



Metropolitan Cases

Central San Joaquin Water Conservation District v. Stockton East Water District **(California Court of Appeal, Third District)**

The General Counsel filed an amicus curiae (“friend of the court”) brief in California’s Third District Court of Appeal supporting Stockton East Water District in this case on November 24, 2010. Central San Joaquin Water Conservation District (Central) filed this action to challenge a wheeling rate established by Stockton East Water District (Stockton East). The methodology underlying Stockton East’s wheeling rate is similar to that used by Metropolitan. That is, Stockton East’s wheeling rate is intended to recover a pro rata share of the transportation system’s costs, including capital, operation and maintenance, resulting in a per-acre-foot postage stamp rate for each acre-foot wheeled. The trial court granted Central’s motion for a preliminary injunction on March 27, 2010 apparently based on its determination that Stockton East was required to consider “the incremental costs occasioned by the wheeling itself.” This is directly contrary to the Second District Court of Appeal’s unanimous opinion in *Metropolitan Water District v. Imperial Irrigation District*, which held that a conveyance system owner is not limited to recovering only increased costs incurred by a particular wheeling transaction and upheld Metropolitan’s wheeling rate based on the system-wide costs of the system. Stockton East appealed from the trial court’s decision and subsequently asked whether Metropolitan would be interested in filing a friend of the court brief. In order to protect Metropolitan’s wheeling rate and the Court of Appeal’s decision in *Metropolitan v. IID*, the General Counsel, with the General Manager’s concurrence, filed the brief.

San Diego County Water Authority v. MWD **(San Francisco Superior Court)**

The San Diego County Water Authority (Authority) filed a motion with the trial court on November 15, 2010 requesting that this case be designated as a “complex” case. Neither Metropolitan nor the eight member agencies opposing the Authority’s case opposed the motion. The court granted the motion on December 1, 2010. As a result of the complex designation, a single judge has been assigned to

the case for all purposes, rather than different judges for discovery issues, pre-trial motions, trial, etc., allowing the judge to become more familiar with the case. It also allows the judge, together with the parties, to have greater procedural discretion in how the case is handled. A case management conference has been scheduled for February 3, 2011. (See the General Counsel’s August, September and October 2010 Monthly Activity Reports)

Roberto Perez v. Metropolitan (California Unemployment Insurance Appeals Board)

On November 19, 2010, Metropolitan received a favorable decision from the Appeals Board disqualifying a claimant from receipt of unemployment insurance benefits. The Appeals Board agreed with Metropolitan’s position that the credible evidence demonstrated that the claimant was discharged from his Metropolitan employment due to misconduct in connection with his work. The Legal Department represented Metropolitan in this matter.

Susan Robinson v. Metropolitan (Los Angeles County Superior Court)

On November 19, 2010, the hearing on Metropolitan’s demurrer and motion to strike to the first amended petition for writ of mandate was held. In an order issued November 22, the Los Angeles County Superior Court sustained the demurrer and granted the motion to strike, both without leave to amend. The court accepted Metropolitan’s arguments on all grounds. The court ruled that the Hearing Officer was an indispensable party and that petitioner’s statute of limitations to name this party as a respondent had passed. The court also ruled that petitioner defied the court’s prior demurrer order by including in the first amended petition allegations of violation of pre-discharge due process, and that these allegations also were improper because petitioner failed to exhaust her administrative remedies on the subject. The court’s order has the effect of dismissing the case.

As previously reported, in January 2010, Hearing Officer Robert Bergeson issued his decision sustaining petitioner’s discharge from employment, following an appeal hearing pursuant to the



Supervisors Association MOU. On April 22, petitioner filed a petition for writ of mandate (Cal. Code of Civil Procedure Section 1094.5) and complaint in Los Angeles County Superior Court against Metropolitan. Metropolitan subsequently filed a demurrer as to all causes of action. On August 9, the court sustained the demurrer to the two complaint causes of action without leave to amend for failure to state a viable cause of action, and sustained the demurrer to the petition for writ cause of action with leave to amend for failure to name an indispensable party. On August 19, petitioner filed a first amended petition against Metropolitan and the Hearing Officer, which contained one cause of action alleging that the Hearing Officer should have applied an adverse inference against Metropolitan, the evidence did not support the findings, the findings did not support discharge, and there was a violation of pre-discharge due process. On September 23, Metropolitan filed its demurrer and motion to strike to the first amended petition. Metropolitan's Legal Department provided legal representation for Metropolitan. (See the General Counsel's August and September 2010 Monthly Activity Reports)

granted plaintiff's motion for an expedited trial date that is set for March 28, 2011. In-house counsel is working jointly with outside counsel to prepare the defense in this case. (See the General Counsel's June 2010 Monthly Activity Report)

Perris Valley Pipeline North Reach Lawsuits

Two lawsuits were brought by the owners of property and a business on Alessandro Boulevard arising from construction of the North Reach of Perris Valley Pipeline within the street right-of-way. There have been recent developments in both cases.

Chavez v. Metropolitan Water District (Riverside County Superior Court) was brought by the owner of a furniture store for loss of business allegedly caused by closing of the driveway access during pipeline construction. The plaintiff failed to respond to discovery, and also failed to appear at court hearings and conferences. On November 22, 2010, the court dismissed the case due to plaintiff's failure to timely prosecute it. Metropolitan's Legal Department provided legal representation for Metropolitan.

Village Retail Center, LLC v. Metropolitan Water District (Los Angeles County Superior Court) was filed by the owner of a vacant parcel of land alleging that the pipeline project interfered with the proposed development of a retail shopping center on the property and diverted the subsurface water supply that would be used on the property. The pipeline contractor, Rasic Construction, is a codefendant. On November 29, 2010, the court