



## Matters Impacting Metropolitan

### ***Department of Interior v. Navajo Nation (U.S. Supreme Court); State of Arizona v. Navajo Nation (U.S. Supreme Court, U.S. Court of Appeals for the Ninth Circuit)***

On March 20, 2023, the U.S. Supreme Court heard oral argument in these consolidated cases. The Court heard almost two hours of oral argument from the parties on the issues of: (1) whether the Supreme Court has exclusive jurisdiction over water rights on the mainstream of the Colorado River as retained in *Arizona v. California*; and (2) whether the federal government owes the Navajo Nation an affirmative, judicially enforceable fiduciary duty to assess and address the Navajo Nation's need for water sufficient to provide a basis for a breach of trust claim.

Argument started with the Solicitor Frederick Lui arguing on behalf of the U.S. Department of Interior (DOI). This argument was focused primarily on whether the Navajo Nation could state a valid claim for breach of trust against DOI, assuming that the Navajo Nation was not asking for rights to the mainstream of the Colorado.

Next, counsel for Arizona Department of Water Resources, Rita Maguire, argued on behalf of the State Petitioners. Ms. Maguire followed up on factual issues raised during the Solicitor's argument and questions from the Court regarding the State Petitioners' interests in the mainstream. State Petitioners include the States of Arizona and Nevada, along with Metropolitan, Coachella Valley Water District, Imperial Irrigation District, Salt River Valley Water Users' Association, Salt River Project Agricultural Improvement and Power District, Central Arizona Water Conservation District, Colorado River Commission of Nevada, and Southern Nevada Water Authority. The State of Colorado filed a separate petition supporting the State Petitioners' position that the Ninth Circuit opinion infringed on the Supreme Court's exclusive jurisdiction in *Arizona v. California*, but it did not argue at the hearing.

Counsel for the Navajo Nation argued in support of the breach of trust claim and against any jurisdictional bar. The Solicitor had the final two minutes of rebuttal to summarize DOI's argument that the Navajo Nation could not make a breach of

trust claim premised on its 1868 treaty. The case was submitted and the parties do not expect a ruling before June 2023.

Metropolitan will continue to participate in this case to protect its Colorado River water interests. (See General Counsel's July 2022 Board Report.)

### **EPA Proposes Drinking Water Standards for Six PFAS**

On March 14, 2023, the U.S. Environmental Protection Agency (EPA) proposed legally enforceable Maximum Contaminant Levels (MCLs) and non-enforceable, health-based Maximum Contaminant Level Goals (MCLGs) for six per- and polyfluoroalkyl substances (PFAS) in drinking water: perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), perfluorononanoic acid (PFNA), hexafluoropropylene oxide dimer acid (HFPO-DA, commonly known as GenX Chemicals), perfluorohexane sulfonic acid (PFHxS), and perfluorobutane sulfonic acid (PFBS).

EPA is proposing individual MCLs for PFOA and PFOS of 4.0 nanograms per liter (ng/L) or parts per trillion (ppt), a level at which they can be reliably measured, and individual MCLGs at zero. EPA is proposing a Hazard Index (HI) of 1 for both the MCL and the MCLG to address individual and mixtures of PFNA, PFHxS, PFBS, and/or GenX Chemicals where they occur in drinking water.

An MCL is the maximum level allowed of a contaminant or a group of contaminants in water which is delivered to any user of a public water system. An MCLG is the maximum level of a contaminant in drinking water at which no known or anticipated adverse effect on the health of persons would occur, allowing an adequate margin of safety. The federal Safe Drinking Water Act generally requires EPA to set an MCL as close to the MCLG as feasible. EPA expects to finalize the rule by the end of 2023. Once the rule is finalized, water systems will have three years to comply with the MCLs.

The chart below shows EPA's proposed MCLs and MCLGs, as well as the Health Based Water Concentrations (HBWCs) and health advisories, for each of these PFAS.



Guidance and Proposed Regulatory Values for PFAS in Drinking Water

PFAS	Proposed MCLG	Proposed MCL	Health Advisory	Health-Based Water Concentration
PFOA	Zero	4.0 ppt	0.004 ppt <sup>a</sup>	--
PFOS	Zero	4.0 ppt	0.02 ppt <sup>a</sup>	--
PFNA			--	10 ppt
PFHxS	1.0 (unitless)	1.0 (unitless)	--	9 ppt
PFBS			2,000 ppt	2,000 ppt
HFPO-DA (GenX Chemicals)	Hazard Index	Hazard Index	10 ppt	10 ppt

<sup>a</sup>Interim Values

The proposed rule would require all water systems to conduct initial monitoring within three years after the rule’s promulgation. Depending on their size and source water, water systems would have to conduct initial monitoring either twice or quarterly during a 12-month period. Under the proposed rule, water systems would have to provide public notification of an MCL violation as soon as practicable but no later than 30 days after the system learns of the violation. Water systems with PFAS levels above the proposed MCLs would need to take action such as installing water treatment, use of a new uncontaminated source

water, or connection to an uncontaminated water system.

EPA published the Notice of Proposed Rulemaking in the *Federal Register* on March 29, 2023. Comments on the proposed rule must be submitted on or before May 30, 2023. EPA will also hold a virtual public hearing on May 4, 2023 at <https://www.epa.gov/sdwa/and-polyfluoroalkyl-substances-pfas>, where the public is invited to provide EPA with verbal comments. Registration is required to attend the public hearing, and the last day to register to speak at the hearing is April 28, 2023. EPA held two webinars regarding the proposed PFAS rulemaking: (1) a general overview on March 16, 2023, and (2) a webinar specifically for water utilities and the drinking water professional community on March 29, 2023. The webinar recordings and presentation materials are available on EPA’s website: [Per- and Polyfluoroalkyl Substances \(PFAS\) | US EPA](#). Metropolitan staff will continue to monitor EPA’s rulemaking process and submit comments.

## Matters Received

Category	Received	Description	
Government Code Claims	2	Claims relating to accidents involving MWD vehicles	
Subpoenas	1	Subpoena for employee personnel and pay records for a matter unrelated to Metropolitan	
Requests Pursuant to the Public Records Act	17	<u>Requestor</u>	<u>Documents Requested</u>
		AFSCME Local 1902	Documents relating to email communication sent to State Auditor
		Brown and Caldwell	Colorado River water quality data from January 2020 to January 2023
		Eastern Capital Technologies	Responses to Request for Proposal for Los Angeles Basin Field Facilities WiFi Upgrade Assessment and Design
		Epson America	MWD’s most recent copier lease agreement
		HELIX Environmental Planning	Rankings for consultants’ statements of qualifications submitted in response to the Request for Qualifications for Environmental On-call Services
		Jacobs	Proposals for Pure Water Southern California Program-Program Management Support Services



<u>Requestor</u>	<u>Documents Requested</u>
MWD Employee	Job code form and job description for job title change effective June 2017
Nossaman	Records relating to the pending application of Rainbow Municipal Water District to detach from San Diego County Water Authority
Pacific Forest Trust	MWD water revenues by month for calendar year 2022
Private Citizens (3 requests)	(1) Proposals submitted in response to Request for Qualifications for On-Call Services; (2) DVL West Dam water levels and deformation data from 2006 to 2023; and (3) plan view showing entry and exit locations for 48" PCCP pipe that runs under 6th Street in the city of Burbank
Santa Clara Valley Water District	MWD protocol relating to spills into MWD's reservoirs
The Washington Post	Records from 2012 to the most recent data available showing annual payments made to landowners as part of the fallowing and crop rotation program that MWD has with the Palo Verde Irrigation District
U.S. Army Corps of Engineers, Real Estate Division	License Agreement among San Gabriel Valley Protective Association, MWD, and Los Angeles County Flood Control District for diversion of water relating to the Whittier Narrows Dam
US Ecology	Scoring sheet and winning proposal submitted in response to the Request for Proposal for Hazardous Waste Management Services
Watermarke Properties	MWD as-built records for pipeline near site on The City Drive in the city of Orange



**PLEASE NOTE**

- ADDITIONS ONLY IN THE FOLLOWING TWO TABLES WILL BE SHOWN IN RED.
- ANY CHANGE TO THE *OUTSIDE COUNSEL AGREEMENTS* TABLE WILL BE SHOWN IN REDLINE FORM (I.E., ADDITIONS, REVISIONS, DELETIONS).



### Bay-Delta and SWP Litigation

**Consolidated DCP Revenue Bond Validation Action and CEQA Case**

*Sierra Club, et al. v. California Department of Water Resources* (CEQA, designated as lead case)

*DWR v. All Persons Interested* (Validation)

Sacramento County Superior Ct.  
 (Judge Kenneth C. Mennemeier)

- **Validation Action**

- Metropolitan, Mojave Water Agency, Coachella Valley Water District, and Santa Clarita Valley Water Agency have filed answers in support
- Kern County Water Agency, Tulare Lake Basin Water Storage District, Oak Flat Water District, County of Kings, Kern Member Units & Dudley Ridge Water District, and City of Yuba City filed answers in opposition
- North Coast Rivers Alliance et al., Howard Jarvis Taxpayers Association, Sierra Club et al., County of Sacramento & Sacramento County Water Agency, CWIN et al., Clarksburg Fire Protection District, Delta Legacy Communities, Inc, and South Delta Water Agency & Central Delta Water Agency have filed answers in opposition
- Case ordered consolidated with the DCP Revenue Bond CEQA Case for pre-trial and trial purposes and assigned to Judge Earl for all purposes
- DWR’s motions for summary judgment re CEQA affirmative defenses granted; cross-motions by opponents denied
- Dec. 9, 2022 DWR’s motion for summary adjudication of Delta Reform Act and public trust doctrine affirmative defenses granted; NCRA’s motion for summary judgment re same denied
- Trial on the merits set for May 15-18, 2023

- **CEQA Case**

- Sierra Club, Center for Biological Diversity, Planning and Conservation League, Restore the Delta, and Friends of Stone Lakes National Wildlife Refuge filed a standalone CEQA lawsuit challenging DWR’s adoption of the bond resolutions
- Alleges DWR violated CEQA by adopting bond resolutions before certifying a Final EIR for the Delta Conveyance Project
- Cases ordered consolidated for all purposes
- DWR’s motion for summary judgment granted; Sierra Club’s motion denied



Subject	Status
<p><b>SWP-CVP 2019 BiOp Cases</b></p> <p><i>Pacific Coast Fed'n of Fishermen's Ass'ns, et al. v. Raimondo, et al. (PCFFA)</i></p> <p><i>Calif. Natural Resources Agency, et al. v. Raimondo, et al. (CNRA)</i></p> <p>Federal District Court, Eastern Dist. of California, Fresno Division (Judge Thurston)</p>	<ul style="list-style-type: none"> <li>• SWC intervened in both <i>PCFFA</i> and <i>CNRA</i> cases</li> <li>• Federal defendants reinitiated consultation on Oct 1, 2021</li> <li>• February 24, 2023 court approved the 2023 Interim Operations Plan proposed by federal defendants and state plaintiffs, denied all alternative proposed operations and extended the stay until December 31, 2023</li> </ul>
<p><b>CESA Incidental Take Permit Cases</b></p> <p><b>Coordinated Case Name <i>CDWR Water Operations Cases, JCCP 5117</i> (Coordination Trial Judge Gevercer)</b></p> <p><i>Metropolitan &amp; Mojave Water Agency v. Calif. Dept. of Fish &amp; Wildlife, et al. (CESA/CEQA/Breach of Contract)</i></p> <p><i>State Water Contractors &amp; Kern County Water Agency v. Calif. Dept. of Fish &amp; Wildlife, et al. (CESA/CEQA)</i></p> <p><i>Tehama-Colusa Canal Auth., et al. v. Calif. Dept. of Water Resources (CEQA)</i></p> <p><i>San Bernardino Valley Municipal Water Dist. v. Calif. Dept. of Water Resources, et al. (CEQA/CESA/ Breach of Contract/Takings)</i></p> <p><i>Sierra Club, et al. v. Calif. Dept. of Water Resources (CEQA/Delta Reform Act/Public Trust)</i></p> <p><i>North Coast Rivers Alliance, et al. v. Calif. Dept. of Water Resources (CEQA/Delta Reform Act/Public Trust)</i></p> <p><i>Central Delta Water Agency, et. al. v. Calif. Dept. of Water Resources (CEQA/Delta Reform Act/Public Trust/ Delta Protection Acts/Area of Origin)</i></p> <p><i>San Francisco Baykeeper, et al. v. Calif. Dept. of Water Resources, et al. (CEQA/CESA)</i></p>	<ul style="list-style-type: none"> <li>• All 8 cases ordered coordinated in Sacramento County Superior Court</li> <li>• Stay on discovery issued until coordination trial judge orders otherwise</li> <li>• All four Fresno cases transferred to Sacramento to be heard with the four other coordinated cases</li> <li>• Certified administrative records lodged March 4, 2022</li> <li>• State Water Contractors et al. granted leave to intervene in Sierra Club, North Coast Rivers Alliance, Central Delta Water Agency, and San Francisco Baykeeper cases by stipulation</li> <li>• SWC, et al. granted leave to intervene as respondents in <i>Tehama-Colusa Canal Auth., et al. v. Calif. Dept. of Water Resources</i> CEQA case</li> <li>• SWC's renewed motion to augment the administrative records <u>granted in part; a court-appointed referee will review withheld records to determine if the deliberative process privilege applies</u></li> </ul>



<p><b>CDWR Environmental Impact Cases</b> <b>Sacramento Superior Ct. Case No. JCCP 4942,</b> <b>3d DCA Case No. C091771</b> <b>(20 Coordinated Cases)</b></p> <p>Validation Action <i>DWR v. All Persons Interested</i></p> <p>CEQA 17 cases</p> <p>CESA/Incidental Take Permit 2 cases</p> <p>(Judge <b>Arguelles</b>)</p>	<ul style="list-style-type: none"> <li>• Cases dismissed after DWR rescinded project approval, bond resolutions, decertified the EIR, and CDFW rescinded the CESA incidental take permit</li> <li>• January 10, 2020 – Nine motions for attorneys’ fees and costs denied in their entirety</li> <li>• Parties have appealed attorneys’ fees and costs rulings</li> <li>• May 11, 2022, court of appeal reversed the trial court’s denial of attorney fees and costs in an unpublished opinion</li> <li>• Opinion ordered published</li> <li>• Coordinated cases remitted to trial court for re-hearing of fee motions consistent with the court of appeal’s opinion</li> <li>• <a href="#">Sept. 15</a>, 2023 re-hearing on fee motions</li> </ul>
<p><b>COA Addendum/ No-Harm Agreement</b></p> <p><i>North Coast Rivers Alliance v. DWR</i> Sacramento County Superior Ct. (Judge <a href="#">Rockwell</a>)</p>	<ul style="list-style-type: none"> <li>• Plaintiffs allege violations of CEQA, Delta Reform Act &amp; public trust doctrine</li> <li>• USBR Statement of Non-Waiver of Sovereign Immunity filed September 2019</li> <li>• Westlands Water District and North Delta Water Agency granted leave to intervene</li> <li>• Metropolitan &amp; SWC monitoring</li> <li>• Deadline to prepare administrative record extended to Nov. 18, 2022</li> </ul>
<p><b>Delta Plan Amendments and Program EIR</b> <a href="#">1 of 4 Consolidated Cases Sacramento County Superior Ct. remaining on appeal Court of Appeal for the Third App. Dist. Case No. C097948</a></p> <p><i>North Coast Rivers Alliance, et al. v. Delta Stewardship Council</i></p> <p><del><i>Central Delta Water Agency, et al. v. Delta Stewardship Council</i></del></p> <p><del><i>Friends of the River, et al. v. Delta Stewardship Council</i></del></p> <p><del><i>California Water Impact Network, et al. v. Delta Stewardship Council</i></del></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 v. Delta Stewardship Council</i></li> <li>• SWC granted leave to intervene</li> <li>• Metropolitan supports SWC</li> <li>• Nov. 7, 2022 court ruled in favor of Delta Stewardship Council on all claims</li> <li>• Orders denying all claims and final judgments entered Nov. 22, 2022</li> <li>• Notice of appeal filed in <i>North Coast Rivers Alliance, et al.</i> case</li> </ul>





	<ul style="list-style-type: none"> <li>Parties in the other three cases settled with the Delta Stewardship Council</li> </ul>
<p><b>SWP Contract Extension Validation Action</b> Court of Appeal for the Third App. Dist. Case No. C096316 <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>Jan. 5-7, 2022 Hearing on the merits held with CEQA cases, below</li> <li>Final statement of decision in DWR’s favor filed March 9, 2022</li> <li>Final judgment entered and served</li> <li>C-WIN et al., County of San Joaquin et al. and North Coast Rivers Alliance et al. filed notices of appeal</li> <li>Validation and CEQA cases consolidated on appeal</li> <li>Briefing schedule set by stipulation with estimated completion in April or May 2023</li> </ul>
<p><b>SWP Contract Extension CEQA Cases</b> Court of Appeal for the Third App. Dist. Case Nos. C096384 &amp; C096304 <i>North Coast Rivers Alliance, et al. v. DWR</i> <i>Planning &amp; Conservation League, et al. 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>Deemed related to DWR’s Contract Extension Validation Action and assigned to Judge Culhane</li> <li>Administrative Record completed</li> <li>DWR filed its answers on September 28, 2020</li> <li>Metropolitan, Kern County Water Agency and Coachella Valley Water District have intervened and filed answers in the two CEQA cases</li> <li>Final statement of decision in DWR’s favor denying the writs of mandate filed March 9, 2022</li> <li>Final judgments entered and served</li> <li>North Coast Rivers Alliance et al. and PCL et al. filed notices of appeal</li> <li>Appeals consolidated with the validation action above</li> </ul>



**Delta Conveyance Project Soil Exploration Cases**

*Central Delta Water Agency, et al. v. DWR*  
 Sacramento County Superior Ct.  
 (Judge Chang)

*Central Delta Water Agency, et al. v. DWR (II)*,  
 Sacramento County Super. Ct.  
 (Judge Acquisto)

- Original case filed August 10, 2020; new case challenging the second addendum to the CEQA document filed Aug. 1, 2022
- 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
- March 24, 2021 Second Amended Petition filed to add allegation that DWR's addendum re changes in locations and depths of certain borings violates CEQA
- DWR's petition to add the 2020 CEQA case to the *Department of Water Resources Cases*, JCCP 4594, San Joaquin County Superior Court denied
- Hearing on the merits held Oct.13, 2022
- Dec. 2, 2022 ruling on the merits granting the petition with respect to two mitigation measures and denying on all other grounds
- Dec. 23, 2022 court order directing DWR to address the two mitigation measures within 60 days while declining to order DWR to vacate the IS/MND
- March 27, 2023 court entered judgment and issued a writ after ordering and considering supplemental briefing

**Water Management Tools Contract Amendment**

*California Water Impact Network et al. v. DWR*  
 Sacramento County Superior Ct.  
 (Judge Acquisto)

*North Coast Rivers Alliance, et al. v. DWR*  
 Sacramento County Super. Ct.  
 (Judge Acquisto)

- Filed September 28, 2020
- CWIN and Aqualliance allege one cause of action for violation of CEQA
- NCRA et al. allege four causes of action for violations of CEQA, the Delta Reform Act, Public Trust Doctrine and seeking declaratory relief
- SWC motion to intervene in both cases granted
- Dec. 20, 2022 DWR filed notice of certification of the administrative record and filed answers in both cases





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

Cases	Date	Status
<b>2010, 2012</b>	Aug. 13-14, 2020	Final judgment and writ issued. Transmitted to the Board on August 17.
	Sept. 11	Metropolitan filed notice of appeal of judgment and writ.
	Jan. 13, 2021	Court issued order finding SDCWA is the prevailing party on the Exchange Agreement, entitled to attorneys' fees and costs under the contract.
	Feb. 10	Court issued order awarding SDCWA statutory costs, granting SDCWA's and denying Metropolitan's related motions.
	Feb. 16	Per SDCWA's request, Metropolitan paid contract damages in 2010-2012 cases judgment and interest. Metropolitan made same payment in Feb. 2019, which SDCWA rejected.
	Feb. 25	Metropolitan filed notice of appeal of Jan. 13 (prevailing party on Exchange Agreement) and Feb. 10 (statutory costs) orders.
	Sept. 21	Court of Appeal issued opinion on Metropolitan's appeal regarding final judgment and writ, holding: (1) the court's 2017 decision invalidating allocation of Water Stewardship Rate costs to transportation in the Exchange Agreement price and wheeling rate applied not only to 2011-2014, but also 2015 forward; (2) no relief is required to cure the judgment's omission of the court's 2017 decision that allocation of State Water Project costs to transportation is lawful; and (3) the writ is proper and applies to 2015 forward.
	Mar. 17, 2022	Court of Appeal unpublished decision affirming orders determining SDCWA is the prevailing party in the Exchange Agreement and statutory costs.
	Mar. 21	Metropolitan paid SDCWA \$14,296,864.99 for attorneys' fees and \$352,247.79 for costs, including interest.
	July 27	Metropolitan paid SDCWA \$411,888.36 for attorneys' fees on appeals of post-remand orders.
<b>2014, 2016</b>	Aug. 28, 2020	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.



Cases	Date	Status
<b>2014, 2016 (cont.)</b>	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. 16, 2021	Court issued order denying Metropolitan’s demurrers and motions to strike, allowing SDCWA to retain contested allegations in amended petitions/complaints.
	March 22	Metropolitan filed answers to the amended petitions/complaints and cross-complaints against SDCWA for declaratory relief and reformation, in the 2014, 2016 cases.
	March 22-23	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 answers to the amended petitions/complaints in the 2014, 2016 cases.
	April 23	SDCWA filed answers to Metropolitan’s cross-complaints.
	Sept. 30	Based on the Court of Appeal’s Sept. 21 opinion (described above), and the Board’s Sept. 28 authorization, Metropolitan paid \$35,871,153.70 to SDCWA for 2015-2017 Water Stewardship Rate charges under the Exchange Agreement and statutory interest.
<b>2017</b>	July 23, 2020	Dismissal without prejudice entered.
<b>2018</b>	July 28, 2020	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.
	Nov. 13	Court ordered case complex and assigned to Judge Massullo’s court.
	April 21, 2021	SDCWA filed second amended petition/complaint.
	May 25	Metropolitan filed motion to strike portions of the second amended petition/complaint.
	May 25-26	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 motion to strike.



Cases	Date	Status
<b>2018 (cont.)</b>	July 19	Court issued order denying Metropolitan’s motion to strike portions of the second amended petition/complaint.
	July 29	Metropolitan filed answer to the second amended petition/complaint and cross-complaint against SDCWA for declaratory relief and reformation.
	July 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 answers to the second amended petition/complaint.
	Aug. 31	SDCWA filed answer to Metropolitan’s cross-complaint.
	April 11, 2022	Court entered order of voluntary dismissal of parties’ WaterFix claims and cross-claims.
<b>2014, 2016, 2018</b>	June 11, 2021	Deposition of non-party witness.
	Aug. 25	Hearing on Metropolitan’s motion for further protective order regarding deposition of non-party witness.
	Aug. 25	Court issued order consolidating the 2014, 2016, and 2018 cases for all purposes, including trial.
	Aug. 30	Court issued order granting Metropolitan’s motion for a further protective order regarding deposition of non-party witness.
	Aug. 31	SDCWA filed consolidated answer to Metropolitan’s cross-complaints in the 2014, 2016, and 2018 cases.
	Oct. 27	Parties submitted to the court a joint stipulation and proposed order staying discovery through Dec. 8 and resetting pre-trial deadlines.
	Oct. 29	Court issued order staying discovery through Dec. 8 and resetting pre-trial deadlines, while the parties discuss the prospect of settling some or all remaining claims and crossclaims.
	Jan. 12, 2022	Case Management Conference. Court ordered a 35-day case stay to allow the parties to focus on settlement negotiations, with weekly written check-ins with the court; and directed the parties to meet and confer regarding discovery and deadlines.
	Feb. 22	Court issued order resetting pre-trial deadlines as proposed by the parties.
	Feb. 22	Metropolitan and SDCWA each filed motions for summary adjudication.



Cases	Date	Status
<b>2014, 2016, 2018 (cont.)</b>	April 13	Hearing on Metropolitan’s and SDCWA’s motions for summary adjudication.
	April 18	Parties filed supplemental briefs regarding their respective motions for summary adjudication, as directed by the court.
	April 18	Court issued order resetting pre-trial deadlines as proposed by the parties.
	April 29	Parties filed pre-trial briefs.
	April 29	Metropolitan filed motions in limine.
	May 4	Court issued order granting Metropolitan’s motion for summary adjudication on cross-claim for declaratory relief that the conveyance facility owner, Metropolitan, determines fair compensation, including any offsetting benefits; and denying its motion on certain other cross-claims and an affirmative defense.
	May 11	Court issued order granting SDCWA’s motion for summary adjudication on cross-claim for declaratory relief in the 2018 case regarding lawfulness of the Water Stewardship Rate’s inclusion in the wheeling rate and transportation rates in 2019-2020; certain cross-claims and affirmative defenses on the ground that Metropolitan has a duty to charge no more than fair compensation, which includes reasonable credit for any offsetting benefits, with the court also stating that whether that duty arose and whether Metropolitan breached that duty are issues to be resolved at trial; affirmative defenses that SDCWA’s claims are untimely and SDCWA has not satisfied claims presentation requirements; affirmative defense in the 2018 case that SDCWA has not satisfied contract dispute resolution requirements; claim, cross-claims, and affirmative defenses regarding applicability of Proposition 26, finding that Proposition 26 applies to Metropolitan’s rates and charges, with the court also stating that whether Metropolitan violated Proposition 26 is a separate issue; and cross-claims and affirmative defenses regarding applicability of Government Code section 54999.7, finding that section 54999.7 applies to Metropolitan’s rates. Court denied SDCWA’s motion on certain other cross-claims and affirmative defenses.
	May 13	Pre-trial conference; court denied Metropolitan’s motions in limine.
	May 16	Court issued order setting post-trial brief deadline and closing arguments.
	May 16-27	Trial occurred but did not conclude.
	May 23, June 21	SDCWA filed motions in limine.



Cases	Date	Status
<b>2014, 2016, 2018 (cont.)</b>	May 26, June 24	Court denied SDCWA's motions in limine.
	June 3, June 24, July 1	Trial continued, concluding on July 1.
	June 24	SDCWA filed motion for partial judgment.
	July 15	Metropolitan filed opposition to motion for partial judgment.
	Aug. 19	Post-trial briefs filed.
	Sept. 14	Court issued order granting in part and denying in part SDCWA's motion for partial judgment (granting motion as to Metropolitan's dispute resolution, waiver, and consent defenses; denying motion as to Metropolitan's reformation cross-claims and mistake of fact and law defenses; and deferring ruling on Metropolitan's cost causation cross-claim).
	Sept. 21	Metropolitan filed response to order granting in part and denying in part SDCWA's motion for partial judgment (requesting deletion of Background section portion relying on pleading allegations).
	Sept. 22	SDCWA filed objection to Metropolitan's response to order granting in part and denying in part SDCWA's motion for partial judgment.
	Sept. 27	Post-trial closing arguments.
	Oct. 20	Court issued order that it will rule on SDCWA's motion for partial judgment as to Metropolitan's cost causation cross-claim simultaneously with the trial statement of decision.
	Dec. 16	The parties' filed proposed trial statements of decision.
	Dec. 21	SDCWA filed the parties' stipulation and proposed order for judgment on Water Stewardship Rate claims for 2015-2020.
	Dec. 27	Court entered order for judgment on Water Stewardship Rate claims for 2015-2020 as proposed by the parties.
	<u>March 14, 2023</u>	<u>Court issued tentative statement of decision (tentatively ruling in Metropolitan's favor on all claims litigated at trial, except for those ruled to be moot based on the rulings in Metropolitan's favor)</u>
	<u>March 14</u>	<u>Court issued amended order granting in part and denying in part SDCWA's motion for partial judgment (ruling that Metropolitan's claims for declaratory relief regarding cost causation are not subject to court review).</u>
	<u>March 29</u>	<u>SDCWA filed objections to tentative statement of decision</u>



	<u>April 3</u>	<u>Metropolitan filed response to amended order granting in part and denying in part SDCWA's motion for partial judgment (requesting deletion of Background section portion relying on pleading allegations).</u>
<b>All Cases</b>	April 15, 2021	Case Management Conference on 2010-2018 cases. Court set trial in 2014, 2016, and 2018 cases on May 16-27, 2022.
	April 27	SDCWA served notice of deposition of non-party witness.
	May 13-14	Metropolitan filed motions to quash and for protective order regarding deposition of non-party witness.
	June 4	Ruling on motions to quash and for protective order.





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	\$250,000
Aleshire & Wynder	Oil, Mineral and Gas Leasing	174613	08/18	\$50,000
Atkinson Andelson Loya Ruud & Romo	Employee Relations	59302	04/04	\$1,214,517
	Delta Conveyance Project Bond Validation-CEQA Litigation	185899	09/21	\$250,000
	MWD Drone and Airspace Issues	193452	08/20	\$50,000
	Equal Employee Opportunity Commission Charge	200462	03/21	\$20,000
	DFEH Charge (DFEH Number 202102-12621316)	201882	07/01/21	\$25,000
	AFSCME Local 1902 in Grievance No. 1906G020 (CSU Meal Period)	201883	07/12/21	\$30,000
	AFSCME Local 1902 v. MWD, PERB Case No. LA-CE-1438-M	201889	09/15/21	\$20,000
	MWD MOU Negotiations**	201893	10/05/21	\$100,000
	DFEH Charge (DFEH Number 202109-14694608)	203460	02/22	<del>\$15,000</del> <del>\$35,000</del>
Best, Best & Krieger	Navajo Nation v. U.S. Department of the Interior, et al.	54332	05/03	\$185,000
	Bay-Delta Conservation Plan/Delta Conveyance Project (with SWCs)	170697	08/17	\$500,000
	Environmental Compliance Issues	185888	05/20	\$100,000
	Pure Water Southern California	207966	11/22	\$100,000
Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP	FCC and Communications Matters	110227	11/10	\$100,000
Brown White & Osborn LLP	HR Matter	203450	03/22	\$50,000



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Buchalter, a Professional Corp.	Union Pacific Industry Track Agreement	193464	12/07/20	\$50,000
Burke, Williams & Sorensen, LLP	Real Property – General	180192	01/19	\$100,000
	Labor and Employment Matters	180207	04/19	<del>\$50,000</del> \$75,000
	General Real Estate Matters	180209	08/19	<del>\$100,000</del> \$200,000
	Rancho Cucamonga Condemnation Actions (Grade Separation Project)	207970	05/22	\$100,000
Law Office of Alexis S.M. Chiu*	Bond Counsel	200468	07/21	N/A
Cislo & Thomas LLP	Intellectual Property	170703	08/17	\$75,000
Cummins & White LLP	Board Advice	207941	05/22	\$10,000
Curls Bartling P.C.*	Bond Counsel	200470	07/21	N/A
Duane Morris LLP	SWRCB Curtailment Process	138005	09/14	\$615,422
Duncan, Weinberg, Genzer & Pembroke	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
Greines, Martin, Stein & Richland LLP	SDCWA v. MWD	207958	10/22	\$100,000
	Colorado River Matters	207965	11/22	\$100,000
Haden Law Office	Real Property Matters re Agricultural Land	180194	01/19	\$50,000



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
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	\$500,000
	Tax Issues	180200	04/19	\$50,000
	Alternative Project Delivery (ADP)	207961	10/22	<del>\$100,000</del> <u>\$250,000</u>
	Faith v. MWD	207963	10/22	\$100,000
Hausman & Sosa, LLP	MOU Hearing Officer Appeal	201892	09/21	\$95,000
	MOU Hearing Officer Appeal	207949	07/22	\$25,000
Hawkins Delafield & Wood LLP*	Bond Counsel	193469	07/21	N/A
Horvitz & Levy	SDCWA v. MWD	124100	02/12	\$1,250,000
	General Appellate Advice	146616	12/15	\$100,000
	Colorado River	203464	04/22	\$100,000
Innovative Legal Services, P.C.	Employment Matter	211915	01/19/23	\$100,000
Internet Law Center	Cybersecurity and Privacy Advice and Representation	200478	04/13/21	\$100,000
	Systems Integrated, LLC v. MWD	201875	05/17/21	\$65,000
Amira Jackmon, Attorney at Law*	Bond Counsel	200464	07/21	N/A
Jackson Lewis P.C.	Employment: Department of Labor Office of Contract Compliance	137992	02/14	\$45,000
Jones Hall, A Professional Law Corp*	Bond Counsel	200465	07/21	N/A
Kegel, Tobin & Truce	Workers' Compensation	180206	06/19	\$250,000
Kutak Rock LLP	Delta Islands Land Management	207959	10/22	\$10,000



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Liebert Cassidy Whitmore	Labor and Employment	158032	02/17	<del>\$201,444</del> <u>\$229,724</u>
	FLSA Audit	180199	02/19	\$50,000
Manatt, Phelps & Phillips	SDCWA v. MWD rate litigation	146627	06/16	\$4,400,000
	Raftelis - Subcontractor of Manatt, Agr. No. 146627: Pursuant to 05/02/22 Engagement Letter between Manatt, Phelps & Phillips and Raftelis Financial Consultants, Inc., MWD paid Raftelis Financial Consultants, Inc.	Invoice No. 23949		\$56,376.64 for expert services & reimbursable expenses in SDCWA v. MWD
Meyers Nave Riback Silver & Wilson	OCWD v. Northrop Corporation	118445	07/11	\$2,300,000
	Pure Water Southern California	207967	11/22	\$100,000
	PFAS Compliance Issues	207968	11/14/22	\$100,000
Miller Barondess, LLP	SDCWA v. MWD	138006	12/14	\$600,000
Morgan, Lewis & Bockius	SDCWA v. MWD	110226	07/10	\$8,750,000
	Project Labor Agreements	200476	04/21	\$100,000
Musick, Peeler & Garrett LLP	Colorado River Aqueduct Electric Cables Repair/Contractor Claims	193461	11/20	<del>-\$900,000</del> <u>\$1,700,000</u>
	Arvin-Edison v. Dow Chemical	203452	01/22	\$100,000
	Semitropic TCP Litigation	207954	09/22	\$75,000
Nixon Peabody LLP*	<del>Bond Counsel</del>	<del>193473</del>	<del>07/21</del>	<del>N/A</del>
	<u>Special Finance Project</u>	<u>207960</u>	<u>10/22</u>	<u>\$50,000</u>
Norton Rose Fulbright US LLP*	Bond Counsel	200466	07/21	N/A
Olson Remcho LLP	Government Law	131968	07/14	<del>\$300,000</del> <u>\$400,000</u>
	Executive Committee/Ad Hoc Committees Advice	207947	08/22	\$60,000
	Public Records Act	207950	08/22	\$45,000



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
<u>Paul Hastings LLP</u>	<u>MWD v. California Department of Fish and Wildlife</u>	<u>207969</u>	<u>3/23</u>	<u>\$100,000</u>
Renne Public Law Group, LLP	ACE v. MWD (PERB Case No. LA-CE-1574-M)	203466	05/22	<del>\$50,000</del> <u>\$80,000</u>
	MOU Hearing Officer Appeal	203948	07/22	\$100,000
	ACE v. MWD (PERB Case No. LA-CE-1611-M)	207962	10/22	\$50,000
Ryan & Associates	Leasing Issues	43714	06/01	\$200,000
Seyfarth Shaw LLP	Claim (Contract #201897)	201897	11/04/21	\$200,000
	Claim (Contract #203436)	203436	11/15/21	\$350,000
	Claim (Contract #203454)	203454	01/22	\$160,000
	Claim (Contract #203455)	203455	10/21	\$175,000
	<u>Reese v. MWD</u>	<u>207952</u>	<u>11/22</u>	<u>\$400,000</u>
Sheppard Mullin Richter & Hampton	Rivers v. MWD	207946	07/22	\$100,000
Stradling Yocca Carlson & Rauth*	Bond Counsel	200471	07/21	N/A
Theodora Oringher PC	Construction Contracts - General Conditions Update	185896	07/20	\$100,000
Thompson Coburn LLP	FERC Representation re Colorado River Aqueduct Electrical Transmission System	122465	12/11	\$100,000
	NERC Energy Reliability Standards	193451	08/20	\$100,000
Van Ness Feldman, LLP	General Litigation	170704	07/18	\$50,000
	Colorado River MSHCP	180191	01/19	\$50,000
	Bay-Delta and State Water Project Environmental Compliance	193457	10/15/20	\$50,000
Western Water and Energy	California Independent System Operator-Related Matters	193463	11/20/20	\$100,000

\*Expenditures paid by Bond Proceeds/Finance

\*\*Expenditures paid by another group

Date of Report: April 4, 2023