



Metropolitan Cases

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

AFSCME Local 1902 filed an unfair practice charge on February 12, 2020, with the Public Employment Relations Board (PERB). The charge alleges Metropolitan violated the Myers-Milias-Brown Act (MMBA) and related regulations by altering a claimed past practice granting supplemental release time to its executive treasurer and by retaliating against the executive treasurer for her union activities. As a remedy, AFSCME is seeking *inter alia* to restore the alleged past practice and to have Metropolitan cease any alleged retaliation against any of its members for engaging in protected union activities.

On April 15, 2020, Metropolitan filed a position statement seeking a dismissal of the charge on the basis that it has fully complied with provisions of AFSCME’s MOU governing release time, that there is no past practice superseding or supplementing

the MOU’s release time provisions, and that no retaliation occurred in the administration of release time.

On September 10, 2020, PERB issued a complaint against Metropolitan alleging Metropolitan improperly altered a past practice granting supplemental release time to its executive treasurer and that the executive treasurer has been retaliated against for her union activities. On October 1, 2020, Metropolitan answered the complaint and denied any violation of law.

This matter is now set for an informal conference before PERB on October 28, 2020, at which time the complaint may be set for trial before an administrative law judge if a settlement is not reached. The Legal Department has represented Metropolitan to date, but will retain an outside firm, Atkinson, Andelson, Loya, Rudd & Romo, to assist with that representation.

Other Matters

Finance

On September 1, Metropolitan issued \$13,665,000 Waterworks General Obligation Refunding Bonds, 2020 Series A. The Refunding Bonds were issued to refund all of the outstanding 2010 Series General Obligation Refunding Bonds and realize debt service savings. Total present value debt service savings for Metropolitan was **\$7.5 million**.

Legal Department staff attorneys worked with Finance, Engineering and Water Resources staff to prepare the official statement used to market the Refunding Bonds and assisted outside bond and disclosure counsel with the drafting and negotiation of several contracts and closing certificates.

Matters Received by the Legal Department

<u>Category</u>	<u>Received</u>	<u>Description</u>
Action in which MWD is a party	1	Former employee, Andrew Hawgood, complaint for: (1) Violation of Government Code §12940(a) – Race and Disability Discrimination; (2) Violation of Government Code §12940(h) – Retaliation; (3) Violation of Government Code §12940(m)(2) – Retaliation; (4) Violation of Government Code §12940(m)(1) – Failure to Accommodate; (5) Violation of Government Code §12940(n) – Failure to Engage in the Interactive Process; (6) Violation of Government Code §12940(k) – Failure to Prevent Discrimination and Retaliation; filed in Los Angeles County Superior Court
Government Code Claim	1	Damage to heavy equipment (bobcat) rented by MWD



Requests Pursuant to the Public Records Act	11	<u>Requestor</u>	<u>Documents Requested</u>
		AECOM	MWD Annual Report of Professional Services Agreements for FY 2019/20
		Center for Contract Compliance (2 requests)	Contract information relating to (1) Casa Loma Siphon Barrel No. 1 Steel Pipe Furnishing, and (2) CRA Housing HVAC Split System Replacement
		Eastern Municipal Water District	Documents regarding the AVEK/LADWP wheeling/transfer agreement
		The Holt Group	Colorado River Watershed Sanitary Survey - 2015 Update
		MWD Employee	Records relating to time of entry at Weymouth
		Naval Facilities Engineering Command Center for the Southwest	Most recent PFOS/PFOA data from the effluent of MWD's treatment plants
		Private Citizen	MWD easements located on property in Fallbrook
		Public Works Contract Compliance	Contract information relating to F. E. Weymouth Water Treatment Plant Air Compressor Canopy
		Smith and Dailey	Names, positions, and email addresses for current MWD employees, elected officials and volunteers
		University of Oxford Graduate Student	MWD documentary film made in 1937 titled, "Empire of the West"
Other Matters	1	Wage garnishment	



Bay-Delta and SWP Litigation	
Subject	Status
<p>DCP Revenue Bond Validation Action <i>DWR v. All Persons Interested</i> Sacramento County Superior Ct. (Judge Wood)</p>	<ul style="list-style-type: none"> • Filed Aug. 6, 2020 • Answers or cross-complaints due October 30, 2020 • Metropolitan answered on Sept. 14, 2020 • On September 9, due to COVID-19 impacts on the court, the court continued the February 11, 2021 Case Management Conference until further notice
<p>SWP-CVP 2019 BiOp Cases <i>Pacific Coast Fed’n of Fishermen’s Ass’ns, et al. v. Ross, et al. (PCFFA)</i> <i>Calif. Natural Resources Agency, et al. v. Ross, et al. (CNRA)</i> 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 • Briefing on federal defendants’ motion to dismiss CNRA’s California ESA claim is complete; no hearing date set and may be decided on the papers • Federal defendants circulated administrative records for each of the BiOps • Court entered an order giving the parties until December to resolve any record disputes and setting a briefing schedule on any unresolved record disputes with a hearing date of March 2, 2021
<p>CESA Incidental Take Permit Cases <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) <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) <i>Tehama-Colusa Canal Auth., et al. v. Calif. Dept. of Water Resources (CEQA)</i> Fresno County Superior Ct. (Judge Jeffrey Hamilton) <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) <i>Sierra Club, et al. v. Calif. Dept. of Water Resources (CEQA/Delta Reform Act/Public Trust)</i> San Francisco County Superior Ct.</p>	<ul style="list-style-type: none"> • Metropolitan, SWC, Tehama-Colusa Canal Auth., and San Bernardino Valley Municipal Water Dist. Case Management Conferences September 16, 2020 • North Coast Rivers Alliance and SF Baykeeper Case Management Conferences continued to Sept. 25, 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 • Judge Anne-Christine Massullo assigned as coordination motion judge. A hearing on determination of venue is scheduled before Judge Massullo on October 7, 2020



<p>(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 • Parties preparing the record for appeal in advance of briefing the merits
<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 received governor’s office approval and executed the settlement on July 30, 2020 • Case dismissed based on Antioch’s request to dismiss with prejudice on August 17, 2020



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 • 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 • Deadline to prepare administrative record extended September 23, 2020
<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 • Delta Stewardship Council has lodged the administrative record • 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. (Judge Culhane) <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 • Administrative Record completed • DWR filed its answers on Sept. 28, 2020



Subject	Status
Delta Conveyance Project <i>Central Delta Water Agency, et al. v. DWR</i> Sacramento County Superior Ct. (Judge Chang)	<ul style="list-style-type: none">• Filed Aug. 10, 2020• Plaintiffs Central Delta Water Agency, South Delta Water Agency and Local Agencies of the North Delta One cause of action alleging that DWR's adoption of an Initial Study/Mitigated Negative Declaration (IS/MND) for soil explorations needed for the Delta Conveyance Project violates CEQA
Water Management Tools Contract Amendment <i>California Water Impact Network et al. v. DWR</i> Sacramento County Superior Ct. (Judge Arguelles)	<ul style="list-style-type: none">• Filed Sept. 28, 2020• CWIN and Aqualliance allege one cause of action for violation of CEQA



San Diego County Water Authority v. Metropolitan, et al.

Cases	Date	Status
2010, 2012	July 30	Hearing on proposed judgment and writ.
	July 31	Tentative judgment and writ issued by the court. Transmitted to the Board on August 3.
	August 13-14	Final judgment and writ issued. Transmitted to the Board on August 17.
	August 28, Sept. 1	SDCWA and Metropolitan filed memoranda of costs.
	Sept. 11	Metropolitan filed notice of appeal of judgment and writ.
	Sept. 14, 16	Metropolitan filed motion to strike SDCWA's costs memorandum, and SDCWA filed motion to strike or tax Metropolitan's costs memorandum.
	Nov. 12	Hearing on prevailing party, if any, as to attorneys' fees.
	Jan. 12, 2021	Hearing on motions to strike or tax costs memoranda.
2014, 2016	August 25	Hearing on SDCWA's motions to lift stays and file amended petitions/complaints.
	August 27	Court granted SDCWA's motions. Ruling transmitted to the Board on August 28.
	August 28	SDCWA served first amended (2014) and second amended (2016) petitions/complaints.
	Sept. 28	Metropolitan filed demurrers and motions to strike portions of the amended petitions/complaints.
	Sept. 28-29	Member agencies City of Torrance, Eastern Municipal Water District, Foothill Municipal Water District, Las Virgenes Municipal Water District, Three Valleys Municipal Water District, Municipal Water District of Orange County, West Basin Municipal Water District, and Western Municipal Water District filed joinders to the demurrers and motions to strike.
	Feb. 10, 2021	Hearing on demurrers and motions to strike.
2017	July 23	Dismissal without prejudice entered.
2018	July 28	Parties filed a stipulation and application to designate the case complex and related to the 2010-2017 cases, and to assign the case to Judge Massullo's court.



Outside Counsel Agreements				
Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Andrade Gonzalez LLP	MWD v DWR, CDFW and CDNR Incidental Take Permit (ITP) CESA/CEQA/Contract Litigation	185894	07/20	\$100,000
Aleshire & Wynder	Oil, Mineral and Gas Leasing	174613	08/18	\$50,000
Atkinson Andelson Loya Ruud & Romo	Employee Relations	59302	04/04	\$1,159,763
	MWD v. Collins	185892	06/20	\$60,000
	MWD Drone and Airspace Issues	193452	08/20	\$50,000
Best, Best & Krieger	Navajo Nation v. U.S. Department of the Interior, et al.	54332	05/03	\$185,000
	Iron Mountain SMARA (Surface Mining and Reclamation Act)	158043	07/17	\$250,000
	Bay-Delta Conservation Plan/Delta Conveyance Project (with SWCs)	170697	08/17	\$500,000
	Environmental Compliance Issues	185888	05/20	\$50,000
Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP	FCC and Communications Matters	110227	11/10	\$100,000
Burke, Williams & Sorensen, LLP	Real Property - General	180192	01/19	\$100,000
	CA WaterFix Validation Litigation	180196	12/18	\$100,000
	Labor and Employment Matters	180207	04/19	\$50,000
	General Real Estate Matters	180209	08/19	\$50,000
	Delta Conveyance Project Validation Action	185893	07/20	\$100,000
Law Office of Alexis S.M. Chiu*	Bond Counsel	174595	07/18	N/A
Cislo & Thomas LLP	Intellectual Property	170703	08/17	\$50,000
Curls Bartling P.C.*	Bond Counsel	174596	07/18	N/A
Duane Morris LLP	SWRCB Curtailment Process	138005	09/14	\$615,422



Outside Counsel Agreements				
Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Duncan, Weinberg, Genzer & Pembroke PC	Power Issues	6255	09/95	\$3,175,000
Ellison, Schneider, Harris & Donlan	Colorado River Issues	69374	09/05	\$175,000
	Issues re SWRCB	84457	06/07	\$200,000
Haden Law Office	Real Property Matters re Agricultural Land	180194	01/19	\$50,000
Hanson Bridgett LLP	SDCWA v. MWD	124103	03/12	\$1,100,000
	Finance Advice	158024	12/16	\$100,000
	Deferred Compensation/HR	170706	10/17	\$300,000
	Food and Water Watch v. MWD	174612	09/18	\$200,000
	Tax Issues	180200	04/19	\$50,000
Hawkins Delafield & Wood LLP*	Bond Counsel	174601	07/18	N/A
Horvitz & Levy	SDCWA v. MWD	124100	02/12	\$600,000
	General Appellate Advice	146616	12/15	\$100,000
	Food and Water Watch v. MWD Appeal	185862	09/19	\$60,000
Hunt Ortmann Palfy Nieves Darling & Mah, Inc.	Construction Contracts/COVID-19 Emergency	185883	03/20	\$40,000
Internet Law Center	HR Matter	174603	05/18	\$60,000
Jackson Lewis P.C.	Employment: Department of Labor Office of Contract Compliance (OFCCP)	137992	02/14	\$45,000
Kegel, Tobin & Truce	Workers' Compensation	180206	06/19	\$100,000
Lesnick Prince & Pappas LLP	Topock/PG&E's Bankruptcy	185859	10/19	\$30,000



Outside Counsel Agreements				
Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Liebert Cassidy Whitmore	Labor and Employment	158032	02/17	\$201,444
	EEO Investigations	180193	01/19	\$100,000
	FLSA Audit	180199	02/19	\$50,000
	EEO Investigation	180205	05/19	\$50,000
Manatt, Phelps & Phillips	In Re Tronox Incorporated	103827	08/09	\$540,000
	SDCWA v. MWD rate litigation	146627	06/16	\$2,900,000
Meyers Nave Riback Silver & Wilson	OCWD v. Northrop Corporation	118445	07/11	\$2,300,000
	IID v. MWD	185900	08/20	\$100,000
Morgan, Lewis & Bockius	SDCWA v. MWD	110226	07/10	\$8,750,000
Nixon Peabody LLP*	Bond Counsel	174600	07/18	N/A
Olson Remcho LLP	Government Law	131968	07/14	\$200,000
	Ethics Office	170714	01/18	\$350,000
Quinn Emanuel Urquhart & Sullivan	Appellate	174598	04/18	\$100,000
Ryan & Associates	Leasing Issues	43714	06/01	\$100,000
Seyfarth Shaw LLP	HR Litigation	185863	12/19	\$250,000
Stradling Yocca Carlson & Rauth*	Bond Counsel	174599	07/18	N/A
	Financial Disclosure	185880	06/21	N/A
Theodora Oringher PC	OHL USA, Inc. v. MWD	185854	09/19	\$700,000
	Construction Contracts - General Conditions Update	185896	07/20	\$50,000
Thomas Law Group	MWD v. DWR, CDFW, CDNR – Incidental Take Permit (ITP) CESA/CEQA/Contract Litigation	185891	05/20	\$100,000
Thompson Coburn LLP	FERC Representation re Colorado River Aqueduct Electrical Transmission System	122465	12/11	\$100,000



Outside Counsel Agreements				
Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Van Dermyden Maddux Law Corporation	Climate Review/Investigation	193454	09/20	\$75,000
Van Ness Feldman, LLP	Delta Conveyance Project	131976	12/13	\$750,000
	General Litigation	170704	07/18	\$50,000
	Colorado River MSHCP	180191	01/19	\$50,000

*Expenditures paid by Bond Proceeds/Finance