



Matters Impacting Metropolitan

Federal Judge Finds EPA Must Take Regulatory Action As To Fluoridated Drinking Water

As noted in the Interim General Manager's October 2, 2024 memo to the Board and Member Agency Managers, on September 24, 2024, a California federal judge held that the fluoridation of drinking water at levels typical in the United States poses an unreasonable risk of injury to public health within the meaning of the federal Toxic Substances Control Act (TSCA). Specifically, in *Food & Water Watch, Inc., et al. v. EPA*, Senior District Judge Edward Chen of the U.S. District Court for the Northern District of California found that "fluoridation of water at 0.7 milligrams per liter ("mg/L") – the level presently considered 'optimal' in the United States – poses an unreasonable risk of reduced IQ in children." However, he cautioned that "this finding does not conclude with certainty that fluoridated water is injurious to public health; rather, as required by . . . TSCA, the Court finds there is an unreasonable risk of such injury, a risk sufficient to require the EPA to engage with a regulatory response" (emphasis in original).

Regulatory actions under TSCA can range from requiring a mere warning label to banning the chemical. Judge Chen did not say what EPA's response must be, but he made clear that EPA cannot ignore that risk. It is possible that EPA could appeal this ruling to the U.S. Court of Appeals for the Ninth Circuit.

In reaching his decision, Judge Chen relied on a recent National Toxicology Program (NTP) monograph on fluoride's neurotoxicity which concluded higher levels of fluoride exposure, such as drinking water containing more than 1.5 mg/L of fluoride, are "associated with lower IQ in children." But NTP emphasized that there were "insufficient data to determine if the low fluoride level of 0.7 mg/L currently recommended for U.S. community water supplies has a negative effect on children's IQ." In this regard, the American Dental Association (ADA) stated the court ruling "provides no scientific basis for the ADA to change its endorsement of community water fluoridation as safe and beneficial to oral health."

This ruling is the first time a court has reversed EPA's decision under TSCA that a chemical does not pose an unreasonable risk. TSCA authorizes EPA to regulate chemicals and protect against their unreasonable risk to human health and the environment. Congress amended TSCA in June 2016, allowing any person to petition EPA to consider whether a chemical presents an unreasonable risk of injury to health or the environment. Previously, petitioners were required to show that the issuance of a rule or order was necessary to protect health and the environment.

If EPA denies such a petition, the petitioner can seek judicial review of EPA's denial of the petition de novo, meaning that a judge independently reviews the evidence without deference to EPA.

On November 22, 2016, plaintiffs petitioned EPA under TSCA to prohibit the fluoridation of drinking water supplies. Plaintiffs argued that the ingestion of fluoride poses an unreasonable risk of neurotoxic harm to humans including IQ loss, particularly for infants and young children. After EPA denied plaintiffs' petition, plaintiffs filed a lawsuit in 2017 seeking judicial review of EPA's denial of their petition. EPA argued that the court's review should be limited to the evidence that was in the administrative record as part of the plaintiffs' petition to EPA. The judge agreed with the plaintiffs that because TSCA provides for a de novo proceeding (without deference to EPA's decision) the court allowed the plaintiffs to introduce evidence, such as the NTP monograph, which was not presented to EPA in the plaintiffs' underlying petition.

The *Food & Water Watch* case shows how plaintiffs' tactics seeking to ban the fluoridation of drinking water have changed. Previously, plaintiffs relied on constitutional arguments to challenge Metropolitan's fluoridation of its drinking water, but now they are attempting to change EPA's regulation of fluoride under TSCA. In 2011, Metropolitan was sued in federal court by individual plaintiffs who argued in *Foli, et al. v. Metropolitan* that Metropolitan's fluoridation process using hydrofluosilicic acid (HFSA) was an unlawful and unconstitutional medication of the plaintiffs.



Plaintiffs also alleged state law claims and sought a petition for writ of mandamus.

Metropolitan moved to dismiss plaintiffs' lawsuit, arguing (among other things) that the constitutional claims were preempted by the federal and state Safe Drinking Water Acts (SDWAs). While EPA sets and enforces federal drinking water standards at the national level through the federal SDWA, EPA has granted California and other states the authority to implement and enforce federal drinking water standards. California's SDWA requires, subject to certain exemptions, community drinking water fluoridation for water systems with at least 10,000 service connections "in order to promote the public health of Californians of all ages through the protection and maintenance of dental health, a paramount issue of statewide concern." (Cal. Health & Safety Code § 116410(a).) In compliance with this legal mandate, Metropolitan adjusts the natural fluoride level in treated water to the optimal level for dental health (0.7 mg/L).

The federal district court judge agreed with Metropolitan's arguments, including that plaintiffs' constitutional claims were preempted by the comprehensive remedial scheme of the federal SDWA. The judge also ruled that plaintiffs' constitutional claims failed because Metropolitan's use of HFSA as a fluoridation agent is a reasonable means of advancing the legitimate governmental objective of protecting dental health through the fluoridation of drinking water. In particular, the court found: "Under the comprehensive regulatory scheme of the SDWA, 'the type and amount of any chemical' used for fluoridation must be approved by the California Department of Public Health ('DPH') and must meet 'exacting standards and specifications.' [citation omitted] Here, MWD's fluoridation plan has been licensed by DPH and is consistent with the requirements of the federal and state SDWA." After the court dismissed plaintiffs' claims, they filed an appeal with the U.S. Court of Appeals of the Ninth Circuit. In February 2015, the Ninth Circuit affirmed the district court's dismissal of the *Foli* case.

Metropolitan staff will continue to monitor the *Food & Water Watch* lawsuit and EPA's response to Judge Chen's ruling.

Appellate court ruling issued in *Friends of the River v. Sites Project Authority* involving CEQA judicial streamlining

On September 20, 2024, the California Court of Appeals for the Third District issued a ruling in *Friends of the River v. Sites Project Authority*, confirming the sufficiency of the environmental impact report (EIR) for the Sites Reservoir Project—a project to build a reservoir in Northern California intended to capture excess stormwater from major storms (Sites Project). The Sites Project is the first in the state to use the new California Environmental Quality Act (CEQA) streamlining process created as part of the Governor's 2023 initiatives to expedite infrastructure projects, specifically under Senate Bill No. 149 (Caballero—2023). This ruling demonstrates the court's deference to agency discretion when supported by thorough documentation and adherence to procedural standards. The ruling also shows the effectiveness of the new CEQA judicial streamlining process; it was less than one year from agency certification to appellate court ruling.

The Sites Project Authority certified the EIR for the Sites Project on November 23, 2023. The Sites Project proposes to divert water from the Sacramento River and stored in an offstream reservoir near Maxwell, California. The Sites Project aims to improve water supply reliability, support environmental and contractual obligations, and enhance the ecosystem through flexible water management and surface water supply.

On December 19, 2023, several environmental organizations, including Friends of the River, Center for Biological Diversity, and Sierra Club, filed a petition for a writ of mandate challenging the certification of the EIR. They contended that the EIR's environmental baseline and range of alternatives violated CEQA. On June 12, 2024, the superior court denied the petition, leading to this appeal.

The petitioners argued that the EIR's baseline was flawed because it relied on 2019 biological opinions that are subject to legal challenge, and the EIR did not account for possible future changes to the relevant water quality control plan. The court concluded that the Sites Project Authority did not abuse its discretion in setting the environmental baseline. The baseline provided a realistic and legally defensible snapshot of existing environmental conditions and was supported by substantial evidence.



The petitioners also argued that the EIR failed to analyze a reasonable range of alternatives, specifically operational alternatives that could mitigate environmental impacts without compromising the Project's objectives. They focused on the diversion criteria for water from the Sacramento River to the reservoir, claiming the alternatives lacked variation in this critical aspect. The court ruled that the EIR's range of alternatives was neither arbitrary nor capricious. The Sites

Project Authority demonstrated a good-faith effort to analyze feasible alternatives that would achieve the Project's objectives while considering environmental impacts.

The current ruling was issued three days after the September 17, 2024, appellate hearing. The petitioners may still appeal this to the California Supreme Court so staff will continue to monitor the proceeding.

Matters Involving Metropolitan

Metropolitan Opt's Out of PFAS Settlement with Tyco; Deadline to Opt Out of BASF Settlement Approaching

On September 23, 2024, Metropolitan opted out of a proposed class action settlement between all eligible public water systems (PWSs) nationwide and Tyco Fire Products LP (Tyco) in the Aqueous Film-Forming Foams (AFFF) Multidistrict Litigation (MDL). Tyco had previously announced on April 12, 2024, a proposed class action settlement with all PWSs that have one or more water sources impacted by per- and polyfluoroalkyl substances (PFAS) as of May 15, 2024, where Tyco agreed to pay \$750 million (Tyco Settlement). Similar to the prior DuPont and 3M class action settlements in the AFFF MDL, all eligible PWSs will be automatically included in and bound by the proposed Tyco Settlement unless they opted out by the September 23, 2024, deadline.

The consequence of remaining in the proposed settlement is that PWSs' claims against Tyco are released in exchange for the payment authorized by the terms of the proposed settlement. The court granted preliminary approval of the proposed Tyco Settlement in June 2024. On August 23, 2024, Metropolitan, along with three other water systems represented by Marten Law, LLP, filed objections to several terms and provisions, including the overbroad release language, in the proposed Tyco Settlement. On September 17, 2024, Class Counsel filed a motion for final approval of the

proposed Tyco Settlement, for final certification of the settlement class, and in response to the objections.

On May 21, 2024, BASF Corporation announced a proposed class action settlement with all eligible PWSs that have one or more water sources impacted by PFAS as of May 15, 2024, where BASF agreed to pay \$316.5 million (BASF Settlement). Again, the proposed settlement will be binding on eligible PWSs, and they will release their claims against BASF, unless they opt out by the deadline of October 15, 2024. The court granted preliminary approval of the proposed BASF Settlement on July 3, 2024. Like with the proposed Tyco Settlement, on September 13, 2024, Metropolitan and three other water systems represented by Marten Law, LLP filed objections to several terms and provisions, including the overbroad release language, in the proposed BASF Settlement. Class Counsel must file their motion for final approval of the proposed BASF Settlement and respond to objections by October 15, 2024. At a Final Fairness Hearing on November 1, 2024, the court will rule on the objections to the proposed Tyco and BASF Settlements and decide, among other things, whether to grant final approval of the proposed settlements. Metropolitan staff will continue to monitor the AFFF MDL, as well as the upcoming Final Fairness Hearing.



Matters Received

<u>Category</u>	<u>Received</u>	<u>Description</u>	
Action in which MWD is a party	1	Petition Pursuant to Government Code § 946.6(c)(2) for an Order to be Relieved of the Claims Filing Requirements of Government Code §§ 911.2, 945.4 et seq., filed Los Angeles County Superior Court, in the case <i>Andres Trujillo-Sanchez v. City of Pico Rivera, County of Los Angeles, Flood Control District of Los Angeles County, MWD, County Sanitation District of Los Angeles County, State of California, Whittier Narrows Recreation Area</i> , Case No. 24STCP02794, relating to the March 12, 2023 wrongful death of Petitioner's mother, Yesenia Sanchez, from injuries being hit by a passing hit-and-run motor vehicle (not an MWD vehicle) while walking south along Rooks Road. Claims were presented beyond the six-months claims filing period to each of the named Respondents. The claims were rejected. This is a Petition for relief from the claims filing requirements.	
Government Code Claims	1	Claim relating to an accident involving an MWD vehicle	
Subpoenas	1	Subpoena for employee's benefit records for matter unrelated to MWD	
Requests Pursuant to the Public Records Act	14	<u>Requestor</u>	<u>Documents Requested</u>
		AFSCME Local 1902 (2 requests)	(1) Records relating to employees who were granted the ability to telework full time; and (2) records over the past seven years regarding injuries, illnesses, or deaths reported for the OSHA 300 Log, per Title 29 of the Code of Federal Regulations Part 1904
		APTIM	Proposals and scoring sheet for Request for Qualifications for On-Call Grant Application and Administration Services
		Center for Contract Compliance	Certified payroll records for work by J. Orozco Enterprise Inc. dba Orozco Landscape and Tree Co. for Live Oak Landscape and Tree Maintenance Services, La Verne
		City of Santa Ana	MWD organizational charts



<u>Requestor</u>	<u>Documents Requested</u>
Labor Management Compliance Council (2 requests)	(1) Certified payroll for work by Steve Rados Inc. on the Wadsworth Pumping Plant Eastside Pipeline Intertie; and (2) inspector logs and certified payroll for work by Western Oilfields Supply Company dba Ran For Rent on the Perris Valley Pipeline Interstate 215 Crossing
LOR Geotechnical Group	Any geological records for Seven Oaks Dam located in San Bernardino County, including earthquake fault investigation reports
Private Citizens (3 requests)	(1) Emails between/among individuals in MWD human resources group and MWD's workers' compensation administrator Tristar; (2) Form 700s for past five years for MWD board members, General Manager, General Counsel, General Auditor, and Ethics Officer; and (3) MWD Request for Qualifications and all responses submitted for On-Site Inspection and Construction Center Administration Services
Sierra Club	Yield estimates and cost estimates for Delta tunnel, Sites, and Pure Water
Southern California Association of Governments	MWD's travel reimbursement policy for directors
ZipBuffalo	Purchase order data including purchase order number, purchase order date, line item details, line item quantity, line item price, vendor information from January 2022 to present, and list of current employees, including name, title, department, and contact information



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	
Subject	Status
<p>Delta Conveyance Project CEQA Cases</p> <p><i>City of Stockton v. California Department of Water Resources</i></p> <p><i>County of Butte v. California Department of Water Resources</i></p> <p><i>County of Sacramento v. California Department of Water Resources</i></p> <p><i>County of San Joaquin et al. v. California Department of Water Resources</i></p> <p><i>Sacramento Area Sewer District v. California Department of Water Resources</i></p> <p><i>San Francisco Baykeeper, et al. v. California Department of Water Resources</i></p> <p><i>Sierra Club, et al. v. California Department of Water Resources</i></p> <p><i>South Delta Water Agency and Rudy Mussi Investment L.P. v. California Department of Water Resources</i></p> <p><i>Tulare Lake Basin Water Storage District v. California Department of Water Resources</i></p> <p>Sacramento County Superior Ct. (Judge Acquisto)</p>	<ul style="list-style-type: none"> • DWR is the only named respondent/defendant • All alleged CEQA violations • Most allege violations of the Delta Reform Act, Public Trust Doctrine and Delta and Watershed Protection Acts • Two allege violations of the fully protected bird statute • One alleges violations of Proposition 9 (1982) and the Central Valley Project Act • Deadline for DWR to prepare the administrative record extended to Sept. 30<u>Nov 29</u>, 2024 • Next case management conference Oct. 18, 2024 • June 20, 2024 trial court issued a preliminary injunction halting pre-construction geotechnical soil testing until DWR certifies that the DCP is consistent with the Delta Plan • Aug. 19, 2024 DWR appealed the injunction • Aug. 23, 2024 trial court denied DWR’s motion to modify or stay the preliminary injunction • Aug. 29, 2024 DWR filed a petition in the court of appeal seeking to stay the preliminary injunction pending a ruling on the merits of its appeal • Sept. 13, 2024 deadline to file oppositions to DWR’s stay petition <u>filed. Ruling on stay request pending as of Sept. 30, 2024</u>
<p>Delta Conveyance Project Water Right Permit Litigation</p> <p><i>Central Delta Water Agency et al. v. State Water Resources Control Board</i></p> <p>Fresno County Superior Court (Judge Hamilton)</p>	<ul style="list-style-type: none"> • Complaint filed April 16, 2024, alleges that the State Water Board must rule on DWR’s 2009 petition to extend the time to perfect its State Water Project rights before the State Water Board may begin to adjudicate DWR’s petition to change its water rights to add new points of diversion for the Delta Conveyance Project • Sept. 19 hearing date for State Water Resources Control Board demurrer (motion to dismiss) and motion to strike and DWR’s demurrer (motion to dismiss) <u>taken off calendar by court-entered stipulation of the parties after DWR withdrew the 2009 petition to extend its SWP water rights</u>



Subject	Status
<p>Consolidated DCP Revenue Bond Validation Action and CEQA Case</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. (Judge Kenneth C. Mennemeier)</p> <p>3d District Court of Appeal Case No. C100552</p> <p>SWP-CVP 2019 BiOp Cases</p> <p><i>Pacific Coast Fed'n of Fishermen's Ass'ns, et al. v. Raimondo, et al.</i> (PCFFA)</p> <p><i>Calif. Natural Resources Agency, et al. v. Raimondo, et al.</i> (CNRA)</p> <p>Federal District Court, Eastern Dist. of California, Fresno Division (Judge Thurston)</p>	<ul style="list-style-type: none"> • Validation Action • Final Judgment and Final Statement of Decision issued January 16, 2024 ruling the bonds are not valid • DWR, Metropolitan and other supporting public water agencies filed Notices of Appeal on or before the February 16, 2024 deadline • Eight opposing groups filed Notices of Cross Appeals by March 27, 2024 • April 16, 2024 DWR moved to dismiss the cross appeals as untimely • Oct. 25, 2024 deadline for DWR's and Supporting Public Water Agencies' Opening Brief and Appellants' Appendix • SWC intervened in both <i>PCFFA</i> and <i>CNRA</i> cases • Federal defendants reinitiated consultation on Oct 1, 2021 • March 28, 2024 order extending the Interim Operations Plan and the stay of the cases through the issuance of a new Record of Decision or December 20, 2024, whichever is first
<p>CESA Incidental Take Permit Cases</p> <p>Coordinated Case Name <i>CDWR Water Operations Cases, JCCP 5117</i> (Coordination Trial Judge Gevercer)</p> <p><i>Metropolitan & Mojave Water Agency v. Calif. Dept. of Fish & Wildlife, et al.</i> (CESA/CEQA/Breach of Contract)</p> <p><i>State Water Contractors & Kern County Water Agency v. Calif. Dept. of Fish & 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>	<ul style="list-style-type: none"> • Administrative records certified in October 2023 • Order entered to delay setting a merits briefing schedule by 90 days and extending the time to bring the action to trial by six months • Deadline to bring all the coordinated cases to trial is now December 5, 2025



Subject	Status
<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>	
<p>CDWR Environmental Impact Cases Sacramento Superior Ct. Case No. JCCP 4942, 3d DCA Case No. C100302 (20 Coordinated Cases)</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 Arguelles)</p>	<ul style="list-style-type: none"> • Cases dismissed after DWR rescinded project approval, bond resolutions, decertified the EIR, and CDFW rescinded the CESA incidental take permit • January 10, 2020 – Nine motions for attorneys’ fees and costs denied in their entirety • May 11, 2022, court of appeal reversed the trial court’s denial of attorney fees and costs • Coordinated cases remitted to trial court for re-hearing of fee motions consistent with the court of appeal’s opinion • Dec. 26, 2023 order denying fee motions • Six notices of appeal filed • Oct. 9, 2024 deadline for appellants’ opening briefs and appendices
<p>COA Addendum/ No-Harm Agreement</p> <p><i>North Coast Rivers Alliance v. DWR</i> Sacramento County Superior Ct. (Judge Rockwell)</p>	<ul style="list-style-type: none"> • Plaintiffs allege violations of CEQA, Delta Reform Act & public trust doctrine • Westlands Water District and North Delta Water Agency granted leave to intervene • Metropolitan & SWC monitoring • Deadline to prepare administrative record last extended to Nov. 18, 2022
<p>Water Management Tools Contract Amendment</p> <p><i>California Water Impact Network et al. v. DWR</i> Sacramento County Superior Ct. (Judge Acquistio)</p> <p><i>North Coast Rivers Alliance, et al. v. DWR</i> Sacramento County Super. Ct. (Judge Acquistio)</p>	<ul style="list-style-type: none"> • 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



Subject	Status
	<ul style="list-style-type: none"><li data-bbox="846 331 1442 422">• Dec. 20, 2022 DWR filed notice of certification of the administrative record and filed answers in both cases



<i>San Diego County Water Authority v. Metropolitan, et al.</i>		
Cases	Date	Status
2014, 2016	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	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.
	Feb. 22	Metropolitan and SDCWA each filed motions for summary adjudication.
	April 13	Hearing on Metropolitan's and SDCWA's motions for summary adjudication.
	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



Cases	Date	Status
2014, 2016, 2018 (cont.)		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 16-27	Trial occurred but did not conclude.
	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	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)



Cases	Date	Status
2014, 2016, 2018 (cont.)	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)
	Jan. 10, 2024	Parties filed joint status report and stipulated proposal on form of judgment
	Jan. 17	Court issued order approving stipulated proposal on form of judgment (setting briefing and hearing)
	April 3	Court entered final judgment
	April 3	Court issued writ of mandate regarding demand management costs
	April 3	SDCWA filed notice of appeal
	April 17	Metropolitan filed notice of cross-appeal
	May 3	Participating member agencies filed notice of appeal
	May 31	Parties filed opening briefs on prevailing party
	June 28	Parties filed response briefs on prevailing party
	July 17	Court issued tentative ruling that there is no prevailing party due to mixed results
	July 18	Hearing on prevailing party; court took matter under submission, stating it expects to rule in mid-Aug.
	<u>Aug. 15</u>	<u>Court issued ruling that Metropolitan is the prevailing party and is entitled to SDCWA’s payment of its litigation costs and fees under the Exchange Agreement</u>
	<u>Sept. 25</u>	<u>Court issued order extending time for Metropolitan to file its memorandum of costs and motion for attorneys’ fees</u>
	<u>Sept. 27</u>	<u>Metropolitan filed its memorandum of costs in the amount of \$372,788.64</u>



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
Albright, Yee & Schmit, APC	Employment Matter	216064	06/24	\$100,000
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
Anzel Galvan LLP	Bond Issues	220411	07/24	N/A
Atkinson Andelson Loya Ruud & Romo	Employee Relations	59302	04/04	\$1,316,937
	Delta Conveyance Project Bond Validation-CEQA Litigation	185899	09/21	\$250,000
	MWD Drone and Airspace Issues	193452	08/20	\$50,000
	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
BDG Law Group, APLC	Gutierrez v. MWD	216054	03/24	\$250,000
Best, Best & Krieger	Bay-Delta Conservation Plan/Delta Conveyance Project (with SWCs)	170697	08/17	\$500,000
	Environmental Compliance Issues	185888	05/20	\$100,000
	Grant Compliance Issues	211921	05/23	\$150,000
	Pure Water Southern California	207966	11/22	\$100,000
	Progressive Design Build	216053	04/24	\$250,000
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



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
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
	Bond Counsel	220409	07/24	N/A
Castañeda + Heidelman LLP	Employment Matter	216055	04/24	\$100,000
Cislo & Thomas LLP	Intellectual Property	170703	08/17	\$100,000
Curls Bartling P.C.*	Bond Counsel	200470	07/21	N/A
Drooz Legal, LLP	Employment Matter	220402	08/24	\$100,000
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
Erin Joyce Law, PC	Employment Matter	216039	11/23	\$100,000
	<u>Ethics Advice</u>	<u>216058</u>	<u>05/24</u>	<u>\$100,000</u>
Glaser Weil Fink Howard Jordan & Shapiro	Employment Matter	220395	7/24	\$150,000
Greines, Martin, Stein & Richland LLP	SDCWA v. MWD	207958	10/22	\$100,000
	Colorado River Matters	207965	11/22	\$100,000
Hackler Flynn & Associates	Government Code Claim Advice	216059	5/24	\$150,000
Haden Law Office	Real Property Matters re Agricultural Land	180194	01/19	\$50,000



Hanna, Brophy, MacLean, McAleer & Jensen, LLP	Workers' Compensation	211926	06/23	\$200,000
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	\$500,000
	Tax Issues	180200	04/19	\$50,000
	Alternative Project Delivery (ADP)	207961	10/22	\$250,000
	Ad Valorem Property Taxes	216042	11/23	\$100,000
Harris & Associates	Employment Matter	220397	7/24	\$100,000
Hausman & Sosa, LLP	Jones v. MWD	216056	05/24	\$100,000
Hawkins Delafield & Wood LLP*	Bond Counsel	193469	07/21	N/A
	<u>Bond Counsel</u>	<u>220405</u>	<u>07/24</u>	<u>N/A</u>
Hemming Morse, LLP	Baker Electric v. MWD	211933	08/23	\$175,000
Hogan Lovells US LLP	Employment Matter	220400	07/24	\$100,000
Horvitz & Levy	SDCWA v. MWD	124100	02/12	\$1,250,000
	General Appellate Advice	146616	12/15	\$200,000
	Colorado River	203464	04/22	\$100,000
	Delta Conveyance Bond Validation Appeal	216047	03/24	\$25,000
	PFAS Multi-District Litigation – Appeal	216050	03/24	\$200,000
Innovative Legal Services, P.C.	Employment Matter	211915	01/19/23	\$125,000 <u>\$175,000</u>
Internet Law Center	Cybersecurity and Privacy Advice and Representation	200478	04/13/21	\$100,000
	Systems Integrated, LLC v. MWD	201875	05/17/21	\$100,000
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
Kronenberger Rosenfeld, LLP	Systems Integrated, LLC v. MWD	211920	04/23	\$250,000
Kutak Rock LLP	Delta Islands Land Management	207959	10/22	\$10,000
Liebert Cassidy Whitmore	Labor and Employment	158032	02/17	\$240,821
	FLSA Audit	180199	02/19	\$50,000
	EEO Advice	216041	12/23	\$100,000 \$200,000
Lieff Cabraser Heimann & Bernstein, LLP	PFAS Multi-District Litigation	216048	03/24	\$200,000
Manatt, Phelps & Phillips	SDCWA v. MWD rate litigation	146627	06/16	\$4,400,000
	Raftelis-Subcontractor of Manatt, Agr. #146627: Per 5/2/22 Engagement Letter between Manatt and Raftelis, MWD paid Raftelis Financial Consultants, Inc.	Invoice No. 23949		\$56,376.64 for expert services & reimbursable expenses in SDCWA v. MWD
Marten Law LLP	PFAS Multi-District Litigation	216034	09/23	\$550,000
Meyers Nave Riback Silver & Wilson	Pure Water Southern California	207967	11/22	\$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	\$3,250,000
	Arvin-Edison v. Dow Chemical	203452	01/22	\$150,000
	Semitropic TCP Litigation	207954	09/22	\$75,000
	Employment Matter	216063	06/24	\$100,000
	Employment Matter	220417	08/24	\$100,000



Nixon Peabody LLP*	Bond Counsel [re-opened]	193473	07/21	N/A
	Special Finance Project	207960	10/22	\$50,000
	Bond Counsel	220404	07/24	N/A
Norton Rose Fulbright US LLP*	Bond Counsel	200466	07/21	N/A
	Bond Counsel	220407	7/24	N/A
Olson Remcho LLP	Government Law	131968	07/14	\$400,000
	Executive Committee/Ad Hoc Committees Advice	207947	08/22	\$60,000
	Advice/Assistance re Proposition 26/Election Issues	211922	05/23	\$100,000
<u>Robert P. Otilie</u>	<u>Employment Matter</u>	<u>220403</u>	<u>09/24</u>	<u>\$100,000</u>
Pearlman, Brown & Wax, L.L.P.	Workers' Compensation	216037	10/23	\$100,000
Procopio, Cory, Hargreaves & Savitch, LLP	CityWatch Los Angeles Public Records Act Request	216046	02/24	\$75,000
	Public Records Act Requests	220399	7/24	\$75,000
Renne Public Law Group, LLP	ACE v. MWD (PERB Case No. LA-CE-1574-M)	203466	05/22	\$100,000
	ACE v. MWD (PERB Case No. LA-CE-1611-M)	207962	10/22	\$50,000
	Employee Relations and Personnel Matters	216045	01/24	\$50,000
	<u>ACE v. MWD (PERB Case No. LA-CE-1729-M)</u>	<u>220421</u>	<u>09/24</u>	<u>\$35,000</u>
	<u>AFSCME v. MWD (PERB Case No. LA-CE-1733-M)</u>	<u>220422</u>	<u>09/24</u>	<u>\$35,000</u>
Ryan & Associates	Leasing Issues	43714	06/01	\$200,000
	Oswalt v. MWD	211925	05/23	\$100,000
	Unlawful Encroachment on Metropolitan Rights-of-Way	216065	06/24	\$100,000
Sanders Roberts LLP	Employment Matter	220401	7/24	\$100,000



Seyfarth Shaw LLP	Claim (Contract #201897)	201897	11/04/21	\$350,000
	Claim (Contract #203436)	203436	11/15/21	\$350,000
	Claim (Contract #203454)	203454	01/22	\$210,000
	Reese v. MWD	207952	11/22	\$750,000
	General Labor/Employment Advice	211917	3/23	\$100,000
	Civil Rights Department Complaint	211931	07/23	\$100,000
	Crawford v. MWD	216035	09/23	\$100,000
	Tiegs v. MWD	216043	12/23	\$250,000
	Zarate v. MWD	216044	01/24	\$250,000
	Lorentzen v. MWD	216036	09/23	\$100,000
Stradling Yocca Carlson & Rauth*	Bond Counsel	200471	07/21	N/A
	Bond Counsel	220408	7/24	N/A
Theodora Oringher PC	Construction Contracts - General Conditions Update	185896	07/20	\$100,000
Thompson Coburn LLP	NERC Energy Reliability Standards	193451	08/20	\$300,000
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
	Colorado River Issues	211924	05/23	\$100,000

*Expenditures paid by Bond Proceeds/Finance

**Expenditures paid by another group