



Matters Involving Metropolitan

California WaterFix Certification of Consistency Appeals

On July 27, 2018, the Department of Water Resources (DWR) submitted a certification of consistency with the Delta Plan to the Delta Stewardship Council (Council). The certification of consistency includes detailed findings showing that the project is consistent with applicable policies in the Delta Plan, as well as the coequal goals. On August 27, 26 parties filed nine appeals with the Council alleging that the project is inconsistent with the Delta Plan and will have a significant adverse impact on the coequal goals. On October 15, the Delta Protection Commission submitted a “recommendation” that the appeals be granted based on alleged conflicts with certain “Delta as Place” policies and mitigation measures. In addition, on the same day, the appellants and DWR submitted written responses to certain questions the Council posed to the parties. DWR also submitted detailed written responses to all nine appeals, and raised evidentiary objections to the inclusion of a multitude of extra-record documents, and the Council’s decision to include

the entire “docket” of evidence and testimony presented to the State Water Resources Control Board in the ongoing petition to change DWR’s and the U.S. Bureau of Reclamation’s water rights to include the three new north Delta intakes.

On October 24-26, the Council held a public hearing on the appeals and accepted public comments. The only question before the Council in the appeals is whether substantial evidence in DWR’s administrative record supports DWR’s certification of consistency. Three of the Council members previously recused themselves, so four Council members heard the appeals.

The Council anticipates issuing a draft determination by November 5, and has announced it will hold a public workshop to receive comments on the draft on November 15. The four participating Council members will vote on whether to grant or deny the appeals at the regularly scheduled meeting on December 20-21, 2018.

Metropolitan has assisted DWR in preparing and defending the certification of consistency, and will continue to closely monitor and assist in the proceeding going forward.

Matters Received by the Legal Department

<u>Category</u>	<u>Received</u>	<u>Requestor</u>	<u>Description</u>
Requests Pursuant to the Public Records Act	15	Center for Contract Compliance (4 Requests)	Contract documents relating to (1) Wadsworth Pumping Plant Yard Piping Lining Repairs, (2, 3) Garvey Reservoir Drainage and Erosion Improvements-Area 1 (contract records and PK Construction’s certified payroll), and (4) Second Lower Feeder PCCP Rehabilitation Reach 4
		E&E News	Records relating to MWD meeting with USEPA Acting Administrator Andrew Wheeler
		Executive-Suite Services	Bid results for Janitorial Services at Weymouth Water Treatment Plant



<u>Category</u>	<u>Received</u>	<u>Description</u>
	<u>Requestor</u>	<u>Documents Requested</u>
	Golden State Water Company	Easement records at Clydesdale Trail in Yorba Linda
	Masbuild, Inc.	Winning bid for On-Call and Project Specific Architectural Consulting Services
	Pacific Coast Energy Company	Records on water supply wells located within the limits of the Brea-Olinda Oil Field in Brea
	Praxair, Inc.	Bid and contract records for Bulk Liquid Oxygen (LOX) Supply and LOX Maintenance Services
	Private Citizens (2 Requests)	(1) GIS data showing MWD's boundaries, and (2) MWD boundary information relating to the proposed El Monte Sand Mining Area Project
	PropLogix	Water bill information for property in Rancho Mission Viejo
	Restore the Delta (2 Requests)	(1) Documents relating to the Bureau of Reclamation Record of Decision for WaterFix, and renegotiations of the Coordinated Operations Agreement and Master Agreement, and WIFA Loan, and (2) documents relating to construction plans on Bouldin Island for WaterFix



California WaterFix Litigation	
Subject	Status
<p>CDWR Environmental Impact Cases Sacramento Superior Ct. Case No. JCCP 4942 (20 Coordinated Cases – 1 Validation; 17 CEQA; 2 CESA) (Judge Culhane)</p>	
<p>Validation Action <i>DWR v. All Persons Interested</i> Sacramento County Superior Ct.</p>	<ul style="list-style-type: none"> Parties meeting and conferring on list of purely legal issues that the Court can decide without waiting for the administrative record Parties meeting and conferring on the contents of the administrative record December 10, 2018 Joint CMC Statement due identifying “purely legal issues” after meeting and conferring December 13, 2018 Fifth CMC 10:00 a.m.
<p>CEQA 17 cases Sacramento County Superior Court</p>	<ul style="list-style-type: none"> DWR circulated draft 6000-page index of the administrative record (over 2.5 million pages in draft record) Parties meeting and conferring on contents of administrative record December 13, 2018 – 9:00 a.m. Hearing on Metropolitan and SWC motions to intervene
<p>CESA/Incidental Take Permit</p>	<ul style="list-style-type: none"> Answers/Motions to Dismiss due 30 days after administrative record is lodged DFW anticipates completion of administrative record by early 2019 December 13, 2018 – 9:00 a.m. Hearing on Metropolitan and SWC motions to intervene
<p>ESA/BiOps <i>Golden Gate Salmon Ass’n v. Ross (NMFS)</i> <i>Bay.org v. Zinke (USFWS)</i> Eastern District of California (Judge O’Neill)</p>	<ul style="list-style-type: none"> <i>GGSA v. Ross (NMFS)</i> - Plaintiffs’ motion for summary judgment (MSJ) due Oct. 12, 2018; Defendants’ opposition/cross-motion for MSJ due Nov. 13, 2018; replies due Dec. 11, 2018 and Jan. 15, 2019 <i>Bay.org v. Zinke (FWS)</i> - Plaintiffs’ motion to augment the administrative record pending; Plaintiffs’ MSJ due Jan. 15, 2019; Defendants’ opposition/cross-motion for MSJ due Feb. 19, 2019; replies due March 12, 2019 and April 2, 2019
<p>Breach of Contract <i>City of Antioch v. DWR</i> Sacramento County Superior Ct. (Judge De Alba)</p>	<ul style="list-style-type: none"> Discovery temporarily stayed Settlement conference set for Jan. 17, 2019 at 1:30 p.m. in Department 59 (Judge Davidian) Trial set for March 11, 2019 at 8:30 a.m. in Department 47 (Presiding Judge David De Alba)



Subject	Status
<p>Delta Plan Amendments and Program EIR</p> <p><i>North Coast Rivers Alliance, et al. v. Delta Stewardship Council</i></p> <p><i>Central Delta Water Agency, et al. v. Delta Stewardship Council</i></p> <p><i>Friends of the River, et al. v. Delta Stewardship Council</i></p> <p><i>California Water Impact Network, et al. v. Delta Stewardship Council</i></p> <p>Sacramento County Superior Ct. (Judge Sumner)</p>	<ul style="list-style-type: none"> • Cases challenge, among other things, the Delta Plan Updates recommending dual conveyance as the best means to update the SWP Delta conveyance infrastructure to further the coequal goals • Allegations relating to “Delta pool” water rights theory and public trust doctrine raise concerns for SWP and CVP water supplies • Cases related and assigned to Judge Sumner • Parties stipulated to extend time to prepare the administrative record to Nov. 20, 2018

***CESA claims also alleged in the CEQA petition filed by County of San Joaquin, et al.; California Sportfishing Protection Alliance, et al. allege violation of the fully protected species statutes.