



## Metropolitan Cases

### ***San Diego County Water Authority v. Metropolitan Water District of Southern California (San Francisco Superior Court)***

The parties participated in a case management conference with Judge Kramer on June 17, 2011. A briefing schedule and hearing date were established for Metropolitan's and its member agency co-parties' motion to dismiss the Imperial Irrigation District and Utility Consumers Action Network from the case. The motions will be heard on August 30, 2011. On that same date the judge will consider any additional issues regarding the Administrative Record or discovery issues and set a schedule for determining the scope of review for the judge's review of Metropolitan's rates. San Diego County Water Authority is challenging the validity of Metropolitan's rates, in particular the rates Metropolitan charges for wheeling. (See General Counsel's April and May 2011 Activity Reports.)

### ***Delta Smelt Biological Opinion Litigation (Metropolitan v. United States Fish and Wildlife Service; United States Bureau of Reclamation and California Department of Water Resources real parties in interest; San Luis & Delta Mendota Water Authority v. Salazar; State Water Contractors v. Salazar; Coalition for a Sustainable Delta v. U.S.F.W.S.) (U.S. District Court, Eastern District of California)***

On June 24, 2011, Judge Wanger issued a decision rejecting the contention of the federal government and NRDC that the district court lacked jurisdiction to decide whether the Fall X2 measure in the Delta smelt Biological Opinion (BiOp) should be enjoined this year. The federal government and NRDC had argued that the appeal of the final judgment precluded the district court from taking any further action on interim operations and implementation of BiOp restrictions. This means that the July 26-29, 2011 evidentiary hearing on whether to enjoin Fall X2 will go forward. (See General Counsel's April and May 2011 Activity Reports.)

### ***Jena Minor v. Metropolitan (Los Angeles County Superior Court)***

On June 14, 2011, the court granted Metropolitan's motion for summary judgment, which has the effect of dismissing the case. The court ruled that there was no issue of material fact for the jury to determine, and that judgment is to be entered in Metropolitan's favor.

As previously reported, on March 26, 2010, plaintiff, a Metropolitan employee, filed a complaint in Los Angeles County Superior Court against Metropolitan. Plaintiff alleged retaliation in violation of the Fair Employment and Housing Act for having engaged in the protected activity of complaining about gender and race discrimination and sexual harassment, and for having complained about retaliation. The case was set for a 14-day jury trial commencing June 29, 2011. The parties participated in a mediation on March 29, but were unable to resolve the case. Metropolitan's Legal Department provided legal representation for Metropolitan through November 2010, when the law firm of Meserve, Mumper and Hughes LLP associated in as counsel. (See General Counsel's April and May 2011 Activity Reports.)

### ***AFSCME Local 1902 v. Metropolitan (Public Employment Relations Board)***

AFSCME Local 1902 filed a Public Employment Relations Board (PERB) unfair practice charge against Metropolitan on June 20, 2011. The charge alleges Metropolitan violated the Meyers-Millias-Brown Act (MMBA) by refusing to meet and confer over the salary grade for the proposed new Planner/Scheduler job classification. Metropolitan will respond by lodging a position statement seeking dismissal of the Charge on the basis that the proposed Planner/Scheduler job classification has not yet been implemented, and that Local 1902 and Metropolitan have not yet completed negotiations concerning an ongoing classification/compensation study. The Legal Department will represent Metropolitan in this matter.



## Matters Involving Metropolitan

***Monterey II Cases: Central Delta Water Agency, et al. v. Department of Water Resources; Rosedale-Rio Bravo Water Storage District, et al. v. Department of Water Resources; Central Delta Water Agency, et al. v. Kern County Water Agency (Sacramento County Superior Court)***

These three lawsuits brought by environmental organizations, two Delta water agencies, and two Kern County water storage districts challenge the Monterey Amendment to the State Water Project (SWP) contracts. The cases include CEQA challenges to DWR's May 2010 completion of a new Environmental Impact Report (EIR) for the project, as well as reverse validation challenges to the underlying contracts.

Metropolitan was originally named as a defendant party in the two "*Central Delta*" cases, but not in the "*Rosedale*" case. Following an earlier ruling that Metropolitan and the other State Water Contractors are necessary parties in the *Rosedale* action, the petitioners amended their complaint to add all the contractors. This month, Metropolitan filed a motion to dismiss the *Rosedale* case on the grounds that Metropolitan and the other contractors are both necessary and indispensable parties that cannot now be added since the CEQA statute of limitations period expired over a year ago. This motion will be heard in August.

Metropolitan staff has also been assisting DWR as it prepares the administrative record and has been

coordinating our efforts with DWR and the other contractors. (See General Counsel's December 2010 and January 2011 Activity Reports.)

***Solano County Water Agency v. State of California Department of Water Resources (Sacramento Superior Court)***

Metropolitan Legal staff, along with outside counsel and representatives of other parties in this case, participated in a second all-day settlement conference presided over by Judge Robert Hight on June 20, 2011. The parties discussed potential concepts that might allow plaintiffs to better utilize their current SWP supplies through storage and exchange programs to meet their needs in future shortage years. Judge Hight and the parties identified additional information that should be developed to analyze the feasibility of the proposed concepts and the judge strongly urged the parties to retain a mediator to assist in the discussions. The parties (DWR, plaintiffs, Metropolitan and its fellow intervenors) agreed to develop the needed information and to each pay one-third of the costs of a mediator for the next settlement conference scheduled for July 18 and 19. Plaintiffs in this action allege they should not be subject to the shortage provisions of their state water contracts. Metropolitan and 13 other contractors intervened in support of DWR. (See General Counsel's October 2010 and May 2011 Activity Reports.)

## Items of Interest

### Finances

Metropolitan issued its \$167,855,000 Water Revenue Refunding Bonds, 2011 Series B on June 30, 2011. These fixed rate refunding bonds were issued to refund outstanding fixed rate and variable rate obligations, resulting in debt service savings and mitigating liquidity bank risk associated with Metropolitan's variable rate debt program.

Legal Department staff attorneys prepared Appendix A for the Official Statement describing these bonds and worked with bond counsel to prepare bond disclosure documents, while assisting Finance staff and outside bond counsel with the transaction.

Date of Report: July 6, 2011