Metropolitan's interests and management rights in several matters before the Public Employment Relations Board (PERB) alleging unfair labor practices pursuant to the Meyers-Milias-Brown Act. Of the sixteen PERB matters that have been active during the past six months, nine have been dismissed based on objections raised by the Legal Department, three have been settled with no admission or finding of wrongdoing on Metropolitan's part, and four are still pending. Of the nine dismissals, two have been appealed. The Legal Department will continue to defend Metropolitan's interests in the two appeals and the four remaining charges.

### **AFSCME Local 1902 Grievances and Appeals**

Defended Metropolitan's interests in hearing officer appeal requests lodged by AFSCME Local 1902. The Legal Department processed hearing officer appeals involving 29 grievances and two disciplinary actions during the past six months. We are awaiting decisions from hearing officers on 19 grievances that have been consolidated into four hearings, three of which were handled in-house. We have received two hearing officer decisions involving job audit appeals; management prevailed on one matter, and AFSCME prevailed on the second matter. The Legal Department negotiated settlements of nine appeals involving eight grievances and one disciplinary action. The remaining two matters, one grievance and one disciplinary action, are midway through evidentiary hearings. Due to the Legal Department's action in addressing the backlog of hearing officer appeal requests, the number of active hearing officer matters has been reduced from approximately 79 to 49.

### **EEO Claims**

Provided investigation oversight for EEO claims, including providing recommendations for remedial actions. Represented Metropolitan in EEO agency actions, including mediation.

### **Classification/Compensation Studies**

Participated as a group primary contact in the collection and review of data.

**Policies**

Revised Legal Department Primer to include all subjects required for ethics training under AB 1234.

Goal  
7

**Finance**

Provide legal assistance with rates and charges, the issuance of debt obligations, investment of surplus monies, and other financial activities undertaken by Metropolitan.

**Activities****Rates and Charges**

Assisted with preparation of revenue requirements letter, readiness-to-serve and capacity charge resolutions and notices. Advised on coordinating rate actions with budget approval process.

**Bonds**

Prepared redemption and disclosure documents and assisted outside bond counsel with:

- \$79,045,000 Water Revenue Refunding Bonds, 2008 Series C, to refund \$70,140,000 of outstanding water revenue bonds issued in 1996 and produce anticipated savings of about \$726,000 per year through July 2023. The refinancing included termination of an interest rate swap transaction associated with the refunded bonds.
- \$200,000,000 Water Revenue Bonds, 2008 Authorization, Series A, to provide construction financing for the Capital Investment Program. Legal staff prepared the authorizing resolution for up to \$500 million of new money bonds.

Represented Metropolitan in the replacement of the remarketing agents on three variable rate water revenue bond issues. Staff attorneys negotiated and prepared agreements with the three new remarketing agents, and provided the required notices to UBS, the paying agents, standby banks and municipal bond information repositories.

Advised Finance staff on responses to bond insurer downgrades. Prepared and filed secondary market disclosures.

Represented Metropolitan on the extension of outstanding standby bond purchase agreements supporting Metropolitan's Water Revenue Refunding Bonds, 2001 Series C-1 and C-2. The amendments permitted remarketing of these variable rate bonds, in the principal amount of \$200 million, to continue.

Prepared annual financial information filings for water revenue bonds and general obligation bonds.

**Investments**

Filed bankruptcy claim for the payment of corporate notes issued by Lehman Brothers Holdings, Inc. and acquired as part of Metropolitan's investment portfolio.

Goal  
8

## Administration

Provide legal support regarding: proposed state and federal legislation that may affect Metropolitan's interests and compliance with statutory and institutional requirements (such as the Metropolitan Water District Act and Administrative Code, the Brown Act, the Political Reform Act, and the Public Records Act). Continue to explore and implement ways in which to expand the effectiveness and efficiency of Legal Department operations.

## Activities

**Support**

Reviewed board letters, committee minutes, and staffed board meetings. Met regularly with the Board Chairman to discuss legal issues. Established regular meetings with the General Manager and General Auditor. Provided assistance to the Ethics Office on various issues.

**Legislation**

Analyzed and drafted language regarding BDCP governance and new conveyance facilities implementation, water transfers, and Bay-Delta bonds. Provided legal advice and assisted in drafting state legislation related to the quagga mussel infestation, including preparation of amendments to AB 2065 imposing new restrictions on reservoir operators and the proposed bond measure to provide funding for projects to control invasive species. Provided review and comment on bills relating to public contracting, project labor agreements, and solar/climate change issues.

**Cost Management**

Notified outside counsel of cost management initiatives, including moratorium on increases in hourly rates. Increased scrutiny of staffing of matters and adherence to Metropolitan's Outside Counsel Guidelines.

Litigated matters exclusively using staff counsel, including MWD v. XO Communications, MWD v. IEUA, Bisharat v. Kostelecky, Ramirez v. Charbonneau, and Eastridge v. MWD.

Reallocated the assignments of three department employees who retired in December, including outsourcing the operation of the law library.

Decreased travel through increased utilization of voice and video conferencing and limiting travel to critical needs.

Eliminated a number of library subscriptions by identifying other sources for obtaining certain research materials. Decreased membership in non-essential organizations.

Carried out the Legal Department's functions within its authorized O&M budget for the first half of the fiscal year.

**Succession Planning**

Provided comprehensive training to legal staff on power matters to accommodate successful succession planning.

**Technology**

Initiated a comprehensive review of the department's case and document management needs, including reviewing available products and technology trends.

**Compliance**

Updated the Conflict of Interest Code as required by the Political Reform Act and Fair Political Practices Commission. Educated staff on new Gift to Public Agency requirements and prepared board presentations on the subject. Provided legal advice to staff on reporting time spent on state and federal legislative and administrative matters.

**Contracting Issues**

Provided legal review on procurement and professional services contracting issues.

**Educational Programs**

Provided a continuing education course for attorneys and paralegals on The Keys to Success on Appeal. Instructors were from the Horvitz & Levy law firm. Provided a continuing education course for attorneys and paralegals on Ethics for the Savvy Lawyer conducted by the Bergman and Dacey law firm.

Minimized training and continuing legal education (CLE) costs by providing staff access to low-cost teleconferences, webinars, and other on-site opportunities to meet CLE requirements and provide training in areas of current topical interest to Metropolitan.