



Metropolitan Cases

Delta Stewardship Council Cases (Court of Appeal, Third Appellate District)

On June 22, Metropolitan, the State Water Contractors, and a number of other State Water Project contractors and San Luis & Delta Mendota Water Authority and Westlands Water District filed a petition for review in the California Supreme Court. Metropolitan took the lead in drafting the petition for review. The petition asks the Court to review the court of appeal's holding that the Sacramento-San Joaquin Delta Reform Act of 2009 (the Act) gives the Delta Stewardship Council

(Council) broad discretion to adopt any regulations it thinks are needed to achieve the coequal goals, including its Water Reliability Policy 1 (WR P1) on reduced reliance on water from the Delta, as well as the court of appeal's holding that the Act gives the Council overlapping jurisdiction with the State Water Resources Control Board over water rights in the Delta. The California Supreme Court's review is discretionary. Answers are due July 13, 2020, and any reply is due 10 days thereafter. The Court has 60 days from the date of the petition to grant or deny review, but may extend that time by 30 days. Thus, a decision is expected in August or September of this year.

Matters Impacting Metropolitan

Human Resources

The Legal Department is providing ongoing support to Human Resources in interpreting new federal legislation relating to the COVID-19 pandemic, including the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act).

Legal also is advising on Department of Labor regulatory guidance concerning the implementation of the CARES Act. Among other things, the CARES Act created a new temporary form of emergency paid sick leave and temporarily expanded Family and Medical Leave Act options for employees during the nation's ongoing response to COVID-19.

Other Matters

Finance

On June 9, Metropolitan posted the Official Statement for \$267,995,000 Water Revenue Refunding Bonds, 2020 Series C. The Refunding Bonds were issued to refund portions of five

separate series of bonds and realize debt service savings. Total present value debt service savings for Metropolitan was \$80.2 million. Legal staff attorneys worked with Finance, Engineering, Water Resources staff and disclosure counsel to prepare and finalize the Official Statement.

Matters Received by the Legal Department

| <u>Category</u> | <u>Received</u> | <u>Description</u> | | | | |
|---|--|--|------------------|----------------------------|---------------------|--|
| Government Code Claims | 1 | Claim for damage to vehicle in MWD vanpool | | | | |
| Subpoenas | 1 | Subpoena for employment-related records for a former MWD employee in a matter before the Workers' Compensation Appeals Board on a case unrelated to MWD | | | | |
| Requests Pursuant to the Public Records Act | 13 | <table border="0"> <tr> <td><u>Requestor</u></td> <td><u>Documents Requested</u></td> </tr> <tr> <td>City of Yorba Linda</td> <td>GIS data on MWD structures located within the City</td> </tr> </table> | <u>Requestor</u> | <u>Documents Requested</u> | City of Yorba Linda | GIS data on MWD structures located within the City |
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|--|--|
| Dillon Miller & Ahuja | For the time period between June and October 2019, all communications between Systems Integrated and MWD, and any notifications regarding hacking/intrusion into Systems Integrated's computer systems |
| Glancy Prongay & Murray | Data on water conservation devices and landscaping installed in the City of LA |
| Lewis Management Corp. | Easement document that allows Agri-Empire Irrigation's irrigation line to cross MWD easement in the Nuevo/Lakeview area |
| Mark Thomas & Company | As-builts for any MWD facilities near the Temescal Canyon Improvement Project for the Riverside County Transportation District |
| Mazel Equities National Associates | List of unclaimed or outstanding checks issued by MWD for the past five years that are \$5,000 or over and unclaimed municipal bonds |
| Michael Baker International | As-built information showing MWD utilities near project area in the city of Rancho Cucamonga for work on a sewer siphon |
| Private Citizens (2 requests) | (1) Lobbying reports for those who have registered to lobby the MWD Board, and (2) records on turf removal rebate for the Carmel Mountain Ranch Golf Course |
| Scholz of Finch, Thornton & Baird | Documents relating to MWD's cost estimate for the Colorado River Aqueduct Pumping Plants 6.9kV Power Cable Replacement Project |
| SEIU United Service Workers West (SEIU-USWW) | Contract and proposal documents and invoices relating to MWD's security services |
| Todd Real Estate | Location of tunnel and its depth for MWD easement on Oakglade Road in Monrovia |
| WestWater Research | Data on quantity of water that Quechan Tribe did not divert |



Bay-Delta and SWP Litigation

| Subject | Status |
|--|--|
| <p>SWP-CVP 2019 BiOp Cases</p> <p><i>Pacific Coast Fed’n of Fishermen’s Ass’ns, et al. v. Ross, et al. (PCFFA)</i></p> <p><i>Calif. Natural Resources Agency, et al. v. Ross, et al. (CNRA)</i></p> <p>Federal District Court, Eastern Dist. of California, Fresno Division (Judge Drozd)</p> | <ul style="list-style-type: none"> • SWC intervened in both <i>PCFFA</i> and <i>CNRA</i> cases • PCFFA’s application for TRO denied April 7 • Both PCFFA and CNRA have moved for preliminary injunctions seeking to order the CVP to operate to the 2008/2009 BiOps • On May 11, the court granted, in part, the motions for preliminary injunction, requiring the CVP to operate to the San Joaquin River “inflow-to-export ratio” in the 2009 biological opinion through May 31, 2020 • On June 24, the court denied PCFFA’s motion for preliminary injunction regarding 2020 temperature management below Shasta for listed salmon runs • Briefing on federal defendants’ motion to dismiss CNRA’s California ESA claim to be completed by July 14, 2020; no hearing date set and may be decided on the papers • Parties meeting and conferring on briefing schedule on the merits |
| <p>CESA Incidental Take Permit Cases</p> <p><i>Metropolitan & Mojave Water Agency v. Calif. Dept. of Fish & Wildlife, et al. (CESA/CEQA/Breach of Contract)</i> Fresno County Superior Ct. (Judge Jeffrey Hamilton)</p> <p><i>State Water Contractors & Kern County Water Agency v. Calif. Dept. of Fish & Wildlife, et al. (CESA/CEQA)</i> Fresno County Superior Ct. (Judge Jeffrey Hamilton)</p> <p><i>Tehama-Colusa Canal Auth., et al. v. Calif. Dept. of Water Resources (CEQA)</i> Fresno County Superior Ct. (Judge Jeffrey Hamilton)</p> <p><i>San Bernardino Valley Municipal Water Dist. v. Calif. Dept. of Water Resources, et al. (CEQA/CESA/ Breach of Contract/Takings)</i> Fresno County Superior Ct. (Judge TBA)</p> | <ul style="list-style-type: none"> • On June 5, 2020, San Francisco Baykeeper, The Bay Institute, Natural Resources Defense Council, Inc., Golden Gate Salmon Assn. and Defenders of Wildlife filed CEQA and CESA claims against DWR and CDFW in Alameda County Superior Court • NCRA Case Management Conference July 17, 2020 • SF Baykeeper Case Management Conference August 28, 2020 • MWD, SWC, Tehama-Colusa Canal Auth., and San Bernardino Valley Municipal Water Dist. Case Management Conferences September 16, 2020 • Tehama-Colusa Canal Auth. and DWR each filed petitions to coordinate all 8 cases; DWR moved for a stay of all cases pending outcome of the petitions to coordinate; no hearing date set on petitions and motion • SWC and Metropolitan have submitted Public Records Act requests seeking administrative record materials and other relevant information |



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| <p><i>Sierra Club, et al. v. Calif. Dept. of Water Resources</i> (CEQA/Delta Reform Act/Public Trust) San Francisco County Superior Ct. (Judge TBA)</p> <p><i>North Coast Rivers Alliance, et al. v. Calif. Dept. of Water Resources</i> (CEQA/Delta Reform Act/Public Trust) San Francisco County Superior Ct. (Judge Cynthia Lee)</p> <p><i>Central Delta Water Agency, et. al. v. Calif. Dept. of Water Resources</i> (CEQA/Delta Reform Act/Public Trust/Delta Protection Acts/Area of Origin) Sacramento County Superior Ct. (Judge James Arguelles)</p> <p><i>San Francisco Baykeeper, et al. v. Calif. Dept. of Water Resources, et al.</i> (CEQA/CESA) Alameda County Superior Ct. (Judge Frank Roesch)</p> | |
| <p>CDWR Environmental Impact Cases Sacramento Superior Ct. Case No. JCCP 4942 (20 Coordinated Cases – 1 Validation; 17 CEQA; 2 CESA) (Judge Culhane)</p> | |
| Subject | Status |
| <p>Validation Action <i>DWR v. All Persons Interested</i></p> <p>CEQA 17 cases</p> <p>CESA/Incidental Take Permit 2 cases</p> | <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 – Nine motions for attorneys’ fees and costs denied in their entirety • Parties have appealed attorneys’ fees and costs rulings |
| <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"> • Settlement reached to buy out the 1968 settlement agreement for \$27 million • Antioch City Council approved • DWR awaiting Governor’s approval |



| Subject | Status |
|--|--|
| <p>COA Addendum/ No-Harm Agreement <i>North Coast Rivers Alliance v. DWR</i> Sacramento County Superior Ct. (Judge Gevercer)</p> | <ul style="list-style-type: none"> • Plaintiffs allege violations of CEQA, Delta Reform Act & public trust doctrine • Deadline to prepare administrative record extended July 25, 2020 • USBR Statement of Non-Waiver of Sovereign Immunity filed September 2019 • Westlands Water District and North Delta Water Agency granted leave to intervene • Metropolitan & SWC Monitoring |
| <p>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></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 consolidated for pre-trial and trial under <i>North Coast Rivers Alliance v. Delta Stewardship Council</i> • SWC granted leave to intervene • Metropolitan supports SWC • Parties stipulated to extend time to prepare the administrative record. Due to recent shutdown orders, date is uncertain. • Parties stipulated that answers or motions to dismiss due 60 days after remittitur is issued in the Delta Stewardship Council Cases |
| <p>SWP Contract Extension Validation Action Sacramento County Superior Ct. (No judge assigned yet) <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. (Judge Culhane) <i>North Coast Rivers Alliance, et al. v. DWR</i> <i>Planning & Conservation League, et al. v. 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 • Deemed related to DWR’s Contract Extension Validation Action and assigned to Judge Culhane • Parties stipulated to DWR preparing the administrative record by Feb. 28, 2020, after which a meet-and-confer process began that may last up to 5 months • Answers due 30 days after administrative record is received |