Metropolitan Cases

County of Butte, et al. v. Department of Water Resources **(Sacramento County Superior Court)**

On April 7, 2023, the Third District Court of Appeal issued a decision in favor of the Department of Water Resources (DWR) in a lawsuit filed by Butte County, Plumas County and Plumas County Flood Control and Water Conservation District (collectively "Counties") under the California Environmental Quality Act (CEQA). The Counties' lawsuit challenged the environmental impact report (EIR) issued by DWR in conjunction with relicensing of the Lake Oroville hydroelectric facilities (Oroville Facilities) by the Federal Energy Regulatory Commission (FERC).

The Oroville Facilities are located on the Feather River in Butte County and include the Oroville Dam and Reservoir, Hyatt Powerplant and Thermalito Facilities. The Oroville Facilities are operated under a license first issued to DWR by FERC in 1957 with an initial term of 50 years. Since 2007, FERC has granted annual extensions of the license. Work to relicense the Oroville Facilities began in the late 1990s, with formal negotiations commencing in January 2001 under FERC's Alternative Licensing Procedure (ALP). In January 2005, DWR submitted its application for license renewal to FERC as ALP negotiations continued. Ultimately, those negotiations culminated in a Settlement Agreement (SA) containing recommended conditions for a new license, which was signed by over 50 stakeholders, including DWR, Metropolitan, other State Water Project (SWP) contractors, the City of Oroville, the Town of Paradise, various business and recreation interests, and several key federal and state regulatory agencies. On March 24, 2006, the SA was submitted to FERC as supplemental information in support of DWR's license application. From that point forward, the SA served as the "preferred alternative" for purposes of DWR's environmental review under CEQA.

The SA contains numerous provisions aimed at protecting and enhancing a wide variety of environmental, recreational and cultural resources potentially affected by relicensing of the Oroville Facilities. It also provides for the creation of a $60 million fund to support local projects benefitting the communities nearest to these facilities. Despite this, the Counties opted not to sign the SA, asserting that it did not adequately address certain impacts. Among other things, the Counties demanded over $12 million per year in direct compensation for what they asserted were lost tax revenues resulting from operation and maintenance of Lake Oroville and the Oroville Facilities, which DWR rejected. In 2008, DWR certified the EIR and approved the project (i.e., the SA), and this litigation ensued. DWR was named as the primary defendant in the Counties' complaint; State Water Contractors, Inc., Metropolitan and other SWP contractors who were signatories to the SA (collectively "SWCs") were named as real parties in interest.

Following a three-day hearing, the trial court issued a decision upholding the EIR, which the Counties appealed. Initially, the Court of Appeal found that the Counties' CEQA claims were preempted by the Federal Power Act (FPA). The litigation then moved back and forth twice between the Court of Appeal and the Supreme Court of California on this particular issue. Ultimately, the California Supreme Court held that while the Counties could not challenge the environmental sufficiency of the SA or seek to unwind it, they nonetheless could challenge the sufficiency of DWR's EIR. Thus, this is the Court of Appeal's third decision in this case, but it is the first on the merits.

In affirming the trial court's decision, the Court of Appeal rejected various arguments advanced by the Counties, including an assertion that the EIR failed to properly evaluate the fiscal impacts associated with relicensing the Oroville Facilities. Over the years, the Counties have pressed similar economic claims in various fora, including at FERC and in federal court, without success. The current CEQA lawsuit, while couched in environmental terms, largely reflected a continuation of the Counties' historical disputes concerning these alleged economic impacts. Not surprisingly, the Court of Appeal rejected the Counties' claims, finding they failed "to demonstrate how these fiscal impacts are linked to physical changes in the environment." The Court of Appeal has awarded costs to DWR. The SWCs likewise plan to seek recovery of their attorneys' fees and costs.

As before, the Counties may seek review of this CEQA decision by the California Supreme Court. In addition, the Counties will have an opportunity to challenge the FERC license once it is issued by filing a federal lawsuit directly in the Ninth Circuit or the DC Circuit. However, it is our assessment that the Counties are unlikely to be successful in either venue. Accordingly, this decision represents a significant step toward finally obtaining a new 50-year license for the Oroville Facilities. To that end, the SWCs plan to send a letter to FERC informing it of the Court of Appeal's decision against the Counties and requesting that the license be issued without any further delay.

***Association of Confidential Employees v. Metropolitan* (Unfair Practice Charge filed with PERB)**

On April 11, 2023, the Association of Confidential Employees (ACE) bargaining unit filed an unfair practice charge with the Public Employment Relations Board (PERB). The charge alleges an ACE representative was retaliated against by Metropolitan for engaging in protected bargaining unit activity.

Metropolitan disputes the charge and will file a position statement with PERB seeking a dismissal of the charge. The Legal Department has retained the Renne Public Law Group to represent Metropolitan.

Matters Impacting Metropolitan

EPA Seeks Input on Designating Additional PFAS as CERCLA Hazardous Substances

On April 13, 2023, the U.S. Environmental Protection Agency (EPA) issued an Advance Notice of Proposed Rulemaking (Advance Notice) asking the public for input and data regarding whether EPA should designate several per- and polyfluoroalkyl substances (PFAS) chemicals as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as "Superfund."

Specifically, EPA is considering designating the following seven PFAS as CERCLA hazardous substances: perfluorobutanesulfonic acid (PFBS), perfluorohexanesulfonic acid (PFHxS), perfluorononanoic acid (PFNA), hexafluoropropylene oxide dimer acid (HFPO-DA) (sometimes called GenX), perfluorobutanoic acid (PFBA), perfluorohexanoic acid (PFHxA), and perfluorodecanoic acid (PFDA). These seven PFAS chemicals were identified based on the availability of toxicity information previously reviewed by EPA and other federal agencies.

In addition, EPA is considering designating as CERCLA hazardous substances: (1) precursors to perfluorooctanoic acid (PFOA), perfluorooctanesulfonic acid (PFOS) and the seven other PFAS; and (2) certain groups or categories of PFAS. According to EPA, a "group or category" refers to a set of PFAS that share one or more similar characteristics. Characteristics of interest could include, but are not limited to, chemical structure (e.g., carbon chain length, functional group), physical and chemical properties, mode of toxicological action, precursors or degradants, or co-occurrence.

To help inform its decision making regarding these potential designations, EPA asks for input on twelve specific technical questions and topics. Comments must be received on or before June 12, 2023.

Previously, on September 6, 2022, EPA proposed designating PFOA and PFOS, including their salts and structural isomers, as CERCLA hazardous substances. Designating PFOA and PFOS as CERCLA hazardous substances would allow EPA to seek to recover cleanup costs for PFOA or PFOS contamination from a potentially responsible party (PRP) or to require such a party to conduct the cleanup. In addition, private parties that conduct cleanups of PFOA and PFOS contamination consistent with the National Oil and Hazardous Substances Contingency Plan (NCP) could recover their cleanup costs from other PRPs. Under CERCLA's strict liability (meaning it is without fault), joint and several liability, and retroactive liability scheme, any party who disposes of hazardous substances, even in minute quantities, and even if the disposal was legal at the time, may be considered a PRP and could be held liable for the entire cleanup of a site (when the harm caused by multiple parties cannot be separated). (https://www.epa.gov/enforcement/superfund-liability.) Thus, designating PFAS as CERCLA

hazardous substances could result in a significant increase in expensive and lengthy Superfund litigation.

The strict liability for clean-up in this case can result in the transfer of responsibility and economic impact from polluters to public or private water and wastewater entities. However, Metropolitan's relevant Policy Principle supports the "polluter pays" principle such that parties responsible for introducing contaminants in or near drinking water sources are held liable for cleanup rather than drinking water and wastewater facilities or entities that subsequently store, transport, or treat the water.

EPA is expected to issue a final rule designating PFOA and PFOS as CERCLA hazardous substances by August 2023. Metropolitan staff submitted comments on EPA's proposed designation of PFOA and PFOS as CERCLA hazardous substances and will continue to monitor and comment on EPA's rulemaking process as to the proposed designation of other PFAS as CERCLA hazardous substances. (See General Counsel's August 2022 Activity Report.)

Matters Received

Category	Received	Description	
Action in which MWD is a party	1	Complaint for Damages for (1) Dangerous Conditions of Public Property and (2) General Negligence, filed in San Diego County Superior Court, in the case Mark Oswalt v. MWD, Case No. 37 2023-00009934-CU-PO-CTL, relating to alleged injuries and damages from a fallen tree located near or on a Metropolitan easement in Fallbrook, California	
Government Code Claims	1	Subrogation claim relating to an accident involving an MWD vehicle	
Subpoenas	2	(1) Deposition Subpoena for Personal Appearance and Production of Documents and Things seeking the deposition of Metropolitan's person(s) most qualified and for the production of documents relating to Metropolitan's corrosion testing, copper pipe pitting and/or pinhole leaks, water quality data and testing of water for water supplied to Santa Margarita Water District, served by the defendant CalAtlantic Group, LLC in the case Fish, et al. v. Standard Pacific Corporation, et al., Orange County Superior Court, Case No. 30-2015-00806712-CU-CD-CXC, and (2) Subpoena for employment-related records for a matter before the Workers' Compensation Appeals Board	
Requests Pursuant to the Public Records Act	11	Requestor	Documents Requested
		CCS Global Tech (4 requests)	Scoring, proposal and contract documents for (1) Oracle Enterprise Business Suite (EBS) Module Implementation, (2) Cloud Based Inventory Management System, (3) Enterprise Data Analytics, and (4) Dam Safety Monitoring Instrumentation and Data Management Services
		Kier & Wright Civil Engineers and Surveyors	Water utility maps that show MWD's pipes near project on Garfield Avenue in Commerce
		O-S-Pro Telecom Solutions	Records on depth of MWD water line along Barranca Parkway

Requestor	Documents Requested
Private Citizen	Records relating to application for turf removal rebate submitted in 2014 by the Ranch Santa Fe Association for the Rancho Santa Fe Golf Club
Satwic	Proposal and contract documents for On-call IT Services
Telecom Law Firm	Copies of all active cell/wireless site leases on MWD property
Transparent California	MWD Employee Compensation Report for 2022
Undergraduate Researcher, University of California Merced	Historical water rates for agriculture starting from the 2000s through current

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
SWP-CVP 2019 BiOp Cases *Pacific Coast Fed'n of Fishermen's Ass'ns, et al. v. Raimondo, et al.* (*PCFFA*) *Calif. Natural Resources Agency, et al. v. Raimondo, et al.* (*CNRA*) Federal District Court, Eastern Dist. of California, Fresno Division (Judge Thurston)	• SWC intervened in both *PCFFA and CNRA* cases • Federal defendants reinitiated consultation on Oct 1, 2021 • 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
CESA Incidental Take Permit Cases **Coordinated Case Name *CDWR Water Operations Cases*, JCCP 5117** **(Coordination Trial Judge Gevercer)** *Metropolitan & Mojave Water Agency v. Calif. Dept. of Fish & Wildlife, et al*. (CESA/CEQA/Breach of Contract) *State Water Contractors & Kern County Water Agency v. Calif. Dept. of Fish & Wildlife, et al*. (CESA/CEQA) *Tehama-Colusa Canal Auth., et al. v. Calif. Dept. of Water Resources* (CEQA) *San Bernardino Valley Municipal Water Dist. v. Calif. Dept. of Water Resources, et al.* (CEQA/CESA/ Breach of Contract/Takings) *Sierra Club, et al. v. Calif. Dept. of Water Resources* (CEQA/Delta Reform Act/Public Trust) *North Coast Rivers Alliance, et al. v. Calif. Dept. of Water Resources* (CEQA/Delta Reform Act/Public Trust) *Central Delta Water Agency, et. al. v. Calif. Dept. of Water Resources* (CEQA/Delta Reform Act/Public Trust/ Delta Protection Acts/Area of Origin) *San Francisco Baykeeper, et al. v. Calif. Dept. of Water Resources, et al*. (CEQA/CESA)	• All 8 cases ordered coordinated in Sacramento County Superior Court • Stay on discovery issued until coordination trial judge orders otherwise • All four Fresno cases transferred to Sacramento to be heard with the four other coordinated cases • Certified administrative records lodged March 4, 2022 • 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 • SWC, et al. granted leave to intervene as respondents in *Tehama-Colusa Canal Auth., et al. v. Calif. Dept. of Water Resources* CEQA case • SWC's renewed motion to augment the administrative records granted in part; a court-appointed referee will review withheld records to determine if the deliberative process privilege applies

CDWR Environmental Impact Cases **Sacramento Superior Ct. Case No. JCCP 4942, 3d DCA Case No. C091771** **(20 Coordinated Cases)** Validation Action *DWR v. All Persons Interested* CEQA 17 cases CESA/Incidental Take Permit 2 cases (Judge **Arguelles**)	• 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 • May 11, 2022, court of appeal reversed the trial court's denial of attorney fees and costs in an unpublished opinion • Opinion ordered published • Coordinated cases remitted to trial court for re-hearing of fee motions consistent with the court of appeal's opinion • Sept.15, 2023 re-hearing on fee motions
COA Addendum/ **No-Harm Agreement** *North Coast Rivers Alliance v. DWR* Sacramento County Superior Ct. (Judge Rockwell)	• 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 to Nov. 18, 2022
Delta Plan Amendments and Program EIR 1 of 4 Consolidated Cases Sacramento County Superior Ct. remaining on appeal Court of Appeal for the Third App. Dist. Case No. C097948 *North Coast Rivers Alliance, et al. v. Delta Stewardship Council*	• 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 *North Coast Rivers Alliance v. Delta Stewardship Council* • SWC granted leave to intervene • Metropolitan supports SWC • Nov. 7, 2022 court ruled in favor of Delta Stewardship Council on all claims • Orders denying all claims and final judgments entered Nov. 22, 2022 • Notice of appeal filed in *North Coast Rivers Alliance, et al*. case

	• Parties in the other three cases settled with the Delta Stewardship Council
SWP Contract Extension Validation Action Court of Appeal for the Third App. Dist. Case No. C096316 *DWR v. All Persons Interested in the Matter, etc.*	• 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 • Jan. 5-7, 2022 Hearing on the merits held with CEQA cases, below • Final statement of decision in DWR's favor filed March 9, 2022 • Final judgment entered and served • C-WIN et al., County of San Joaquin et al. and North Coast Rivers Alliance et al. filed notices of appeal • Validation and CEQA cases consolidated on appeal • Briefing schedule set by stipulation with estimated completion in April or May 2023
SWP Contract Extension CEQA Cases Court of Appeal for the Third App. Dist. Case Nos. C096384 & C096304 *North Coast Rivers Alliance, et al. v. DWR* *Planning & Conservation League, et al. v. DWR*	• 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 September 28, 2020 • Metropolitan, Kern County Water Agency and Coachella Valley Water District have intervened and filed answers in the two CEQA cases • Final statement of decision in DWR's favor denying the writs of mandate filed March 9, 2022 • Final judgments entered and served • North Coast Rivers Alliance et al. and PCL et al. filed notices of appeal • Appeals consolidated with the validation action above

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 Aquisto) *North Coast Rivers Alliance, et al. v. DWR* Sacramento County Super. Ct. (Judge Aquisto)	• 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**
2010, 2012	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.
2014, 2016	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
2014, 2016 (cont.)	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.
2017	July 23, 2020	Dismissal without prejudice entered.
2018	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
2018 (cont.)	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.
2014, 2016, 2018	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
2014, 2016, 2018 (cont.)	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
2014, 2016, 2018 (cont.)	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.
	March 14, 2023	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)
	March 14	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).
	March 29	SDCWA filed objections to tentative statement of decision

	April 3	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).
	April 25	Court issued statement of decision (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)
All Cases	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	$35,000
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	$75,000
	General Real Estate Matters	180209	08/19	$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	$250,000
	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	$229,724
	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	$1,700,000
	Arvin-Edison v. Dow Chemical	203452	01/22	$100,000
	Semitropic TCP Litigation	207954	09/22	$75,000
Nixon Peabody LLP*	Special Finance Project	207960	10/22	$50,000
Norton Rose Fulbright US LLP*	Bond Counsel	200466	07/21	N/A
Olson Remcho LLP	Government Law	131968	07/14	$400,000
	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
Paul Hastings LLP	MWD v. California Department of Fish and Wildlife	207969	3/23	$100,000
Rains Lucia Stern St. Phalle & Silver, PC	Employment Matter	211919	4/23	$60,000
Renne Public Law Group, LLP	ACE v. MWD (PERB Case No. LA-CE-1574-M)	203466	05/22	$80,000
	MOU Hearing Officer Appeal	~~203948~~ 207948	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
	Reese v. MWD	207952	11/22	$400,000
	General Labor/Employment Advice	211917	3/23	$100,000
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