



## Metropolitan Cases

### ***Colorado River QSA Coordinated Cases (Sacramento Superior Court)***

The March 2013 General Counsel's written monthly report and oral report by Chief Deputy General Counsel Joseph Vanderhorst updated the status of the state court challenges to the validity of the Quantification Settlement Agreement (QSA). At that time, there was a pending motion by IID to withdraw its brief on the issue of the validity of its general manager's execution of the QSA. The motion was scheduled for hearing on April 12. On April 9, the court issued a ruling denying IID's motion as untimely, and vacating the scheduled hearing.

It was also reported that IID had filed a settlement status report on April 1 as ordered by the court. However, the status report included statements regarding the substantive issues pending for decision by the court. Objections were filed by San Diego County Water Authority, Coachella Valley Water District, and the State of California. On April 11, the court issued an order addressing these objections. The court noted that it had specifically ordered that the status reports "not disclose the substantive content of the negotiations." The court ruled that IID's report disregarded the court's direction and it struck the objectionable portions of the report.

IID filed its next monthly status report on May 1. The report reveals that negotiations are continuing between IID and County of Imperial/Imperial County Air Pollution Control District, with the goal of achieving a memorandum of understanding among these parties. A mediation process, with Retired Justice Howard Wiener, has been proposed that would include the remaining Imperial Valley parties. Negotiations have not yet involved the other water agency parties or State of California. (See General Counsel's March 2013 Activity Report.)

### ***AFSCME Local 1902 v. Metropolitan (MOU Hearing Officer Appeal)***

On April 23, 2013, Hearing Officer Barry Winograd issued his decision in response to AFSCME Local 1902's appeal of Metropolitan's denial of a grievance challenging the recruitment process for a

management position. The grievance alleged procedural violations of Local 1902's MOU and a related side letter on recruitment, with respect to an AFSCME-related employee seeking a position covered by the Management and Professional Employees Association bargaining unit. Human Resources rejected the grievance as inappropriate at the informal level. Mr. Winograd agreed with the action taken by Human Resources, and he denied Local 1902's hearing officer appeal. The Legal Department represented Metropolitan in this matter.

### ***Sacramento Regional County Sanitation District v. Regional Water Quality Control Board and State Water Resources Control Board (Sacramento Superior Court)***

As reported to the Board in an April 29 memorandum, a partial settlement of litigation brought by the Sacramento Regional County Sanitation District (SRCSD) regarding new treatment upgrades for its Sacramento River Wastewater Treatment Plant was reached. SRCSD agreed to drop its challenge of stringent new ammonia and nitrate removal requirements contained in the discharge permit issued by the Central Valley Regional Water Quality Control Board in 2010 and upheld by the State Water Resources Control Board late last year. Metropolitan and eight other public water agencies had intervened in the case and Metropolitan participated in settlement negotiations.

In the partial settlement, SRCSD is dismissing its challenge to the ammonia and nitrate limits as well as a cause of action regarding toxicity. As part of the settlement, SRCSD will develop and comply with a set of milestones resulting in completion of the construction necessary for full nitrification and denitrification by May 2021.

This leaves the cause of action concerning pathogens and the filtration requirement still to be litigated. In exchange for dropping the ammonia and nitrate challenge, SRCSD is given two additional years to meet final tertiary filtration and disinfection requirements should those requirements remain following conclusion of the litigation. In addition, SRCSD's permit will be



modified to impose an interim THM limit that is less stringent than the current THM limit. This helps SRCSD meet permit requirements while switching its plant over to nitrification/denitrification facilities.

The partial settlement represents a major accomplishment and a significant step in addressing the environmental health of the Delta. (See General Counsel's October and December 2012 Activity Reports.)

***Terri Deskins v. Metropolitan, et al.***  
**(Los Angeles County Superior Court)**

On April 23, 2013, former Metropolitan employee Terri Deskins, who was terminated prior to completion of probation, filed a complaint for damages in Los Angeles County Superior Court against Metropolitan. Plaintiff alleges five causes of action: 0 wrongful termination in violation of public policy; retaliation in violation of the Fair Employment and Housing Act; violation of Labor Code Section 970; defamation; and intentional infliction of emotional distress. Metropolitan accepted service of the summons and complaint on April 25, 2013.

## Items of Interest

### Finance

On April 26, 2013, Metropolitan posted the remarketing statement for \$100,000,000 Water Revenue Refunding Bonds, 2011 Series A-2 and 2011 Series A-4 (Index Mode). Legal Department staff attorneys worked with bond counsel to prepare bond documents.