



## Metropolitan Cases

### ***Palo Verde Irrigation District v. MWD*** **(Riverside County Superior Court)**

On March 16, 2018, the Palo Verde Irrigation District (PVID) voluntarily dismissed the CEQA action filed against Metropolitan in the Riverside County Superior Court. PVID originally filed this litigation in August 2017. In the suit, PVID asserted that Metropolitan violated CEQA when it determined that the approval and execution of six agricultural leases for the land that Metropolitan owns in the Palo Verde Valley was exempt from CEQA.

PVID subsequently amended the petition on September 29, adding two additional claims challenging Metropolitan's 2015 land purchase. These claims were later dismissed voluntarily by PVID on November 1.

On November 3, Metropolitan filed a demurrer (a motion to dismiss the case) arguing that the remaining CEQA claim was barred by the short 35-day CEQA statute of limitations, and on December 12, the Riverside Superior Court granted Metropolitan's demurrer, with leave to amend.

On January 10, 2018, PVID filed an amended petition asserting the same CEQA claims and adding additional allegations to support their argument that Metropolitan should be estopped from relying on the statute of limitations because of alleged statements by Metropolitan staff that PVID asserted misled it into delaying filing the CEQA challenge more than six months after Metropolitan's Board approved the lease terms and authorized execution of the leases.

In January, PVID also submitted a Public Records Act request seeking documents related to one of the leases. The documents that Metropolitan produced, contained evidence contrary to the allegations in the amended petition. Metropolitan called PVID's attention to the facts and PVID dismissed the action with prejudice. The dismissal terminates this matter.

### ***Mary Padres v. Metropolitan, et al.*** **(Los Angeles County Superior Court)**

Former Metropolitan employee Mary Padres filed a complaint for damages and other relief on March 21, 2018, in Los Angeles County Superior Court against Metropolitan. Plaintiff alleges three causes of action, of which two allege violations of the Fair Employment and Housing Act: sex discrimination and retaliation. The remaining cause of action alleges wrongful termination in violation of public policy. Plaintiff was released from her Metropolitan employment during her probationary period. The Legal Department is representing Metropolitan.

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

AFSCME Local 1902 filed an unfair practice charge on February 27, 2018, with the Public Employment Relations Board (PERB). The charge alleges Metropolitan violated the Meyers-Milias-Brown Act (MMBA) by failing to provide all the information requested by AFSCME Local 1902 in a written request for information dated May 22, 2017. As a remedy, AFSCME is seeking all information responsive to its request, a cease and desist order, and a notice posting Metropolitan's purported violation of the MMBA. On April 2, 2018, Metropolitan filed a position statement seeking a dismissal of the charge on the basis that it has fully complied with the MMBA concerning its responses to the request for information. The Legal Department is representing Metropolitan in this matter.

### ***Brian May v. Metropolitan, et al. (Los Angeles County Superior Court)***

As reported to the Board last month, Metropolitan employee Brian May filed a complaint for damages and other relief on April 13, 2017, in Los Angeles County Superior Court against Metropolitan. The complaint alleges five causes of action in violation of the Fair Employment and Housing Act: (1) disability discrimination; (2) retaliation; (3) failure to prevent unlawful discrimination; (4) failure to accommodate disability; and (5) failure to engage in the interactive process.



Metropolitan filed its answer denying the allegations on July 21, 2017. Based on the parties' stipulation, the trial date has been continued from July 23, 2018 to October 22, 2018. Atkinson

Andelson Loya Ruud & Romo and the Legal Department are representing Metropolitan. (Confidential March 2018 Board Letter 8-3.)

## Other Matters

### Continuing Legal Education

On March 6, the Legal Department provided a continuing educational session titled, Update on the California Environmental Quality Act: What's New for 2018. The one-hour webinar session was

presented by Charity Schiller and Amanda Daams from the law firm of Best Best & Krieger. Legal Department staff and staff from Environmental Planning attended the session.

## Matters Received by the Legal Department

<u>Category</u>	<u>Received</u>	<u>Description</u>	
Action in which MWD is a party	2	Complaint for Breach of Written Contract, Common Counts, Account Stated, Quantum Meruit-Reasonable Value, Enforcement of Personal Guarantee, Enforcement of Payment Bond, Enforcement of Stop Notice filed in Los Angeles County Superior Court in the case <i>Walters Wholesale Electric Co. v. Integrated Power &amp; Lighting, Inc. et al.</i> , including naming MWD for alleged failure by Integrated Power & Lighting to pay for moneys owed for electrical materials furnished by plaintiff for the Jensen Water Treatment Plant Solar Power Facility Project	
		Complaint against MWD for wrongful termination and other claims filed in Los Angeles County Superior Court	
Subpoena	1	Subpoena for employment-related records for a matter unrelated to MWD	
Requests Pursuant to the Public Records Act	12	<u>Requestor</u>	<u>Documents Requested</u>
		Albert A. Webb Associates	Data on size and type of trucks that visit the water tanks at MWD's desert facility
		Calvada Surveying	Substructure data for water pipeline project in downtown Los Angeles for LADWP
		Compton Collective	Director Janna Zurita's dates of attendance at MWD Board and committee meetings
		iHeartMedia Strategic Partnerships	Proposals and scoring sheet for request for proposal for Advertising and Community Outreach Services related to water conservation



<u>Category</u>	<u>Received</u>	<u>Description</u>
	<u>Requestor</u>	<u>Documents Requested</u>
	Inland Empire Utilities Agency	Job description and salary for Plant Lab Supervisor
	Metropolitan Transportation Commission, Bay Area Metro	Procurement document and contracts for bond counsel
	Mission Springs Water District	Data on allocation of water to each member agency
	PBLA Engineering	Map showing Parker Dam Road in relation to Southern California Edison project area
	Private Citizen	Rebate data for hybrid/zero water urinals from 2015-2017
	San Diego County Water Authority	Rate model and documents relied upon for the 2018 proposed rates and charges and budget
	Valeo Partners	Documents relating to legal services contracts and hourly rates
	Wood	Data on water delivered to Orange County
Other Matters	3	<p>Letter from Hinson Gravelle &amp; Adair LLP to MWD re Notice of Potential Liability and Tolling Agreement relating to recovery of response costs incurred by the BKK Working Group for cleanup actions at the BKK Corporation Landfill Facility for the alleged disposal of MWD waste at this landfill</p> <p>PERB Unfair Practice Charge filed by AFSCME Local 1902 against MWD relating to AFSCME's request for records concerning recruitment</p> <p>Request for payroll-related records for matter unrelated to MWD</p>



<b>California WaterFix Litigation</b>	
Subject	Status
<p><b>Validation</b>  <i>DWR v. All Persons Interested</i>            Sacramento County Superior Ct.</p>	<ul style="list-style-type: none"> <li>• DWR's motion to dismiss/strike Westlands Water District's Cross-Complaint overruled</li> <li>• DWR's motion to dismiss a Delta Reform Act affirmative defense from Save the California Delta Alliance's answer sustained without leave to amend</li> <li>• DWR's motion to coordinate the validation action with the CEQA coordinated cases granted</li> </ul>
<p><b>CEQA</b>            17 cases/4 County Superior Courts:            Sacramento (15), Alameda (1),            Placer (1), San Joaquin (1)</p>	<ul style="list-style-type: none"> <li>• Cases coordinated in Sacramento County Superior Court and assigned for all purposes to Hon. Judge Culhane</li> <li>• First case management conference held March 23, 2018</li> <li>• Validation action and two standalone CESA cases ordered coordinated with the CEQA cases</li> <li>• Metropolitan and State Water Contractors preparing motion to intervene in CEQA and CESA cases</li> </ul>
<p><b>CESA/Incidental Take Permit</b>  <i>Bay.org v. DFW</i>  <i>North Delta Water Agency v. DFW***</i>            Sacramento County Superior Ct.</p>	<ul style="list-style-type: none"> <li>• DWR's motion to coordinate both CESA cases granted</li> <li>• Answers/Motions to Dismiss due 30 days after administrative record is lodged</li> </ul>
<p><b>ESA/BiOps</b>  <i>Golden Gate Salmon Ass'n v. Ross (NMFS)</i>  <i>Bay.org v. Zinke (USFWS)</i>            Eastern District of California (O'Neill)</p>	<ul style="list-style-type: none"> <li>• <i>GGSA v. Ross (NMFS)</i> – NMFS lodged the administrative record. Plaintiffs' motion for summary judgment (MSJ) due July 27, 2018; Defendants' opposition/cross-motion for MSJ due August 29, 2018; replies due September 19, 2018 and October 10, 2018</li> <li>• <i>Bay.org v. Zinke (FWS)</i> – FWS administrative record now due June 20, 2018. Plaintiffs' MSJ due October 10, 2018; Defendants' opposition/cross-motion for MSJ due November 9, 2018; replies due November 30, 2018 and December 21, 2018</li> </ul>
<p><b>Breach of Contract</b>  <i>City of Antioch v. DWR</i>            Sacramento County Superior Ct.</p>	<ul style="list-style-type: none"> <li>• April 6, 2018 hearing on DWR's motion to dismiss certain causes of action from the First Amended Complaint</li> <li>• April 8, 2018 deadline to file notice of trial and settlement conference dates</li> </ul>