



Metropolitan Cases

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

AFSCME Local 1902 filed an unfair practice charge on February 4, 2014, with the Public Employment Relations Board (PERB). The charge alleges Metropolitan violated the Meyers-Milias-Brown Act (MMBA) by failing to meet and confer in good faith and making a unilateral change. As a remedy, AFSCME is seeking a salary increase for an AFSCME-represented classification.

Metropolitan filed a position statement on March 12 seeking a dismissal of the charge. In response, AFSCME withdrew the allegation alleging a unilateral change. However, PERB issued a complaint on April 22 alleging Metropolitan failed to meet and confer in good faith. An informal conference took place on April 22, and the parties agreed to engage in further settlement discussions. The Legal Department is representing Metropolitan in this matter.

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

On January 23, 2013, AFSCME Local 1902 began the grievance process on behalf of an employee who retired two days after she received the outcome of her job audit request on December 27, 2012. The job audit determined the employee had been properly classified. Metropolitan refused to process the grievance due to the intervening retirement. AFSCME brought that refusal before a hearing officer for review. By decision issued on February 5, 2014, Hearing Officer Barry Winograd determined the job audit challenge can move forward to a hearing on the merits. Accordingly, the parties will schedule an additional hearing so that a hearing officer can determine whether the job audit result is proper. The practical impact of Mr. Winograd's decision is that the timeframe for filing a grievance (30 days) does not abruptly end when an employee retires. The Legal Department represented Metropolitan in this matter.

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

This action was brought in March 2003, challenging operations of the Colorado River that do not take into account the water rights claims of the Navajo Nation. Metropolitan and other Colorado River water users intervened, but the case was stayed for settlement discussions until 2013.

Following the tribe's rejection of proposed terms for a settlement in 2013, the stay was lifted. (See the General Counsel's monthly reports for May and September 2013.)

On September 23, 2013, Metropolitan and Coachella Valley Water District (CVWD) filed a joint motion to dismiss. Similar motions to dismiss were filed by the federal government and other water agencies in California, Arizona, and Nevada with Colorado River water rights. Briefing on the motions was completed in December 2013 and the court has now set a hearing on July 11. A ruling is expected shortly following the hearing. (See General Counsel's December 2013 Activity Report.)

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

In May 2013, the Agua Caliente Band of Indians filed suit in federal court alleging that Coachella Valley Water District (CVWD) and Desert Water Agency have been interfering with tribal rights to the groundwater. The complaint challenges these agencies' importation of Colorado River water for groundwater recharge on the grounds that it is adversely affecting water quality. The lawsuit has the potential to affect Metropolitan's contractual arrangements for the exchange of those agencies' State Water Project supplies for Colorado River water. (See General Counsel's monthly report for May 2013.)

In June, the court granted leave to the United States to intervene on behalf of the tribe. The federal government's complaint-in-intervention only makes a claim for reserved tribal groundwater



rights based on the quantity, not quality, of the groundwater available, and seeks to enjoin overdrafting of the basin to protect tribal rights.

Pursuant to stipulation among the parties, the case is being tried in phases. The initial phase will adjudicate whether the tribe has reserved or aboriginal rights to groundwater and will be decided by cross-motions for summary judgment.

If the court decides in favor of the tribe, further proceedings will determine whether the tribe has groundwater storage or water quality rights, and the quantity of the tribal water rights. The court ordered that motions in the initial phase be filed by October 21, with briefing to be completed by December 17.

Other Activities

Publications

Robert Horton co-authored a chapter in the recently published *Global Climate Change and U.S. Law, Second Edition*. The chapter is titled, *Environmental Impact Review* and covers the regulations, case law, and agency guidance on climate change analysis under the federal National Environmental Policy Act and state analogs including the California Environmental Quality Act.

Conferences

Staff representing Metropolitan in the Delta Stewardship Council worked with the other petitioner groups to prepare for the July 18 Case Management Conference.

Staff participated on a Los Angeles County Bar Association panel regarding drought issues.

Members of the Legal Staff attended the annual LegalTech conference. This conference includes substantive sessions on the impact of technology on the practice of law and showcases current software and other technical tools.

Other Activities

Staff continued to review Bay-Delta related legislation including amendments to the proposed water bond (SB 848 (Wolk)) and AB 2686 (Perea).

Staff is working with Records Management to coordinate the disposition and retention of Legal Department Records.

Matters Received by the Legal Department

<u>Category</u>	<u>Received</u>	<u>Description</u>	
Government Code Claims	2	Claims submitted for accident involving an MWD vehicle and damage to a vehicle parked at an MWD facility	
Subpoena	1	Federal Court subpoena requesting records relating to an employee of an MWD service provider for litigation unrelated to Metropolitan	
Public Records Act Requests	7	<u>Requestor</u>	<u>Documents Requested</u>
		California Department of Fish & Wildlife	Recent water quality data at DVL pertaining to algal blooms
		Contractor Shimmick	Costs for defective pumps for the Diemer ozone upgrade



<u>Category</u>	<u>Received</u>	<u>Description</u>
	Property management company, consumer, and Yale graduate student	(1) Map of reclaimed water lines in Corona and Riverside, (2) explanation for soapy taste and bubbles in the drinking water, (3) how auctions are used for allocating water
	Transparent California	MWD employee compensation report for 2012 and 2013
	Lecturer at UC Santa Cruz and president of nonprofit organization on nuclear policy	Perchlorate levels in water delivered by MWD
Other Matters	2	(1) Request from the State of California for documents to support the State's lawsuit involving allegations of price fixing of Cathode Ray Tube (CRT) computer monitors and televisions; and (2) a wage garnishment