



Metropolitan Cases

Agua Caliente Band v. Coachella Valley Water District (United States District Court, Central District of California)

On May 14, the Agua Caliente Band of Indians filed suit in federal district court against Coachella Valley Water District (CVWD) and Desert Water Agency (DWA). The lawsuit alleges that both agencies have been overdrafting the Coachella Valley groundwater basin and interfering with the tribe's aboriginal and reserved water rights and the tribe's alleged storage rights in the basin. The complaint further alleges that both agencies import Colorado River water that is higher in salinity and is degrading the water quality in the basin. The lawsuit seeks a declaration of the scope of the tribe's groundwater rights, and injunctions prohibiting CVWD and DWA from interfering with those rights by overdrafting the basin and importing lesser quality water.

The lawsuit has the potential to affect Metropolitan's arrangements with CVWD and DWA for the exchange of their State Water Project water supplies for Colorado River water. Through a series of agreements beginning in 1967, Metropolitan has taken delivery of CVWD's and DWA's State Water Project water, for which CVWD and DWA pay the delivery costs. In exchange, Metropolitan delivers an equal amount of Colorado River water at a turnout on the Whitewater River from the Colorado River Aqueduct. This arrangement provides water quality and operational benefits for Metropolitan. In fact, Metropolitan has negotiated for the right to pre-deliver up to 600,000 acre-feet of Colorado River water that is stored in the Coachella Valley groundwater basin against future delivery obligations under the exchange agreements. Metropolitan currently has over 300,000 acre-feet of water credited to its advance delivery account.

If the Agua Caliente Band is successful in obtaining injunctive relief against importing Colorado River water into the Coachella groundwater basin, Metropolitan would be unable to utilize its advance-delivery account and could have difficulty in completing the annual exchange of water supplies since deliveries of Colorado River water are made into spreading basins operated by

CVWD. Metropolitan's in-house counsel is monitoring the CVWD and DWA response to the lawsuit.

The Navajo Nation v. United States Department of the Interior (United States District Court, Central District of Arizona)

Last month it was reported that this lawsuit challenging the Secretary of the Interior's operations on the Lower Colorado River was reactivated following the failure of settlement negotiations. The case was reassigned to Judge John Sedwick and the stay of proceedings that had been in place since 2004 was lifted on May 16. The Navajo provided all parties with a copy of the amended complaint that they will seek leave to file. The new complaint retains the prior challenges to interim surplus guidelines, interstate off-stream banking regulations, the federal QSA, the inadvertent overrun and payback policy, and the allocation of water delivered through the Central Arizona Project. The new substantive allegations challenge the adoption in 2007 of the guidelines for coordinated operation of Lake Powell and Lake Mead and rules for intentionally created surplus.

Metropolitan has intervened in the case jointly with Coachella Valley Water District, and both agencies are represented by Best, Best & Krieger. On May 30, Judge Sedwick approved a schedule for proceeding with the first amended complaint. Parties have until July 3 to oppose the Navajo motion to file the amended complaint, and 60 days following the court's ruling on the Navajo motion to file their responsive pleadings. A more detailed discussion of Metropolitan's position in the litigation will be provided in closed session at the July meeting of the Legal and Claims Committee.

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

As previously reported, on April 23, 2013, former Metropolitan probationary employee Terri Deskins filed a complaint for damages in Los Angeles County Superior Court against Metropolitan. Plaintiff alleges five causes of action: 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. On May 27, 2013, Metropolitan filed a demurrer seeking a dismissal of the causes of action for wrongful termination in violation of public policy, violation of Labor Code Section 970; defamation and, intentional infliction of emotional distress. The demurrer is set for hearing on July 16, 2013. The Legal Department is representing Metropolitan.

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

As previously reported, AFSCME Local 1902 filed an unfair practice charge on September 27, 2012, with the Public Employment Relations Board (PERB). The charge alleges Metropolitan violated the Meyers-Milias-Brown Act (MMBA) on July 13, 2012, by updating the employee evaluation form and deploying two new *MyPerformance* forms, one for evaluating employees, and the other for evaluating managers. AFSCME alleges that by this conduct, Metropolitan violated its obligation to meet and confer with respect to issues within the scope of representation. On January 18, 2013, PERB issued a complaint in this matter and Metropolitan thereafter filed an answer denying the allegations of an unfair labor practice. On May 25, 2013, this matter was set for a formal hearing on August 12 and 13, 2013. The Legal Department is representing Metropolitan. (See General Counsel's November 2012 and January 2013 Activity Reports.)

Items of Interest

Finance

Metropolitan issued its \$87,445,000 Special Variable Rate Water Revenue Refunding Bonds, 2013 Series D on June 3, 2013. Legal Department staff attorneys prepared Appendix A to the Official Statement and assisted outside bond counsel with bond documents.