



**Matters Impacting Metropolitan**

**California Supreme Court Addresses Legal Standard of Review in Whistleblower Retaliation Cases**

In a unanimous decision, the California high court in *Wallen Lawson v. PPG Arch. Finishes Inc.*, said that the legal standard in California statutory whistleblower retaliation cases differs from the standard federal courts use in anti-discrimination employment lawsuits.

California Labor Code Section 1102.6 provides that when an employee demonstrates by a preponderance of the evidence that an employee’s action to disclose a violation by the employer of state, federal or local law or regulation was a factor in an adverse employment action, the employer shall have the burden of proof to demonstrate that the adverse action would have been taken for legitimate independent reasons.

Prior to the high court’s decision, some lower courts in California had used the federal standard in state whistleblower retaliation cases. Under the federal standard, an employer need only show a legitimate business reason for acting against an employee. In the high court’s written opinion, Justice Leondra Kruger described that federal standard as a “well-worn, but meaningfully different, burden shifting framework.”

Instead of the federal standard, the high court explained that, in accordance with the statute, a California employee suing for whistleblower retaliation need only show that an illegal retaliatory motive was a contributing factor in an employer’s decision to act against the employee. Once the employee makes that showing, the employer has the burden to show by “clear and convincing evidence” that it would have taken the same adverse employment action against the employee for legitimate, independent reasons.

**Matters Received by the Legal Department**

| <u>Category</u>                             | <u>Received</u> | <u>Description</u>   |  |
|---|-----------------|--|--|
| Government Code Claims                      | 1               | Claim relating to MWD truck and claimant’s personal items were stolen while parked at a mall         |  |
| Subpoenas                                   | 1               | Subpoena for employment-related records for a former employee for a matter unrelated to Metropolitan |  |
| Requests Pursuant to the Public Records Act | 17              | <u>Requestor</u>   | <u>Documents Requested</u>   |
|   |                 | AECOM  | Proposal and contract documents for Environmental Planning Phase Engineering Services for Conveyance and Recharging Facilities |
|   |                 | California State University East Bay Student   | Data on turf removal rebates from 2014 to the present  |



| <u>Requestor</u>                                 | <u>Documents Requested</u>   |
|--|--|
| Center for Contract Compliance (5 requests)      | (1) Certified payroll records and fringe benefit statement for Kaveh Engineering & Construction relating to its work on the West Valley Feeder 1 De Soto Avenue Valve Structure Replacement Project; (2) contract and bid information for San Diego Pipeline Nos. 1 and 2 Patrol Road Relocation; (3) contract and bid information for Dry Polymer Building Roof Replacement; (4) contract and bid information for Skinner Water Treatment Plant Cathodic Protection; and (5) contract and bid information for Mills Electrical Upgrades Stage 2 |
| CCS Global Tech                                  | Bid tabulation, purchase order, and proposal documents for On-Call Information Technology Services   |
| Donahoo & Associates                             | Contract, bond, and certified payroll records regarding CRA Whitewater Erosion Protection Structure Rehab  |
| E.J. Ward, Inc.                                  | Winning proposal and contract for Fuel Management System   |
| Future Starts Now                                | Records, including budgets, agendas, notes, invoices, and memos relating to any mention of cloud seeding, weather modification, silver iodide, attenuated bacteria, increasing precipitation, and/or rainmaking from 2000 to the present   |
| HELIX Environmental Planning                     | Rankings for consultants' responses to requests for qualifications for (1) Biological Resources Management, (2) Cultural Resources Management, (3) Regulatory Permitting and Guidance, (4) General On-Call Environmental Planning Services, and (5) Environmental Planning Support for Specific Future CIP and/or Special Projects; and copies of proposals submitted for Regional Recycled Water Program - Environmental Planning Support   |
| Student, School in the Kern High School District | Water quality data for the Southern California area  |
| Otay Water District Board Member                 | Data regarding MWD consultants   |



| <u>Requestor</u>         | <u>Documents Requested</u>   |
|--------------------------|--|
| Private Citizen          | Maps showing MWD easements for San Diego Pipelines Nos. 1 and 2 near Patton Avenue   |
| Quality Sprayers         | Current contracts with Lawscapes Systems and Powerland Equipment for (1) weed abatement and trash removal service at Skinner, and (2) weed abatement, herbicide application and trash removal service at DVL |
| Specialty Mowing Service | Winning bid and annual spend for Lake Skinner Distribution System Weed Abatement and Trash Removal Services  |

### Matters Concluded and/or Terminated

**Central Delta Water Agency v. California Department of Water Resources – Supreme Court denies review, ending the “Monterey Plus” Litigation**

On January 5, 2022, the California Supreme Court denied review in a pair of appeals after the Court of Appeal issued its opinion in September 2021, affirming the trial court rulings in three cases regarding amendments to the State Water Project (SWP) contracts known as the Monterey Plus Amendments and related actions.

The Supreme Court’s action ends 27 years of litigation over contract amendments first agreed to in 1995. Since DWR and the State Water Contractors have been operating under the underlying amendments for decades, the Supreme Court’s denial maintains the status quo, ending decades of uncertainty.

In September 2021, the Court of Appeal upheld the adequacy of the “Monterey Plus” Environmental Impact Report (EIR) issued in 2010, the revised EIR issued in 2016, the validity of the Monterey Amendments and Kern Fan Element Transfer Agreement, and the trial court’s denial of attorneys’ fees. *Central Delta Water Agency v. Department of Water Resources* (2021) 69 Cal.App.5th 170. Plaintiffs argued that the amendments encourage unsustainable farming and place the Kern Water Bank under the control of private farming interests, and that DWR’s environmental analysis overlooked potentially significant impacts to the Bay-Delta.

Metropolitan was an active participant in the many rounds of litigation along with other SWP contractors.

The litigation stems from amendments to the SWP contracts approved in 1995 after an agreement reached in late 1994 in Monterey. Those amendments altered the SWP water allocation procedures in times of shortage by eliminating the so-called “urban preference” and requiring instead that deliveries to both agricultural and urban SWP contractors would, with exceptions, be reduced proportionately. They also transferred land known as the Kern Fan Element from the Department of Water Resources to the Kern County Water Agency (then transferred to the Kern Water Bank Authority to create the Kern Water Bank); authorized permanent sales of water among contractors; and implemented various other changes in administration of the SWP.

Planning and Conservation League (PCL) and other plaintiffs litigated under CEQA and challenged the validity of both the Monterey Amendments and the Kern Fan Element transfer, resulting in a published decision in *Planning & Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892. The parties settled, and DWR agreed to prepare a new EIR that would cover the original Monterey Amendments, the Kern Fan Element transfer and some additional contract amendments that became known as the “Monterey Plus” project.

In 2010, DWR certified the Monterey Plus EIR, and two new cases were filed. Both challenged the



EIR under CEQA and one challenged the SWP contract amendments and Kern Fan Element transfer. The trial court ruled that the EIR failed to adequately analyze impacts of the Kern Water Bank on adjacent groundwater. In 2016, DWR

certified a Revised Monterey Plus EIR to address the trial court ruling. Two more cases were filed challenging the revised EIR, but the trial court ruled in DWR's favor, and the three appeals ensued that have now been conclusively decided.



**PLEASE NOTE**

- ADDITIONS ONLY IN THE FOLLOWING TABLES WILL BE SHOWN IN RED.
- ANY CHANGE IN CONTRACT AMOUNTS WILL BE SHOWN IN REDLINE FORM (I.E., ADDITIONS, REVISIONS, DELETIONS).



| <b>Bay-Delta and SWP Litigation</b>  |   |
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| <b>Subject</b>   | <b>Status</b>   |
| <p><b>Consolidated DCP Revenue Bond Validation Action and CEQA Case</b></p> <p><i>Sierra Club, et al. v. California Department of Water Resources</i> (CEQA, designated as lead case)</p> <p><i>DWR v. All Persons Interested</i> (Validation)</p> <p>Sacramento County Superior Ct.<br/>           (Judge <del>Earl</del>TBD) <u>(Judge Earl has been appointed as a justice at the Third Appellate District of the California Court of Appeal in Sacramento)</u></p> | <ul style="list-style-type: none"> <li>• <b>Validation Action</b> <ul style="list-style-type: none"> <li>• Metropolitan, Mojave Water Agency, Coachella Valley Water District, and Santa Clarita Valley Water Agency have filed answers in support</li> <li>• Kern County Water Agency, Tulare Lake Basin Water Storage District, Oak Flat Water District, County of Kings, Kern Member Units &amp; Dudley Ridge Water District, and City of Yuba City filed answers in opposition</li> <li>• North Coast Rivers Alliance et al., Howard Jarvis Taxpayers Association, Sierra Club et al., County of Sacramento &amp; Sacramento County Water Agency, CWIN et al., Clarksburg Fire Protection District, Delta Legacy Communities, Inc, and South Delta Water Agency &amp; Central Delta Water Agency have filed answers in opposition</li> <li>• Case ordered consolidated with the DCP Revenue Bond CEQA Case for pre-trial and trial purposes and assigned to Judge Earl for all purposes</li> <li>• <u>DWR's motions for summary judgment re CEQA affirmative defenses granted; cross-motions by opponents denied</u></li> </ul> </li> <li>• <b>CEQA Case</b> <ul style="list-style-type: none"> <li>• 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</li> <li>• Alleges DWR violated CEQA by adopting bond resolutions before certifying a Final EIR for the Delta Conveyance Project</li> <li>• Cases ordered consolidated for pre-trial and trial purposes</li> <li>• <u>DWR's motion for summary judgment granted; Sierra Club's motion denied</u></li> </ul> </li> </ul> |



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| <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<br/>       (Judge Drozd)</p> | <ul style="list-style-type: none"> <li>• SWC intervened in both <i>PCFFA</i> and <i>CNRA</i> cases</li> <li>• 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</li> <li>• Federal defendants circulated administrative records for each of the BiOps</li> <li>• December 18, 2020 PCFFA and CNRA filed motions to complete the administrative records or to consider extra-record evidence in the alternative</li> <li>• Federal defendants reinitiated consultation on Oct 1, 2021</li> <li>• On Nov. 8, 2021, Federal Defendants and PCFFA plaintiffs stipulated to inclusion of certain records in the Administrative Records and to defer further briefing on the matter until July 1, 2022</li> <li>• On Nov. 12, 2021, SWC filed a motion to amend its pleading to assert cross-claims against the federal defendants for violations of the ESA, NEPA and WIIN Act; Court has yet to set a hearing date</li> <li>• November 23, 2021, Federal Defendants filed a motion for voluntary remand of the 2019 Biological Opinions and NEPA Record of Decision and requesting that the Court issue an order approving an Interim Operations Plan through September 30, 2022; that the cases be stayed for the same time period; and that the Court retain jurisdiction during the pendency of the remand. State Plaintiffs filed a motion for injunctive relief seeking judicial approval of the Interim Operations Plan</li> <li>• December 16, 2021 – NGO Plaintiffs <a href="#">filed</a> a motion for preliminary injunction related to interim operations</li> <li>• <a href="#">Motions fully briefed as of Jan. 24, 2022</a></li> <li>• <a href="#">Hearing on motions set for Feb. 11, 2022</a></li> </ul> |
| <p><b>CESA Incidental Take Permit Cases</b></p> <p><b>Coordinated Case Name <i>CDWR Water Operations Cases, JCCP 5117</i></b><br/>       (Coordination Trial Judge Gevercer)</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> </ul>  |



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| <p><i>Metropolitan &amp; Mojave Water Agency v. Calif. Dept. of Fish &amp; Wildlife, et al.</i> (CESA/CEQA/Breach of Contract)</p> <p><i>State Water Contractors &amp; Kern County Water Agency v. Calif. Dept. of Fish &amp; Wildlife, et al.</i> (CESA/CEQA)</p> <p><i>Tehama-Colusa Canal Auth., et al. v. Calif. Dept. of Water Resources</i> (CEQA)</p> <p><i>San Bernardino Valley Municipal Water Dist. v. Calif. Dept. of Water Resources, et al.</i> (CEQA/CESA/ Breach of Contract/Takings)</p> <p><i>Sierra Club, et al. v. Calif. Dept. of Water Resources</i> (CEQA/Delta Reform Act/Public Trust)</p> <p><i>North Coast Rivers Alliance, et al. v. Calif. Dept. of Water Resources</i> (CEQA/Delta Reform Act/Public Trust)</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)</p> <p><i>San Francisco Baykeeper, et al. v. Calif. Dept. of Water Resources, et al.</i> (CEQA/CESA)</p> | <ul style="list-style-type: none"> <li>• SWC and Metropolitan have submitted Public Records Act requests seeking administrative record materials and other relevant information</li> <li>• Answers filed in the three cases filed by State Water Contractors, including Metropolitan’s</li> <li>• Draft administrative records produced on Sept. 16, 2021</li> <li>• Certified administrative records due early March 2022</li> </ul>                     |
| <p><b>CDWR Environmental Impact Cases</b><br/><b>Sacramento Superior Ct. Case No. JCCP 4942,</b><br/><b>3d DCA Case No. C091771</b><br/><b>(20 Coordinated Cases)</b></p> <p>Validation Action<br/><i>DWR v. All Persons Interested</i></p> <p>CEQA<br/>17 cases</p> <p>CESA/Incidental Take Permit<br/>2 cases</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>• Appeals fully briefed</li> </ul>   |
| <p><b>COA Addendum/<br/>No-Harm Agreement</b></p> <p><i>North Coast Rivers Alliance v. DWR</i><br/>Sacramento County Superior Ct.<br/>(Judge Gevercer)</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 <b>March 21, 2022</b></li> </ul> |



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|  | <ul style="list-style-type: none"> <li>July 22, 2022 hearing on the merits</li> </ul>  |
| <p><b>Delta Plan Amendments and Program EIR</b><br/>         4 Consolidated Cases Sacramento County Superior Ct. (Judge Gevercer )</p> <p><i>North Coast Rivers Alliance, et al. v. Delta Stewardship Council</i> (lead case)</p> <p><i>Central Delta Water Agency, et al. v. Delta Stewardship Council</i></p> <p><i>Friends of the River, et al. v. Delta Stewardship Council</i></p> <p><i>California Water Impact Network, et al. v. Delta Stewardship Council</i></p> <p><b>Delta Stewardship Council Cases</b><br/>         3 Remaining Cases (CEQA claims challenging original 2013 Delta Plan EIR) (Judge Chang)</p> <p><i>North Coast Rivers Alliance, et al. v. Delta Stewardship Council</i></p> <p><i>Central Delta Water Agency, et al. v. Delta Stewardship Council</i></p> <p><i>California Water Impact Network, et al. v. Delta Stewardship Council</i></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>2013 and 2018 cases to be heard separately due to peremptory challenge</li> <li>SWC and several individual members, including Metropolitan, SLDMWA and Westlands have dismissed their remaining 2013 CEQA claims but remain intervenor-defendants in the three remaining <i>Delta Stewardship Council Cases</i></li> </ul> <p><b>2013 Cases</b></p> <ul style="list-style-type: none"> <li>Hearing on merits of CEQA claims in the three remaining 2013 cases re-set for Feb. 25, 2022</li> </ul> <p><b>2018 Cases</b></p> <ul style="list-style-type: none"> <li><u>2018 Cases fully briefed as of Jan. 24, 2022, hearing on the merits set for July 22, 2022</u></li> </ul> |





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| <p><b>SWP Contract Extension Validation Action</b><br/>         Sacramento County Superior Ct.<br/>         (Judge Culhane)<br/> <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>• Four answers filed in opposition denying validity on multiple grounds raised in affirmative defenses</li> <li>• Case deemed related to the two CEQA cases below and assigned to Judge Culhane</li> <li>• DWR certified the administrative record for the validation action on May 3, 2021</li> <li>• Parties stipulated to a revised briefing schedule in all three related cases (validation and CEQA):</li> <li>• Opening Briefs Sept. 17, 2021</li> <li>• Opposition Briefs Nov. 15, 2021</li> <li>• Reply Briefs Dec. 17, 2021</li> <li>• Jan. 5-7, 2022 Hearing on the merits <u>held</u> with CEQA cases, below</li> </ul> |
| <p><b>SWP Contract Extension CEQA Cases</b><br/>         Sacramento County Superior Ct.<br/>         (Judge Culhane)<br/> <i>North Coast Rivers Alliance, et al. v. DWR</i><br/> <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>• Briefing and hearing on the merits same as for the SWP Contract Extension Validation Action, above</li> </ul>  |



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| <p><b>Delta Conveyance Project Soil Exploration Case</b></p> <p><i>Central Delta Water Agency, et al. v. DWR</i><br/>         Sacramento County Superior Ct.<br/>         (Judge Chang)</p>  | <ul style="list-style-type: none"> <li>• Filed August 10, 2020</li> <li>• Plaintiffs Central Delta Water Agency, South Delta Water Agency and Local Agencies of the North Delta</li> <li>• 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</li> <li>• 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</li> <li>• Deadline to prepare the administrative record extended to <a href="#">Feb. 21, 2022</a></li> <li>• DWR's petition to add the 2020 CEQA case to the <i>Department of Water Resources Cases</i>, JCCP 4594, San Joaquin County Superior Court <a href="#">denied</a></li> </ul> |
| <p><b>Water Management Tools Contract Amendment</b></p> <p><i>California Water Impact Network et al. v. DWR</i><br/>         Sacramento County Superior Ct.<br/>         (Judge <a href="#">Earl TBD</a>)</p> <p><i>North Coast Rivers Alliance, et al. v. DWR</i><br/>         Sacramento County Super. Ct.<br/>         (Judge <a href="#">Earl TBD</a>)</p> | <ul style="list-style-type: none"> <li>• Filed September 28, 2020</li> <li>• CWIN and Aqualliance allege one cause of action for violation of CEQA</li> <li>• NCRA et al. allege four causes of action for violations of CEQA, the Delta Reform Act, Public Trust Doctrine and seeking declaratory relief</li> <li>• Parties have stipulated to production of a draft administrative record by April 1, 2022 and to a timeline to attempt to resolve any disputes over the contents</li> <li>• <i>CWIN</i> case reassigned to Judge Earl so both cases will be heard together</li> <li>• <i>SWC</i> motion to intervene in both cases <a href="#">granted</a></li> </ul>   |



| <b>San Diego County Water Authority v. Metropolitan, et al.</b> |                  |  |
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| <b>Cases</b>  | <b>Date</b>      | <b>Status</b>  |
| 2010, 2012  | Aug. 13-14, 2020 | Final judgment and writ issued. Transmitted to the Board on August 17.   |
|   | Aug. 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.   |
|   | 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. 4           | Metropolitan filed opening appellate brief regarding final judgment and writ.  |
|   | 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.  |
|   | Aug. 5           | Metropolitan filed opening appellate brief regarding prevailing party on the Exchange Agreement and statutory costs.   |
|   | 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. |
|   | Sept. 21         | SDCWA filed responding appellate brief regarding prevailing party on the Exchange Agreement and statutory costs.   |
|   | Mar. 16, 2022    | Court of Appeal oral argument regarding prevailing party on the Exchange Agreement and statutory costs.  |



| Cases      | Date          | Status  |
|------------|---------------|---|
| 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.  |
|            | 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       | 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      | SDCWA filed second amended petition/complaint.  |
|            | May 25        | Metropolitan filed motion to strike portions of the second amended petition/complaint.  |



| Cases            | Date          | Status   |
|------------------|---------------|--|
| 2018 (cont.)     | 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.                 |
|                  | 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.  |
| 2014, 2016, 2018 | June 11       | Metropolitan lodged administrative records.  |
|                  | June 11, 21   | 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.  |
|                  | October 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. <u>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.</u>   |



|           | <u>Jan. 27, 2022</u> | <u>Parties submitted to the court a joint stipulation and proposed order resetting pre-trial deadlines.</u>      |
|-----------|----------------------|--|
|           | <u>Feb. 23, 2022</u> | <u>Next Case Management Conference.</u>  |
| Cases     | Date                 | Status   |
| 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      |
|                                    | MWD v. Collins   | 185892        | 06/20           | \$100,000        |
|                                    | Delta Conveyance Project Bond Validation-CEQA Litigation                             | 185899        | 09/21           | \$100,000        |
|                                    | MWD Drone and Airspace Issues  | 193452        | 08/20           | \$50,000         |
|                                    | Equal Employee Opportunity Commission Charge   | 200462        | 03/21           | \$20,000         |
|                                    | Public Employment Relations Board Charge No. LA-CE-1441-M                            | 200467        | 03/21           | \$30,000         |
|                                    | Representation re the Shaw Law Group's Investigations                                | 200485        | 05/20/21        | \$50,000         |
|                                    | DFEH Charge [REDACTED] (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        |
|                                    | <u>DFEH Charge [REDACTED] (DFEH Number 202106-13819209)</u>                          | <u>203439</u> | <u>12/14/21</u> | <u>\$15,000</u>  |
| 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           | \$50,000         |



| Firm Name   | Matter Name                                | Agreement No. | Effective Date | Contract Maximum |
|---|--|---------------|----------------|------------------|
| Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP | FCC and Communications Matters             | 110227        | 11/10          | \$100,000        |
| 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          | \$50,000         |
|   | General Real Estate Matters                | 180209        | 08/19          | \$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         |
| Curls Bartling P.C.*                                    | Bond Counsel                               | 174596        | 07/18          | N/A              |
|   | Bond Counsel                               | 200470        | 07/21          | N/A              |
| Duane Morris LLP  | SWRCB Curtailment Process                  | 138005        | 09/14          | \$615,422        |
| 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          | \$ 400,000       |
|   | Tax Issues                                 | 180200        | 04/19          | \$50,000         |
| Hausman & Sosa, LLP                                     | MOU Hearing Officer Appeal                 | 201892        | 09/21          | \$25,000         |





| Firm Name                                     | Matter Name   | Agreement No. | Effective Date  | Contract Maximum |
|---|---|---------------|-----------------|------------------|
| Hawkins Delafield & Wood LLP*                 | Bond Counsel  | 193469        | 07/21           | N/A              |
| Horvitz & Levy                                | SDCWA v. MWD  | 124100        | 02/12           | \$900,000        |
|   | General Appellate Advice  | 146616        | 12/15           | \$100,000        |
|   | <u>MWD v. Collins</u>   | <u>203449</u> | <u>01/03/22</u> | <u>\$20,000</u>  |
| 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         |
|   | Cybersecurity and Privacy Advice and Representation                   | 200478        | 04/13/21        | \$100,000        |
|   | Systems Integrated, LLC v. MWD  | 201875        | 05/17/21        | \$40,000         |
| Amira Jackmon, Attorney at Law*               | Bond Counsel  | 200464        | 07/21           | N/A              |
| Jackson Lewis P.C.                            | Employment: Department of Labor Office of Contract Compliance (OFCCP) | 137992        | 02/14           | \$45,000         |
| Jones Hall, A Professional Law Corporation*   | Bond Counsel  | 200465        | 07/21           | N/A              |
| Kegel, Tobin & Truce                          | Workers' Compensation   | 180206        | 06/19           | \$250,000        |
| Lesnick Prince & Pappas LLP                   | Topock/PG&E's Bankruptcy  | 185859        | 10/19           | \$30,000         |
| 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         |
| LiMandri & Jonna LLP                          | Bacon Island Subrogation  | 200457        | 03/21           | \$50,000         |



| Firm Name                          | Matter Name  | Agreement No. | Effective Date | Contract Maximum |
|------------------------------------|--|---------------|----------------|------------------|
| 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          | \$ 410,000       |
|                                    | IID v. MWD (Contract Litigation)                                 | 193472        | 02/21          | \$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          | \$300,000        |
| Norton Rose Fulbright US LLP*      | Bond Counsel   | 200466        | 07/21          | N/A              |
| Olson Remcho LLP                   | Government Law   | 131968        | 07/14          | \$200,000        |
|                                    | Ethics Office  | 170714        | 01/18          | \$350,000        |
| Ryan & Associates                  | Leasing Issues   | 43714         | 06/01          | \$200,000        |
| Seyfarth Shaw LLP                  | HR Litigation  | 185863        | 12/19          | \$250,000        |
|                                    | Claim (Contract #201897)   | 201897        | 11/04/21       | \$100,000        |
|                                    | Claim (Contract #203436)   | 203436        | 11/15/21       | \$100,000        |
| Stradling Yocca Carlson & Rauth*   | Bond Counsel   | 200471        | 07/21          | N/A              |
| Theodora Oringer PC                | OHL USA, Inc. v. MWD   | 185854        | 09/19          | \$1,100,000      |
|                                    | Construction Contracts - General Conditions Update               | 185896        | 07/20          | \$100,000        |



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|-----------------------------|---|---------------|----------------|------------------|
| Thomas Law Group            | MWD v. DWR, CDFW, CDNR –<br>Incidental Take Permit (ITP)<br>CESA/CEQA/Contract Litigation | 185891        | 05/20          | \$250,000        |
|                             | Iron Mountain SMARA (Surface Mining<br>and Reclamation Act)                               | 203435        | 12/03/21       | \$100,000        |
| Thompson Coburn<br>LLP      | FERC Representation re Colorado River<br>Aqueduct Electrical Transmission<br>System       | 122465        | 12/11          | \$100,000        |
|                             | NERC Energy Reliability Standards   | 193451        | 08/20          | \$100,000        |
| Van Ness Feldman,<br>LLP    | General Litigation  | 170704        | 07/18          | \$50,000         |
|                             | Colorado River MSHCP  | 180191        | 01/19          | \$50,000         |
|                             | Bay-Delta and State Water Project<br>Environmental Compliance                             | 193457        | 10/15/20       | \$50,000         |
| Western Water and<br>Energy | California Independent System Operator<br>Related Matters                                 | 193463        | 11/20/20       | \$100,000        |

\*Expenditures paid by Bond Proceeds/Finance

\*\*Expenditures paid by another group