



Metropolitan Cases

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

On October 18, 2019, the Navajo Nation appealed the district court’s dismissal of this case to the Ninth Circuit. As reported in August, the district court issued its order on August 23, denying the Navajo Nation’s motion to file an amended complaint against the United States for breach of fiduciary duty. In reaching this decision, the district court held that no statute or regulation cited by the Navajo Nation created an actionable trust duty, and that no actionable trust duty arose out of the implied water rights that attach to waters appurtenant to federal reservations. The court further held that to the extent the Navajo Nation based its claim on allegedly appurtenant rights in the mainstream of the Colorado River, the court lacked jurisdiction to hear these claims because the U.S. Supreme Court had retained continuing, exclusive jurisdiction in its Consolidated Decree in *Arizona v. California*, 547 U.S. 150, 166-167 (2006). Thus, the court dismissed the action and, as anticipated, the Navajo Nation appealed. The Ninth Circuit set a briefing schedule for early 2020. As Metropolitan remains a party, Metropolitan will continue to participate in this case to protect its Colorado River water interests. (See General Counsel’s August 2019 Activity Report.)

***Williams v. State of Arizona, USDC, District of Arizona* (U.S. District Court, District of Arizona)**

On October 21, 2019, the Ninth Circuit granted the United States’ motion to affirm the district court ruling in this matter, and dismissed plaintiff’s case. In his original complaint, filed in October 2017, plaintiff, who is representing himself, alleged that the federal government, the States of Arizona and California, and Metropolitan were discriminating against him and other African American tenants and depriving them of their right to own land and water on property they lease near Yuma, Arizona. On December 17, 2018, the federal court in Arizona granted Metropolitan’s and other defendants’ motions to dismiss this case. The district court held that the case could not proceed fairly without the States, and that the States properly exercised their sovereign immunity when they refused to consent to be sued in federal court. The district court gave plaintiff 30 days to attempt to file a viable complaint without the States. He did not and the action was dismissed. Plaintiff appealed this decision to the Ninth Circuit in February 2019. After another round of briefs by the parties, the Ninth Circuit issued its ruling on October 21, affirming the district court’s decision without argument and noting “the questions raised in this appeal are so insubstantial as not to require further argument.” Plaintiff may appeal the decision to the U.S. Supreme Court. Staff will continue to monitor the matter.

Matters Received by the Legal Department

| <u>Category</u> | <u>Received</u> | <u>Description</u> |
|------------------------|-----------------|--|
| Government Code Claims | 2 | (1) Claim from OHL USA, Inc. arising from its work on the Palos Verdes Reservoir Cover and Liner Replacement Project; and (2) claim relating to an accident involving a MWD vehicle |
| Subpoenas | 2 | (1) Deposition Subpoena for Production of Business Records served by Plaintiff in <i>U.S. Modular, Inc. v. Coppertop Enterprises, Inc.</i> , San Diego County Superior Court, Case No. 37-2018-00054794, seeking construction documents relating to Gene, Iron Mountain, Hines and Eagle Mountain Employee Housing Projects, and (2) Deposition Subpoena for Production of Business Records served by Plaintiff in <i>Wells Fargo Bank, National Association v. Hayday Farms, Inc., et al.</i> , Riverside County Superior Court, Case |



| Requests Pursuant to the Public Records Act | 11 | <u>Requestor</u> | <u>Documents Requested</u> |
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| | | No. BLC 18000396, seeking farm lease agreements between MWD and Hayday Farms dating back to 2011 | |
| | | AFSCME | Cell phone records in April 2019 for MWD employee |
| | | Allied Universal | Contract documents relating to current security consulting services |
| | | Empower Retirement | Bids for New Record Keeper for MWD's deferred compensation plans |
| | | Eurofins Araxis | MWD tax exempt form |
| | | Fabozzi & Miller | 2017 Farm Lease Agreements between MWD and Hayday Farms |
| | | Infojini Consulting | Contract documents relating to current Agency Temporary Services |
| | | LPGas Systems | Legal description for MWD land in North Industrial Parkway in San Bernardino |
| | | MS Engineering | Drawings for MWD underground facilities along Alondra Boulevard in Gardena |
| | | Private Citizen | MWD's records retention schedule, current contract with vendor for storage of hard copy records, and procedures for records requests |
| | | SeNet International Corporation | Winning proposals and bid evaluations for Request for Qualifications for Cyber Security Services |
| | | Westland Group | Maps for underground facilities for project for SoCal Gas in the city of Pala |



| California WaterFix Litigation | |
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| Subject | Status |
| CDWR Environmental Impact Cases Sacramento Superior Ct. Case No. JCCP 4942 (20 Coordinated Cases – 1 Validation; 17 CEQA; 2 CESA) (Judge Culhane) | |
| Validation Action <i>DWR v. All Persons Interested</i> CEQA 17 cases CESA/Incidental Take Permit 2 cases | <ul style="list-style-type: none"> • Cases dismissed after DWR rescinded project approval, bond resolutions, decertified the EIR, and CDFW rescinded the CESA incidental take permit • January 10, 2020 – Hearing on 9 motions for attorneys' fees and costs |
| Breach of Contract <i>City of Antioch v. DWR</i> Sacramento County Superior Ct. (Judge De Alba) | <ul style="list-style-type: none"> • Tentative settlement in principle reached • October 21, 2019 trial date vacated to accommodate formal settlement agreement negotiations • New trial date TBD |
| COA Addendum/No-Harm Agreement <i>North Coast Rivers Alliance v. DWR</i> Sacramento County Superior Ct. (Judge Gevercer) | <ul style="list-style-type: none"> • Plaintiffs allege violations of CEQA, Delta Reform Act & public trust doctrine • Deadline to prepare administrative record extended to November 19, 2019 • USBR Statement of Non-Waiver of Sovereign Immunity filed Sept. 2019 • Nov. 1, 2019 10:00 a.m. Hearing on North Delta Water Agency's Motion to Intervene • Westlands Water District granted leave to intervene • Metropolitan & SWC Monitoring |
| Delta Plan Amendments and Program EIR 4 Consolidated Cases Sacramento County Superior Ct. (Judge Earl) <i>North Coast Rivers Alliance, et al. v. Delta Stewardship Council</i> (lead case) <i>Central Delta Water Agency, et al. v. Delta Stewardship Council</i> <i>Friends of the River, et al. v. Delta Stewardship Council</i> <i>California Water Impact Network, et al. v. Delta Stewardship Council</i> | <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 consolidated for pre-trial and trial under <i>North Coast Rivers Alliance, et al. v. Delta Stewardship Council</i> • Parties stipulated to extend time to prepare the administrative record to November 22, 2019 • Answers or motions to dismiss due 30 days after administrative record is lodged • SWC granted leave to intervene |



| Subject | Status |
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| <p>SWP Contract Extension Validation Action 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"> • DWR seeks a judgment that the Contract Extension amendments to the State Water Contracts are lawful • Metropolitan and 7 other SWCs filed answers in support of validity to become parties • Four answers filed in opposition denying validity on multiple grounds raised in affirmative defenses • Case deemed related to the two CEQA cases, below and assigned to Judge Culhane |
| <p>SWP Contract Extension CEQA Cases Sacramento County Superior Ct. (Judges Sumner and Gevercer)</p> <p><i>North Coast Rivers Alliance, et al. v. DWf DWR</i></p> | <ul style="list-style-type: none"> • Petitions for writ of mandate alleging CEQA and Delta Reform Act violations filed on January 8 & 10, 2019 • Metropolitan preparing unopposed motions to intervene • Deemed related to DWR’s Contract Extension Validation Action and assigned to Judge Culhane • Deadline to prepare administrative record extended to November 11, 2019 • Answers due 30 days after administrative record is received |