

# The Metropolitan Water District of Southern California

# Agenda

The mission of the Metropolitan Water District of Southern California is to provide its service area with adequate and reliable supplies of high-quality water to meet present and future needs in an environmentally and economically responsible way.

## L&C Committee

M. Luna, Chair  
J. Garza, Vice Chair  
M. Camacho  
G. Cordero  
L. Dick  
C. Douglas  
C. Kurtz  
T. McCoy  
C. Miller  
G. Peterson  
M. Ramos  
K. Seckel

## **Legal and Claims Committee - Final - Revised 2**

Meeting with Board of Directors \*

**April 9, 2024**

**8:30 a.m.**

Agendas, live streaming, meeting schedules, and other board materials are available here: <https://mwdh2o.legistar.com/Calendar.aspx>. If you have technical difficulties with the live streaming page, a listen-only phone line is available at 1-877-853-5257; enter meeting ID: 862 4397 5848. Members of the public may present their comments to the Board on matters within their jurisdiction as listed on the agenda via in-person or teleconference. To participate via teleconference 1-833-548-0276 and enter meeting ID: 815 2066 4276 or click <https://us06web.zoom.us/j/81520664276pwd=a1RTQWh6V3h3ckFhNmdsUWpKR1c2Zz09>

**Tuesday, April 9, 2024  
Meeting Schedule**

**08:30 a.m. LC  
10:30 a.m. FAM  
01:30 p.m. Break  
02:00 p.m. BOD**

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MWD Headquarters Building • 700 N. Alameda Street • Los Angeles, CA 90012

Teleconference Locations:

3008 W. 82nd Place • Inglewood, CA 90305

525 Via La Selva • Redondo Beach, CA 90277

Cedars Sinai Medical Center • 8700 Beverly Blvd • Los Angeles, CA 90048

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\* The Metropolitan Water District's meeting of this Committee is noticed as a joint committee meeting with the Board of Directors for the purpose of compliance with the Brown Act. Members of the Board who are not assigned to this Committee may participate as members of the Board, whether or not a quorum of the Board is present. In order to preserve the function of the committee as advisory to the Board, members of the Board who are not assigned to this Committee will not vote on matters before this Committee.

**1. Opportunity for members of the public to address the committee on matters within the committee's jurisdiction (As required by Gov. Code Section 54954.3(a))**

**2. MANAGEMENT ANNOUNCEMENTS AND HIGHLIGHTS**

**A. General Counsel's report of monthly activities**

[21-3223](#)

**Attachments:** [04092024 LC 2A Report](#)

**\*\* CONSENT CALENDAR ITEMS -- ACTION \*\***

**3. CONSENT CALENDAR OTHER ITEMS - ACTION**

- A. Approval of the Minutes of the Legal and Claims Committee for March 12, 2024 (Copies have been submitted to each Director, any additions, corrections, or omissions) [21-3224](#)

**Attachments:** [04092024 LC 3A \(03122024\) Minutes](#)

**4. CONSENT CALENDAR ITEMS - ACTION**

NONE

**\*\* END OF CONSENT CALENDAR ITEMS \*\***

**5. OTHER BOARD ITEMS - ACTION**

NONE

**6. BOARD INFORMATION ITEMS**

NONE

**7. COMMITTEE ITEMS**

- a. Update on pending and recently resolved employment litigation and employment legal claims [21-3225](#)

**Attachments:** [04092024 LC 7a Presentation](#)

- b. Report on litigation in In re: Aqueous Film-Forming Foams Products Liability Litigation, Master Docket No.: 2:18-mn-2873-RMG, and settlements in: (1) City of Camden, et al. v. 3M Company, Civil Action No.: 2:23-cv-03147-RMG; and (2) City of Camden, et al. v. E.I. DuPont De Nemours and Company (n/k/a EIDP, Inc.), et al., Civil Action No.: 2:23-cv-03230-RMG [Conference with legal counsel – existing litigation; may be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1)]. [UPDATED SUBJECT 4/4/24] [21-3226](#)

**8. FOLLOW-UP ITEMS**

NONE

**9. FUTURE AGENDA ITEMS**

**10. ADJOURNMENT**

**NOTE: This committee reviews items and makes a recommendation for final action to the full Board of Directors. Final action will be taken by the Board of Directors. Committee agendas may be obtained on Metropolitan's Web site <https://mwdh2o.legistar.com/Calendar.aspx>. This committee will not take any final action that is binding on the Board, even when a quorum of the Board is present.**

**Writings relating to open session agenda items distributed to Directors less than 72 hours prior to a regular meeting are available for public inspection at Metropolitan's Headquarters Building and on Metropolitan's Web site <https://mwdh2o.legistar.com/Calendar.aspx>.**

**Requests for a disability-related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting should be made to the Board Executive Secretary in advance of the meeting to ensure availability of the requested service or accommodation.**



## Metropolitan Cases

### ***San Diego County Water Authority v. Metropolitan, et al.*** **(San Francisco County Superior Court)**

On April 3, 2024, Judge Anne-Christine Massullo of the San Francisco Superior Court issued the final judgment in the consolidated SDCWA v. Metropolitan, et al. cases (filed in 2014, 2016, and 2018). The final judgment memorializes the court's earlier pre-trial and trial rulings and the parties' stipulations. Also on April 3, SDCWA filed a notice of appeal of the final judgment.

After a trial, in 2023 Judge Massullo ruled in Metropolitan's favor on SDCWA's rate and contract claims concerning "offsetting benefits," for which SDCWA sought over \$334 million in contract damages for the six years at issue and also asserted a future valuation in the billions over the 110-year length of the parties' Exchange Agreement. The parties previously stipulated that SDCWA prevailed on its rate and contract claims concerning Metropolitan's Water Stewardship Rate (WSR), based on a Court of Appeal decision that was issued during the pendency of these cases. Where SDCWA had combined both offsetting benefits and WSR claims within causes of action, pursuant to state law the court entered judgment for SDCWA on those causes of action as a result of the WSR stipulation. The parties' other claims were decided based on motions.

The court's rulings memorialized in the final judgment include:

- ***Offsetting Benefits.*** Judgment is entered in favor of Metropolitan for breach of contract in the 2018 case. As stated in the trial statement of decision, Metropolitan's duty to include a reasonable credit for any offsetting benefits pursuant to Water Code section 1811(c) did not arise and Metropolitan did not breach the Exchange Agreement with respect to offsetting benefits.
- ***Water Stewardship Rate.*** Judgment is entered in favor of SDCWA on the rate and contract causes of action that included WSR claims, for 2015 – 2020 pursuant to the parties' stipulation. The court issued a writ of mandate commanding Metropolitan to exclude demand management costs (previously collected through the WSR) from its pre-set wheeling rate and transportation rates charged under the parties' Exchange Agreement, a practice Metropolitan earlier ceased.
- ***Proposition 26 and Government Code section 54999.7(a).*** Judgment is entered in favor of SDCWA regarding the applicability of Proposition 26 and Government Code Section 54999.7(a) to Metropolitan's rates.
- ***Conveyance Facility Owner's Rights.*** Judgment is entered in favor of Metropolitan regarding Metropolitan's rights, as the conveyance facility owner, to determine any offsetting benefits.

### ***Alicia Lorentzen v. Metropolitan*** **(Los Angeles County Superior Court)**

Plaintiff, Ms. Lorentzen, filed a motion seeking the deposition of the General Manager. Metropolitan filed a motion in opposition seeking a protective order to preclude the deposition of the General Manager. On April 3, 2024 there was a hearing before Judge Steve Cochran. Both motions were granted in part and denied in part. Plaintiff was directed to take the deposition of Metropolitan's Person Most Knowledgeable (PMK) by May 31, 2024. Based upon the information provided in the PMK deposition, the General Manager may be required to appear for a deposition of up to one hour. The Court ordered the parties to participate in alternative dispute resolution by November 1, 2024. The matter was set for trial on February 24, 2025.



**Darren Reese v. Metropolitan and  
Dane Crawford v. Metropolitan  
(Riverside County Superior Court)**

Plaintiff’s counsel filed a motion seeking to “relate” the Reese and Crawford cases. Metropolitan opposed the motion. A hearing was held before

Judge Bustamante in Riverside County Superior Court. The court denied the motion at this time. A trial date of October 11, 2024 was set for the Reese matter and a trial setting conference on January 22, 2025 in the Crawford matter.

**Other Matters**

**Miscellaneous**

On March 21, 2024, Metropolitan entered into a short-term revolving credit facility with Bank of America, N.A.) (“BANA”), in an aggregate principal amount not to exceed \$400,000,000 at any one time (the “BANA Credit Agreement”).

In connection with the execution and delivery of the BANA Credit Agreement, BANA purchased the \$176,400,000 principal amount of Metropolitan’s short-term notes issued and outstanding under a prior credit agreement. Legal Department staff attorneys worked with and assisted outside bond counsel

with the drafting and negotiation of several contracts and closing certificates.

On March 28, 2024, Metropolitan extended the Long Period mode of its \$271,815,000 Special Variable Rate Water Revenue Refunding Bonds 2020 Series B (the “2020B Senior Revenue Bonds”). The extension of the Long Period mode will allow Metropolitan to meet its existing debt obligations and flexibility to manage its debt portfolio in a cost-effective manner. Legal Department staff attorneys worked with and assisted outside bond counsel with the drafting and negotiation of several contracts and closing certificates.

**Matters Received**

<u>Category</u>	<u>Received</u>	<u>Description</u>	
Government Code Claims	2	Claims relating to a wrongful death and emotional distress by two claimants stemming from the same incident that involved injuries from being struck by a motor vehicle while walking on public property	
Subpoenas	1	Subpoena for medical records for an agency temporary worker for a matter unrelated to MWD	
Requests Pursuant to the Public Records Act	12	<u>Requestor</u>	<u>Documents Requested</u>
		Arcadis U.S. (2 requests)	Proposals and evaluation scoring sheets submitted in response to: (1) Request for Qualifications for Progressive Design-Build Services for Sepulveda Feeder Pump Stations Project; and (2) Request for Proposals for Pure Water Southern California Program - Program Management Support Services
		GHD	Proposals submitted in response to Request for Proposals for Desalination Research
		Land Engineering Consultants	As-built plans for MWD facilities near the project area in the Redlands/Mentone area



<u>Requestor</u>	<u>Documents Requested</u>
Macias Gini & O'Connell	Evaluation scores and proposals submitted in response to Request for Proposals for External Audit Services for Audit Services FY2023
Graduate Student, Montana State University	MWD's sources of water cutbacks as part of the Lower Colorado System Conservation and Efficiency Program
Payal	Awarded vendors' proposals, budget/spending amounts, and bid tabulation for On-Call Information Technology Services
Private Citizens (2 requests)	(1) Hourly and annual salaries paid to former Workers' Compensation Managers from 2016 to 2023; and (2) deeds for parcels in the San Jacinto area relating to: (1) the split of property divided in the 1930s and donated to the Bureau of Indian Affairs; and (2) parcel shown on the parcel map at book 70 page 500
Upland Public Works Department	Drawings showing any MWD utilities within the Richland Street Utility Improvement Project in the city of Upland
VCA Engineers	MWD as-built drawings of any pipelines near the proposed California Highway Patrol Area Office development in the city of Pomona
Woodard & Curran	Statement of Qualifications submitted by companies who were selected for the prequalified list for Engineering Services for Water Treatment Facilities, Conveyance, Storage and Distribution Facilities, Large Rotating Equipment, and Power Distribution Facilities in 2022



**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).



<b>Bay-Delta and SWP Litigation</b>	
<b>Subject</b>	<b>Status</b>
<p><b>Delta Conveyance Project CEQA Cases</b></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>	<ul style="list-style-type: none"> <li>• DWR is the only named respondent/defendant</li> <li>• All alleged CEQA violations</li> <li>• Most allege violations of the Delta Reform Act, Public Trust Doctrine and Delta and Watershed Protection Acts</li> <li>• Two allege violations of the fully protected bird statute</li> <li>• One alleges violations of Proposition 9 (1982) and the Central Valley Project Act</li> <li>• All but South Delta Water Agency’s case were filed in Sacramento County Superior Court</li> <li>• South Delta Water Agency filed in San Joaquin County Superior Court</li> <li>• First case management conference held in Sacramento County Superior Court February 16, 2024</li> <li>• Second case management conference set for May 31, 2024</li> <li>• Sacramento County Water Agency joined County of Sacramento’s case when they filed a First Amended Petition on February 16, 2024</li> <li>• <u><a href="#">July 23, 2024 Case Management Conference in the San Joaquin County Superior Court case of South Delta Water Agency et al. v. DWR case ordered transferred from San Joaquin County to Sacramento County Superior Court</a></u></li> <li>• <u><a href="#">Deadline for DWR to prepare the administrative record extended to June 14, 2024</a></u></li> </ul>
<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. (Judge Kenneth C. Mennemeier)</p> <p><u><a href="#">3d District Court of Appeal Case No. C100552</a></u></p>	<ul style="list-style-type: none"> <li>• <b>Validation Action</b></li> <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> </ul>





Subject	Status
	<ul style="list-style-type: none"> <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</li> <li>• Trial on the merits held May 15-18, 2023</li> <li>• Final Judgment and Final Statement of Decision issued January 16, 2024               <ul style="list-style-type: none"> <li>○ Judgment in DWR’s favor on CEQA, Delta Reform Act, Public Trust Doctrine and jurisdictional causes of action or defenses</li> <li>○ Bonds ruled not valid based on the broad definition of “Delta Program facilities” in the General Bond Resolution</li> </ul> </li> <li>• DWR, Metropolitan and other supporting public water agencies filed Notices of Appeal on or before the February 16, 2024 deadline</li> <li>• <u>Eight opposing groups filed Notices of Cross Appeals by March 27, 2024</u></li> </ul>
<p><b>SWP-CVP 2019 BiOp Cases</b></p> <p><i>Pacific Coast Fed’n of Fishermen’s Ass’ns, et al. v. Raimondo, et al. (PCFFA)</i></p> <p><i>Calif. Natural Resources Agency, et al. v. Raimondo, et al. (CNRA)</i></p> <p>Federal District Court, Eastern Dist. of California, Fresno Division (Judge Thurston)</p>	<ul style="list-style-type: none"> <li>• SWC intervened in both <i>PCFFA</i> and <i>CNRA</i> cases</li> <li>• Federal defendants reinitiated consultation on Oct 1, 2021</li> <li>• Nov. 16, 2023 parties filed a joint status report</li> <li>• Federal defendants and state plaintiffs seek another 1-year stay and proposed a 2024 Interim Operations Plan (IOP); PCFFA seeks to extend the 2023 IOP until the court rules on the 2024 IOP</li> <li>• Briefing on stay extension and 2024 IOP concludes March 6, 2024</li> <li>• <del>Dec. 29, 2023 order extended the stay and 2023 IOP until March 2024 or new order, whichever is earlier</del></li> <li>• <u>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</u></li> </ul>





Subject	Status
<p><b>CESA Incidental Take Permit Cases</b></p> <p><b>Coordinated Case Name <i>CDWR Water Operations Cases, JCCP 5117</i> (Coordination Trial Judge Gevercer)</b></p> <p><i>Metropolitan &amp; Mojave Water Agency v. Calif. Dept. of Fish &amp; Wildlife, et al.</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>• All 8 cases ordered coordinated in Sacramento County Superior Court</li> <li>• Stay on discovery issued until coordination trial judge orders otherwise</li> <li>• All four Fresno cases transferred to Sacramento to be heard with the four other coordinated cases</li> <li>• Certified administrative records lodged March 4, 2022</li> <li>• State Water Contractors et al. granted leave to intervene in Sierra Club, North Coast Rivers Alliance, Central Delta Water Agency, and San Francisco Baykeeper cases by stipulation</li> <li>• SWC, et al. granted leave to intervene as respondents in <i>Tehama-Colusa Canal Auth., et al. v. Calif. Dept. of Water Resources</i> CEQA case</li> <li>• SWC’s renewed motion to augment the administrative records granted in part; a court-appointed referee will review withheld records to determine if the deliberative process privilege applies</li> <li>• Sept. 8, 2023 hearing on DWR’s and CDFW’s motion to modify the referral to exclude certain withheld records</li> <li>• CDFW’s motion denied, DWR’s motion subject to the Court’s in camera review of records proposed for exclusion</li> <li>• Referee’s recommendation is to grant in part, deny in part SWC parties’ motion to augment the administrative records</li> <li>• Oct. 13, 2023 objections or responses to Referee’s recommendation due</li> <li>• Oct. 27, 2023 court’s ruling granting in part, and denying in part, the SWC parties’ motion to augment DWR’s and CDFW’s administrative records became final</li> <li>• Parties are conferring on a merits briefing schedule</li> </ul>



Subject	Status
<p><b>CDWR Environmental Impact Cases</b>  <b>Sacramento Superior Ct. Case No. JCCP 4942,</b>  <b>3d DCA Case No. <del>C100302C091774</del></b>  <b>(20 Coordinated Cases)</b></p> <p>Validation Action  <i>DWR v. All Persons Interested</i></p> <p>CEQA            17 cases</p> <p>CESA/Incidental Take Permit            2 cases</p> <p>(Judge Arguelles)</p>	<ul style="list-style-type: none"> <li>• Cases dismissed after DWR rescinded project approval, bond resolutions, decertified the EIR, and CDFW rescinded the CESA incidental take permit</li> <li>• January 10, 2020 – Nine motions for attorneys’ fees and costs denied in their entirety</li> <li>• Parties have appealed attorneys’ fees and costs rulings</li> <li>• May 11, 2022, court of appeal reversed the trial court’s denial of attorney fees and costs in an unpublished opinion</li> <li>• Opinion ordered published</li> <li>• Coordinated cases remitted to trial court for re-hearing of fee motions consistent with the court of appeal’s opinion</li> <li>• Sept. 15, 2023 re-hearing on fee motions</li> <li>• Dec. 26, 2023 order denying fee motions</li> <li>• Feb. 26, 2024 deadline to file notice of appeal</li> <li>• Six notices of appeal filed</li> </ul>
<p><b>COA Addendum/            No-Harm Agreement</b></p> <p><i>North Coast Rivers Alliance v. DWR</i>            Sacramento County Superior Ct.            (Judge Rockwell)</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 last extended to Nov. 18, 2022</li> </ul>



Subject	Status
<p><b>SWP Contract Extension Validation Action</b>            Court of Appeal for the Third App. Dist. Case No. C096316   <i>DWR v. All Persons Interested in the Matter, etc.</i></p>	<ul style="list-style-type: none"> <li>• DWR seeks a judgment that the Contract Extension amendments to the State Water Contracts are lawful</li> <li>• Metropolitan and 7 other SWCs filed answers in support of validity to become parties</li> <li>• Jan. 5-7, 2022 Hearing on the merits held with CEQA cases, below</li> <li>• Final statement of decision in DWR’s favor filed March 9, 2022</li> <li>• Final judgment entered and served</li> <li>• C-WIN et al., County of San Joaquin et al. and North Coast Rivers Alliance et al. filed notices of appeal</li> <li>• Validation and CEQA cases consolidated on appeal</li> <li>• Briefing completed May 30, 2023</li> <li>• Oral argument held November 15, 2023</li> <li>• January 5, 2024 court of appeal affirmed the trial court judgment</li> <li>• CWIN et al. NCRA et al.’s petitions for reconsideration denied</li> <li>• PCL et al. filed a petition for California Supreme Court review on validation grounds</li> <li>• NCRA et al. and CWIN et al. filed petitions for California Supreme Court review on CEQA grounds</li> </ul>
<p><b>SWP Contract Extension CEQA Cases</b>            Court of Appeal for the Third App. Dist. Case Nos. C096384 &amp; C096304   <i>North Coast Rivers Alliance, et al. v. DWR</i>  <i>Planning &amp; Conservation League, et al. v. DWR</i></p>	<ul style="list-style-type: none"> <li>• Petitions for writ of mandate alleging CEQA and Delta Reform Act violations filed on January 8 &amp; 10, 2019</li> <li>• Deemed related to DWR’s Contract Extension Validation Action and assigned to Judge Culhane</li> <li>• Administrative Record completed</li> <li>• DWR filed its answers on September 28, 2020</li> <li>• Metropolitan, Kern County Water Agency and Coachella Valley Water District have intervened and filed answers in the two CEQA cases</li> <li>• Final statement of decision in DWR’s favor denying the writs of mandate filed March 9, 2022</li> <li>• Final judgments entered and served</li> <li>• North Coast Rivers Alliance et al. and PCL et al. filed notices of appeal</li> </ul>



Subject	Status
	<ul style="list-style-type: none"> <li>• Appeals consolidated with the validation action above</li> </ul>
<p><b><del>Delta Conveyance Project Soil Exploration Cases</del></b></p> <p><del><i>Central Delta Water Agency, et al. v. DWR</i></del> <del>Sacramento County Superior Ct.</del> <del>(Judge Chang)</del></p> <p><del><i>Central Delta Water Agency, et al. v. DWR (II)</i></del> <del>Sacramento County Super. Ct.</del> <del>(Judge Acquisto)</del></p>	<ul style="list-style-type: none"> <li>• <del>Original case filed August 10, 2020; new case challenging the second addendum to the CEQA document filed Aug. 1, 2022</del></li> <li>• <del>Plaintiffs Central Delta Water Agency, South Delta Water Agency and Local Agencies of the North Delta</del></li> <li>• <del>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</del></li> <li>• <del>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</del></li> <li>• <del>DWR's petition to add the 2020 CEQA case to the <i>Department of Water Resources Cases</i>, JCGP 4594, San Joaquin County Superior Court denied</del></li> <li>• <del>Hearing on the merits held Oct. 13, 2022</del></li> <li>• <del>Dec. 2, 2022 ruling on the merits granting the petition with respect to two mitigation measures and denying on all other grounds</del></li> <li>• <del>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</del></li> <li>• <del>March 27, 2023 court entered judgment and issued a writ after ordering and considering supplemental briefing</del></li> <li>• <del>May 5, 2023 court granted DWR's motion to discharge the writ and dismiss the case</del></li> <li>• <del>May 18, 2023 Notice of Appeal filed</del></li> <li>• <del>Hearing on motion for attorneys' fees vacated</del></li> <li>• <del>Appeal dismissed after DWR settled on attorney fees</del></li> </ul>
<p><b>Water Management Tools Contract Amendment</b></p> <p><i>California Water Impact Network et al. v. DWR</i> Sacramento County Superior Ct. (Judge Aquisto)</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,</li> </ul>



Subject	Status
<p><i>North Coast Rivers Alliance, et al. v. DWR</i> Sacramento County Super. Ct. (Judge Aquisto)</p>	<p>Public Trust Doctrine and seeking declaratory relief</p> <ul style="list-style-type: none"><li>• SWC motion to intervene in both cases granted</li><li>• Dec. 20, 2022 DWR filed notice of certification of the administrative record and filed answers in both cases</li></ul>



<b><i>San Diego County Water Authority v. Metropolitan, et al.</i></b>		
<b>Cases</b>	<b>Date</b>	<b>Status</b>
<b>2014, 2016</b>	Aug. 28, 2020	SDCWA served first amended (2014) and second amended (2016) petitions/complaints.
	April 23	SDCWA filed answers to Metropolitan’s cross-complaints.
	Sept. 30	Based on the Court of Appeal’s Sept. 21 opinion (described above), and the Board’s Sept. 28 authorization, Metropolitan paid \$35,871,153.70 to SDCWA for 2015-2017 Water Stewardship Rate charges under the Exchange Agreement and statutory interest.
<b>2017</b>	July 23, 2020	Dismissal without prejudice entered.
<b>2018</b>	April 21, 2021	SDCWA filed second amended petition/complaint.
	May 25	Metropolitan filed motion to strike portions of the second amended petition/complaint.
	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.
	Aug. 31	SDCWA filed answer to Metropolitan’s cross-complaint.
	April 11, 2022	Court entered order of voluntary dismissal of parties’ WaterFix claims and cross-claims.
<b>2014, 2016, 2018</b>	June 11, 2021	Deposition of non-party witness.
	Aug. 25	Hearing on Metropolitan’s motion for further protective order regarding deposition of non-party witness.
	Aug. 25	Court issued order consolidating the 2014, 2016, and 2018 cases for all purposes, including trial.
	Aug. 30	Court issued order granting Metropolitan’s motion for a further protective order regarding deposition of non-party witness.
	Aug. 31	SDCWA filed consolidated answer to Metropolitan’s cross-complaints in the 2014, 2016, and 2018 cases.
	Feb. 22	Metropolitan and SDCWA each filed motions for summary adjudication.
	April 13	Hearing on Metropolitan’s and SDCWA’s motions for summary adjudication.



Cases	Date	Status
2014, 2016, 2018 (cont.)	April 29	Parties filed pre-trial briefs.
	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.
	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.





Cases	Date	Status
<b>2014, 2016, 2018 (cont.)</b>	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)
	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



Cases	Date	Status
<b>2014, 2016, 2018 (cont.)</b>	Jan. 17	Court issued order approving stipulated proposal on form of judgment (setting briefing and hearing)
	Jan. 26	Parties filed opening briefs on proposed form of judgment
	Feb. 26	Parties filed response briefs on proposed form of judgment
	March 13	Hearing on proposed form of judgment
	<a href="#"><u>April 3</u></a>	<a href="#"><u>Court entered final judgment</u></a>
	<a href="#"><u>April 3</u></a>	<a href="#"><u>Court issued writ of mandate regarding demand management costs</u></a>
	<a href="#"><u>April 3</u></a>	<a href="#"><u>SDCWA filed notice of appeal</u></a>
<b>All Cases</b>	April 15, 2021	Case Management Conference on 2010-2018 cases. Court set trial in 2014, 2016, and 2018 cases on May 16-27, 2022.
	April 27	SDCWA served notice of deposition of non-party witness.
	May 13-14	Metropolitan filed motions to quash and for protective order regarding deposition of non-party witness.
	June 4	Ruling on motions to quash and for protective order.



<b>Outside Counsel Agreements</b>				
<b>Firm Name</b>	<b>Matter Name</b>	<b>Agreement No.</b>	<b>Effective Date</b>	<b>Contract Maximum</b>
Albright, Yee & Schmit, APC	Employment Matter	211923	05/23	\$60,000
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
Atkinson Andelson Loya Ruud & Romo	Employee Relations	59302	04/04	\$1,277,187
	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
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	\$75,000
	Pure Water Southern California	207966	11/22	\$100,000
Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP	FCC and Communications Matters	110227	11/10	\$100,000
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
Cislo & Thomas LLP	Intellectual Property	170703	08/17	\$100,000
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
Erin Joyce Law, PC	Employment Matter	216039	11/23	\$100,000
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
Hanna, Brophy, MacLean, McAleer & Jensen, LLP	Workers' Compensation	211926	06/23	<del>\$1</del> 200,000
Hanson Bridgett LLP	SDCWA v. MWD	124103	03/12	\$1,100,000



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
	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
Hawkins Delafield & Wood LLP*	Bond Counsel	193469	07/21	N/A
Hemming Morse, LLP	Baker Electric v. MWD	211933	08/23	\$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
	<a href="#"><u>Delta Conveyance Bond Validation Appeal</u></a>	<a href="#"><u>216047</u></a>	<a href="#"><u>03/24</u></a>	<a href="#"><u>\$25,000</u></a>
	<a href="#"><u>PFAS Multi-District Litigation – Appeal</u></a>	<a href="#"><u>216050</u></a>	<a href="#"><u>03/24</u></a>	<a href="#"><u>\$100,000</u></a>
Innovative Legal Services, P.C.	Employment Matter	211915	01/19/23	\$125,000
Internet Law Center	Cybersecurity and Privacy Advice and Representation	200478	04/13/21	\$100,000
	Systems Integrated, LLC v. MWD	201875	05/17/21	\$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



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
	EEO Advice	216041	12/23	\$100,000
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	\$400,000
Meyers Nave Riback Silver & Wilson	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	\$2,500,000
	Arvin-Edison v. Dow Chemical	203452	01/22	\$100,000
	Semitropic TCP Litigation	207954	09/22	\$75,000
Nixon Peabody LLP*	Bond Counsel [re-opened]	193473	07/21	\$100,000
	Special Finance Project	207960	10/22	\$50,000
Norton Rose Fulbright US LLP*	Bond Counsel	200466	07/21	N/A



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
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	\$54,000
	Advice/Assistance re Proposition 26/Election Issues	211922	05/23	\$100,000
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
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	\$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
Ryan & Associates	Leasing Issues	43714	06/01	\$200,000
	Oswalt v. MWD	211925	05/23	\$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





Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
	Zarate v. MWD	216044	01/24	\$250,000
Sheppard Mullin Richter & Hampton	Rivers v. MWD	207946	07/22	\$250,000
	Lorentzen v. MWD	216036	09/23	\$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	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

**THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

**MINUTES**

**LEGAL AND CLAIMS COMMITTEE**

**March 12, 2024**

Chair Luna called the meeting to order at 8:30 a.m.

Members present: Directors Dick, Douglas, Garza, Kurtz, Luna, McCoy (entered after roll call), Miller, Peterson (teleconference posted location), and Seckel.

Members absent: Directors Camacho, Cordero, and Ramos.

Other Directors present: Directors Ackerman, Armstrong, Bryant, De Jesus, Dennstedt (AB 2449 “Just Cause”), Erdman, Faessel, Fong-Sakai, Goldberg, Gray (teleconference posted location), Lefevre (teleconference posted location), McMillan, Morris, Ortega, and Smith.

Director Dennstedt indicated she is participating under AB 2449 “just cause” regarding illness. Director Dennstedt appeared by audio and on camera.

Committee Staff present: Beatty, Gaxiola, Hagekhalil, Mortada, Scully, and Wheeler

**1. OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE COMMITTEE ON MATTERS WITHIN THE COMMITTEE’S JURISDICTION**

None

**2. MANAGEMENT ANNOUNCEMENTS AND HIGHLIGHTS**

- a. Subject: General Counsel’s report of monthly activities

General Counsel Scully reported on SDCWA v. MWD rate litigation hearing on the final judgment; and PFAS issues and settlement.

Chair Luna re-ordered the agenda to hear the closed session Item 7b first.

Director McCoy entered the meeting.

## 7. COMMITTEE ITEMS

- b.           Subject           Report on litigation in Darren A. Reese v. Metropolitan Water District of Southern California, Riverside County Superior Court Case No. CVPS2204312; Dane Crawford v. Metropolitan Water District of Southern California, Riverside County Superior Court Case No. CVPS2304015; Alicia Lorentzen v. Metropolitan Water District of Southern California, Los Angeles County Superior Court Case No. 23STCV19214; and Ryan Tiegs v. Metropolitan Water District of Southern California, Riverside County Superior Court Case No. CVPS2306176; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. [Conference with legal counsel – existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1)].
- Presented by:   Heather Beatty, Assistant General Counsel

In closed session, the committee discussed the item with legal counsel. No action was taken.

## CONSENT CALENDAR ITEMS – ACTION

### 3. CONSENT CALENDAR OTHER ITEMS – ACTION

- A.           Subject:           Approval of the Minutes of the Legal and Claims Committee for February 13, 2024.

**4. CONSENT CALENDAR ITEMS – ACTION**

- 7-8**            Subject            Approve amendments to the Metropolitan Water District Administrative Code to provide an exempt time off benefit to unrepresented employees equivalent to the time off benefit provided to Metropolitan’s management unit, create a new reproductive leave loss benefit as required by state law, conform personnel regulations for unrepresented employees to current practices and regulations; and authorize the General Manager to adjust unrepresented salaries to conform with the equity wage and cost-of-living adjustments provided to Metropolitan’s management unit. The General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA.
- Motion:            Approve amendments to the Metropolitan Water District Administrative Code to provide an exempt time off benefit for unrepresented employees, create a new reproductive loss leave benefit, and to conform personnel regulations for unrepresented employees to current practices and regulations; and authorize the General Manager to adjust unrepresented salaries to conform with the equity wage and cost-of-living adjustments provided to Metropolitan’s management unit.

No presentations were given. Director Peterson made a motion, seconded by Director McCoy, to approve items 3A, and 7-8.

The vote was:

- Ayes:            Directors Dick, Douglas, Garza, Kurtz, Luna, McCoy, Miller, Peterson, and Seckel
- Noes:            None
- Abstentions:    None
- Absent:          Directors Camacho, Cordero, and Ramos

The motion for Items 3A, and 7-8 passed by a vote of 9 ayes, 0 noes, 0 abstention, and 3 absent.

**END OF CONSENT CALENDAR ITEMS**

**5. OTHER BOARD ITEMS – ACTION**

None

**6. BOARD INFORMATION ITEMS**

None

**7. COMMITTEE ITEMS (Continue)**

- a. Update on pending and recently resolved employment litigation and employment legal claims.

Item 7a was deferred.

**8. FOLLOW-UP ITEMS**

None

**9. FUTURE AGENDA ITEMS**

None

Next meeting will be held on April 9, 2024.

Meeting adjourned at 10:04 a.m.

Miguel Luna  
Chair



Legal and Claims Committee

# Update on Pending and Recently Resolved Employment Litigation and Employment Legal Claims

Item 7a

April 9, 2024

### Subject

Pending Employment Litigation and Claims

### Purpose

Provide Historical Information and Update the Committee

### Item #7a

Update on  
Pending and  
Recently Resolved  
Employment  
Litigation and  
Claims



Item #7a  
April 2022  
State Auditor's  
Report

## Litigation Data from 2003 to 2020 as Reported to State Auditor

- Activity: 26 Lawsuits filed for an average of 1.4 lawsuits per year [18 years]
  - Maximum # of filings: 2003 – 4 lawsuits filed
  - Minimal # of filings: 0 lawsuits filed in 2011, 2015, 2016
- Status/Outcomes:
  - 1 jury verdict in MWD's favor
  - 6 dismissals in response to MWD motions
  - 19 settlements

Item #7a  
April 2022  
State Auditor's  
Report

## Settlement Activity from 2003-2020 as Reported to State Auditor [19 Settlements]

- Total expenditure of \$2,465,843.24 in cash payments
  - Average settlement payment: \$129,781.00
  - Board authority required for settlements in excess of \$125,000 (Admin Code § 6433)
  - 5 Board-authorized settlements from 2007-2009: \$160,000 (Settled 2007); \$165,000 (Settled 2007); \$700,00 (Settled 2007), \$500,000 (Settled 2008), \$298,150 (Settled 2009)
  - 14 settlements under GM and GC settlement authority (Admin Code § 6433)
    - Average settlement payment of \$45,906.66

## Item #7a

# Litigation Activity from 2021 to 2024

- Activity: 9 lawsuits filed and 5 pre-litigation demand letters lodged
  - 2021: 4 pre-litigation demand letters received
  - 2022: 2 lawsuits filed
  - 2023: 7 lawsuits filed
  - 2024: 1 pre-litigation demand letter received
  - All 14 matters allege some form of FEHA discrimination, harassment or retaliation; and several allege LC whistleblowing and retaliation for whistleblowing
- Status:
  - 1 lawsuit and 2 pre-litigation demand letters settled within GM's and GC's settlement authority
  - Remaining matters, 8 lawsuits and 3 pre-litigation demand letters still pending

# Update on pending and recently resolved litigation and claims

Matter	Mo/Yr Filed/Lodged	Causes of Action	Pending/Dismissed /Settled	Employment Status
Complainant	Mar-24	Sexual Harassment, Failure to Prevent Sexual Harassment, Sexual Battery, Negligent Supervision	Pending	Active Employee
Plaintiff	Dec-23	Disability Discrimination, Harassment Based on Disability, Failure to Prevent, Investigate and Remedy, Failure to Accommodate, Failure to Engage in the Interactive Process, Aiding & Abetting, Retaliation, Wrongful Termination, Intentional Infliction, Negligent Infliction, Breach of Written Contract, Breach of Implied Contract, Breach of Implied Covenant of GFFD	Pending	Rejected Job Applicant

# Update on pending and recently resolved litigation and claims

Matter	Mo/Yr Filed/Lodged	Causes of Action	Pending/Dismissed /Settled	Employment Status
Plaintiff	Dec-23	Race Discrimination, Race Harassment, Gender Discrimination, Gender Harassment, Retaliation, Failure to Prevent Harassment, Discrimination and Retaliation	Pending	Active Employee
Plaintiff	Nov-23	Race Discrimination, Age Discrimination, Retaliation, Failure to Prevent Discrimination, Failure to Promote, Failure to Permit Inspection of Personnel Records	Pending	Active Employee
Plaintiff	Aug-23	Retaliation, Failure to Prevent Retaliation	Pending	Active Employee

# Update on pending and recently resolved litigation and claims

Matter	Mo/Yr Filed/Lodged	Causes of Action	Pending/Dismissed /Settled	Employment Status
Plaintiff	Aug-23	Race Discrimination, Race Harassment, Gender Discrimination, Gender Harassment, Retaliation, Failure to Prevent Harassment, Discrimination and Retaliation	Pending	Resigned
Plaintiff	Jul-23	Race, Color, National Origin Discrimination, Retaliation, Failure to Prevent Discrimination, Failure to Promote, Unfair Business Practice	Pending-Trial Date 10/22/2024	Active Employee
Plaintiff	May-23	Race Discrimination, Harassment, Gender Discrimination, Gender Harassment, Retaliation, Failure to Prevent Harassment and Retaliation	Pending-Trial Date 10/13/2025	Active Employee

# Update on pending and recently resolved litigation and claims

Matter	Mo/Yr Filed/Lodged	Causes of Action	Pending/Dismissed /Settled	Employment Status
Plaintiff	Oct-22	Race Discrimination, Race Harassment, Gender Discrimination, Gender Harassment, Retaliation, Failure to Prevent Harassment, Discrimination and Retaliation	Pending	Active Employee
Plaintiff	Mar-22	LC Whistleblower Retaliation, FEHA Retaliation	Settled November 2023 - \$125,000	Probationary Release
Complainant	Oct-21	Gender Discrimination, Gender Harassment, FEHA Retaliation, LC Whistleblower Retaliation	Settled December 2023 - \$48,750	Active Employee



# Update on pending and recently resolved litigation and claims

Matter	Mo/Yr Filed/Lodged	Causes of Action	Pending/Dismissed /Settled	Employment Status
Complainant	Oct-21	Association Discrimination, FEHA Retaliation, LC Whistleblower Retaliation	Settled November 2022 - \$45,000	Resigned
Complainant	Oct-21	Gender Discrimination, Gender Harassment, National Origin Discrimination, National Origin Harassment, Disability Discrimination, Disability Harassment, FEHA Retaliation, LC Whistleblower Retaliation	Pending	Active Employee
Complainant	Aug-21	Gender Discrimination, Gender Harassment, Pregnancy Discrimination, Pregnancy Harassment, FEHA Retaliation, LC Whistleblower Retaliation	Pending	Active Employee



