



## Metropolitan Cases

### ***Jolene Fuentes v. Metropolitan (Riverside County Superior Court)***

Metropolitan employee Jolene Fuentes filed a first amended complaint for damages on May 28, 2019, in Riverside County Superior Court against Metropolitan. Plaintiff alleges four causes of action based on the Fair Employment and Housing Act: sex discrimination/harassment; failure to maintain environment free from harassment; failure to take preventative action; and, retaliation. Metropolitan was served with the complaint on June 26, 2019. The Legal Department is representing Metropolitan.

### ***DMS Facility Services, LLC v. Metropolitan, et al. (Los Angeles County Superior Court)***

As previously reported, DMS Facility Services, LLC (“DMS”), a former vendor that provided MWD with engineers and other personnel, filed a lawsuit alleging MWD failed to pay outstanding balances on invoices for accrued unpaid leave time for DMS

employees who worked at MWD. The lawsuit alleged causes of action for: (1) Breach of Written Agreement, (2) Breach of the Implied Covenant of Good Faith and Fair Dealing, and (3) Violations of California Labor Code Sections 227.3 and 2810.3. After MWD objected, DMS filed a first amended complaint on April 17, 2019, that dropped the Labor Code violations from the lawsuit. On July 3, 2019, the Superior Court granted Metropolitan’s demurrer to the remaining causes of action, and provided DMS with 30 days leave to file a second amended complaint. DMS intends to allege promissory estoppel, and in response MWD will likely demurrer again. The Legal Department is representing Metropolitan. (See, General Counsel’s Monthly Activity Report – February 2019.)

## Matters Impacting Metropolitan

### ***Court Extends Time Again for EPA to Respond to Alleged Violations of the Safe Drinking Water Act***

On June 14, 2019, the U.S. District Court, Southern District of New York, granted the U.S. Environmental Protection Agency’s (“EPA”) third request for an extension of time until August 19, 2019, to respond to a lawsuit alleging that EPA failed to comply with the deadlines set by the Safe Drinking Water Act (“SDWA”) to: (1) review and revise existing drinking water regulations; and (2) identify and regulate new contaminants. EPA requested the extension in light of the parties’ ongoing settlement discussions. The Waterkeeper Alliance, Waterkeepers Chesapeake, and California Coastkeeper Alliance sued EPA on January 30, 2019, alleging that EPA failed to update maximum contaminant levels (“MCLs”) for certain contaminants such as tetrachloroethylene, trichloroethylene, cryptosporidium, and total chromium/hexavalent chromium. For example, EPA determined in 2010 that tetrachloroethylene and trichloroethylene were candidates for

regulatory revision. However, EPA has not yet revised their MCLs. Similarly, EPA set the MCL for total chromium at 100 parts per billion (“ppb”) in 1991, but has not revised it since then.

Plaintiffs also allege that EPA repeatedly missed the SDWA’s deadline to determine every five years whether or not to regulate five or more contaminants on the Contaminant Candidate List (“CCL”), which is a list of drinking water contaminants that are known or anticipated to occur in public water systems, but are not currently regulated by EPA. Furthermore, EPA has still not published its fourth regulatory determination, which was due by August 6, 2016. Additionally, they assert that EPA did not meet the SDWA’s deadline to publish the CCL every five years, and EPA still has not published the fifth CCL, which was due by February 6, 2018. The groups contend that “EPA’s delays and inaction with respect to regulating the quality of the nation’s drinking water puts the public at unnecessary and unacceptable risk.” Metropolitan staff will continue to monitor this litigation and any potential settlement.



## Other Matters

### Finance

Legal Department staff worked with finance staff, bank counsel, outside bond counsel and disclosure counsel to prepare the offering statements and other disclosure documents and to negotiate and provide the agreements, notices, certifications and opinions necessary for closing of the following transactions:

- June 6, 2019, issuance of \$218,090,000 Water Revenue Refunding Bonds, 2019

Series A to refund certain water revenue bonds originally issued in 2008 and certain water revenue refunding bonds originally issued in 2009 and 2014, and

- June 27, 2019, issuance of \$241,530,000 Subordinate Water Revenue Refunding Bonds, 2019 Series A to refund certain water revenue bonds originally issued in 2008 and certain water revenue refunding bonds originally issued in 2014.

## Matters Received by the Legal Department

<u>Category</u>	<u>Received</u>	<u>Description</u>								
Actions in which MWD is a party	2	<p>Complaint on Common Counts and to Foreclose Mechanic's Lien, filed in San Bernardino County Superior Court, in the case <i>Walters Wholesale Electric Co. v. Power4ward, LLC, Antonio Ameen, MWD</i>, Case No. CIVDS1917764, regarding claims for unpaid costs pertaining to Plaintiff's sale of electrical building materials and supplies to Power4ward for work at MWD's Iron Mountain Pumping Plant</p> <p>First Amended Complaint for Damages against MWD for (1) Sex Discrimination/Harassment, (2) Failure to Maintain Environment Free from Harassment, (3) Failure to Take Preventative Action, (4) Retaliation, filed in Riverside County Superior Court</p>								
Government Code Claims	1	Subrogation Claim for damages relating to an accident involving an MWD vehicle								
Requests Pursuant to the Public Records Act	12	<table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: center;"><u>Requestor</u></th> <th style="text-align: center;"><u>Documents Requested</u></th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top;">Cable Engineering</td> <td style="vertical-align: top;">Underground utility maps for project area in the City of Inglewood</td> </tr> <tr> <td style="vertical-align: top;">California Department of Fish and Wildlife</td> <td style="vertical-align: top;">Final annual report for mitigation regarding the North Diemer Access Road pursuant to MWD's agreement with the California Department of Fish and Wildlife</td> </tr> <tr> <td style="vertical-align: top;">Cherokee Nation Businesses</td> <td style="vertical-align: top;">Construction records for MWD monitoring wells along the western flank of the Interstate 215 and north of Van Buran Boulevard in the City of Riverside</td> </tr> </tbody> </table>	<u>Requestor</u>	<u>Documents Requested</u>	Cable Engineering	Underground utility maps for project area in the City of Inglewood	California Department of Fish and Wildlife	Final annual report for mitigation regarding the North Diemer Access Road pursuant to MWD's agreement with the California Department of Fish and Wildlife	Cherokee Nation Businesses	Construction records for MWD monitoring wells along the western flank of the Interstate 215 and north of Van Buran Boulevard in the City of Riverside
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<u>Requestor</u>	<u>Documents Requested</u>
Downey Brand LLP	Final annual report for mitigation regarding the North Diemer Access Road pursuant to MWD's agreement with the California Department of Fish and Wildlife
Downey Brand LLP	Documents relating to MWD Board's approval of the Lower Basin Drought Contingency Plan (DCP) on December 11, 2018 and March 12, 2019
Eastern Municipal Water District	MWD's emergency operations plan
Labor Management Compliance Council	Contract documents relating to Jensen Water Treatment Plant Modules 2 and 3 Flocculator Rehabilitation
Olivenhain Municipal Water District	LRP agreement between MWD and Carlsbad Municipal Water District and data on reclaimed water credits
Parsons Corporation	Award information for Tunnel Design services for Second Lower Feeder Reach 9 for Prestressed Concrete Cylinder Pipeline Rehabilitation
Private Citizen	Amount MWD paid for water purchased from the Bureau of Reclamation in 2012
PM Solutions	Award information relating to the Request for Proposal for Project Controls and Reporting System Implementation
Riverside Local Agency Formation Commission ("LAFCO")	Debts owed by Member Agencies Eastern Municipal Water District and Western Municipal Water District to MWD and service area maps relating to the Murrieta Window Area annexation
The Sutton Law Firm	Statements of Economic Interests (Form 700s) for MWD contractors and former staff who performed investment management duties



<b>California WaterFix Litigation</b>	
<b>Subject</b>	<b>Status</b>
<b>CDWR Environmental Impact Cases</b> <b>Sacramento Superior Ct. Case No. JCCP 4942</b> <b>(20 Coordinated Cases – 1 Validation; 17 CEQA; 2 CESA) (Judge Culhane)</b>	
<p><b>Validation Action</b> <i>DWR v. All Persons Interested</i></p> <p><b>CEQA</b> 17 cases</p> <p><b>CESA/Incidental Take Permit</b> 2 cases</p>	<ul style="list-style-type: none"> <li>• Validation Action dismissed at DWR's request</li> <li>• 17 CEQA and 2 CESA cases should be dismissed by early July</li> <li>• September 26, 2019 – Hearing on motions to recover costs and attorneys' fees</li> </ul>
<p><b>Breach of Contract</b> <i>City of Antioch v. DWR</i> Sacramento County Superior Ct. (Judge De Alba)</p>	<ul style="list-style-type: none"> <li>• September 6, 2019 hearing on DWR's motion for summary judgment seeking dismissal</li> <li>• September 12, 2019 mandatory settlement conference</li> <li>• October 21, 2019 Trial</li> </ul>
<p><b>COA Addendum/No-Harm Agreement</b> <i>North Coast Rivers Alliance v. DWR</i> Sacramento County Superior Ct. (Judge Gevercer)</p>	<ul style="list-style-type: none"> <li>• Plaintiffs allege violations of CEQA, Delta Reform Act &amp; public trust doctrine</li> <li>• Deadline to prepare administrative record extended to July 22, 2019</li> <li>• Westlands Water District's motion to intervene June 7, 2019</li> <li>• Metropolitan &amp; SWC Monitoring</li> </ul>



Subject	Status
<p><b>Delta Plan Amendments and Program EIR</b> 4 Consolidated Cases Sacramento County Superior Ct. (Judge Earl)</p> <p><i>North Coast Rivers Alliance, et al. v. Delta Stewardship Council</i> (lead case)</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>	<ul style="list-style-type: none"> <li>• 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</li> <li>• Allegations relating to “Delta pool” water rights theory and public trust doctrine raise concerns for SWP and CVP water supplies</li> <li>• Cases consolidated for pre-trial and trial under <i>North Coast Rivers Alliance, et al. v. Delta Stewardship Council</i></li> <li>• Parties stipulated to extend time to prepare the administrative record to July 23, 2019</li> <li>• Answers or motions to dismiss due 30 days after administrative record is lodged</li> <li>• SWC filed motion to intervene</li> </ul>
<p><b>SWP Contract Extension Validation Action</b> Sacramento County Superior Ct. (No judge assigned yet)</p> <p><i>DWR v. All Persons Interested in the Matter, etc.</i></p>	<ul style="list-style-type: none"> <li>• DWR seeks a judgment that the Contract Extension amendments to the State Water Contracts are lawful</li> <li>• Metropolitan and 7 other SWCs filed answers in support of validity to become parties</li> <li>• Four answers filed in opposition denying validity on multiple grounds raised in affirmative defenses</li> <li>• Case deemed related to the two CEQA cases, below</li> </ul>
<p><b>SWP Contract Extension CEQA Cases</b> Sacramento County Superior Ct. (Judges Sumner and Gevercer)</p> <p><i>North Coast Rivers Alliance, et al. v. DWR</i></p> <p><i>Planning and Conservation League v. DWR</i></p>	<ul style="list-style-type: none"> <li>• Petitions for writ of mandate alleging CEQA and Delta Reform Act violations filed on January 8 &amp; 10, 2019</li> <li>• Metropolitan preparing unopposed motions to intervene</li> <li>• Deemed related to DWR’s Contract Extension Validation Action</li> </ul>