

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
M. Ramos
K. Seckel

Legal and Claims Committee - Final - Revised 1

Meeting with Board of Directors *

July 8, 2024

1:30 p.m.

Monday, July 8, 2024 Meeting Schedule

**09:00 a.m. EOT
11:30 a.m. Break
12:00 p.m. LEG
01:30 p.m. Legal
03:30 p.m. OWS**

Agendas, live streaming, meeting schedules, and other board materials are available here:

**<https://mwdh2o.legistar.com/Calendar.aspx>. Written public comments received by 5:00 p.m. (business days) before the meeting is scheduled will be posted under the Submitted Items and Responses tab available here:
<https://mwdh2o.legistar.com/Legislation.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/81520664276?pwd=a1RTQWh6V3h3ckFhNmDsUWpKR1c2Zz09>

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

Teleconference Locations:

3214 Colchester Street • Douglasville, GA 30135

Cedars-Sinai Imaging Medical Group • 8700 Beverly Blvd., Suite M 313 • Los Angeles, CA 90048

Conference Room • 1545 Victory Blvd. 2nd Floor • Glendale, CA 91201

Allendale Ins Agency • 337 W. Foothill Blvd. • Glendora, CA 91741

* 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

[21-3566](#)

Attachments: [07092024 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 June 10, 2024 (Copies have been submitted to each Director, any additions, corrections, or omissions)

[21-3567](#)

Attachments: [07082024 LC 3A \(06102024\) Minutes](#)

4. **CONSENT CALENDAR ITEMS - ACTION**

NONE

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

5. **OTHER BOARD ITEMS - ACTION**

- 8-3 Report on Baker Electric, Inc. v. Metropolitan Water District of Southern California, et al., (Los Angeles Superior Court Case No. 21STCV15612) regarding Metropolitan's CRA 6.9 kV Power Cables Replacement Project, Contract No. 1915; authorize an increase in the maximum amount payable under contract with Musick, Peeler & Garrett LLP, for legal services by \$750,000 to an amount not-to-exceed \$3,250,000; and authorize an increase in the maximum amount payable under contract with Exponent, Inc. for consulting services by \$120,000 to an amount not-to-exceed \$720,000; the General Manager has determined that the proposed actions are 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)]. [SUBJECT REVISED 6/28/24]

[21-3537](#)

6. **BOARD INFORMATION ITEMS**

NONE

7. COMMITTEE ITEMS

- a. General Counsel Business Plan for fiscal year 2024-2025 [21-3589](#)

Attachments: [07082024 LC 7a C-L](#)

- b. Discussion of Department Head Performance and Goal Setting [21-3568](#)
[Public employee performance evaluation – General Counsel; to be heard in closed session pursuant to Gov. Code Section 54957]

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.



Matters Impacting Metropolitan

U.S. Supreme Court Overturns Longstanding *Chevron* Deference Doctrine and Opens the Door to More Lawsuits Against Federal Agencies

On June 28, 2024, in a 6-3 decision in *Loper Bright Enterprises, Inc. v. Raimondo*, the U.S. Supreme Court overturned the longstanding *Chevron* doctrine, which required courts to defer to an administrative agency's reasonable interpretation of an ambiguous statute. Most recently, on July 1, 2024, in another 6-3 decision, the U.S. Supreme Court held in *Corner Post, Inc. v. Board of Governors* that the Administrative Procedure Act (APA) does not require lawsuits over EPA and other agencies' rules and "final agency action" to begin within six years of their promulgation but rather within six years of when a party was first injured by a particular policy. Courts had previously held that such suits must be brought within six years of when the rule was first promulgated.

The *Chevron* doctrine, also referred to as *Chevron* deference, was an administrative law principle established by the Supreme Court 40 years ago in *Chevron U.S.A. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984). However, writing for the majority in *Loper Bright*, Chief Justice Roberts held that the APA requires courts to exercise their independent judgment in deciding whether an agency has acted within its statutory authority, and courts may not defer to an agency interpretation of the law "simply because a statute is ambiguous." The majority opinion was joined by Justices Thomas, Alito, Gorsuch, Kavanaugh, and Barrett. Justices Thomas and Gorsuch also filed concurring opinions. In his concurring opinion, Justice Thomas emphasized that *Chevron* deference violates the Constitution's separation of powers by curbing judicial authority and expanding agencies' executive power beyond constitutional limits. Justice Gorsuch wrote separately to explain that *stare decisis*—the judicial principle that courts should rely on their previous decisions when interpreting the law—supports overturning the *Chevron* doctrine, and that deference to administrative agencies is inconsistent with both the role of the judiciary and the mandate of the APA.

Justice Kagan filed a dissenting opinion in *Loper Bright* that was joined by Justices Sotomayor and Jackson. Justice Kagan wrote that "in one fell swoop, the majority today gives itself exclusive power over every open issue—no matter how expertise-driven or policy-laden—involving the meaning of regulatory law." In Justice Kagan's view, *Chevron* deference properly put authority to carry out Congressional intent in the hands of experts, who are appointed by the President and in turn face accountability for their policymaking decisions. As she explained, "Some interpretive issues arising in the regulatory context involve scientific or technical subject matter. Agencies have expertise in those areas; courts do not. Some demand a detailed understanding of complex and interdependent regulatory programs. Agencies know those programs inside-out; again, courts do not."

Chief Justice Roberts made clear that the *Loper Bright* majority's opinion does not "call into question prior cases that relied on the *Chevron* framework," and the holdings of those cases that specific agency actions are lawful are still good law. Even so, the majority's opinion in *Loper Bright* may impact all three branches of government, especially in light of the subsequent *Corner Post* decision. Writing for the dissent in *Corner Post*, Justice Ketanji Brown Jackson warned that the result of that decision could be a "tsunami of lawsuits" over older rules, particularly as it comes shortly after the Supreme Court overturned the *Chevron* precedent that guided many initial decisions on whether those regulations are lawful: "At the end of a momentous Term, this much is clear: The tsunami of lawsuits against agencies that the Court's holdings in this case and *Loper Bright* have authorized has the potential to devastate the functioning of the Federal Government."

As a result of these two decisions, courts will have more say over regulations in areas such as environmental protection, workplace safety, and energy, and may substitute their own judgment for that of an agency's. For example, the United States Environmental Protection Agency, the Occupational Safety and Health Administration, the



Federal Energy Regulatory Commission, and other federal agencies may face more lawsuits regarding regulations and greater scrutiny by courts of new—and potentially existing—regulations. Agencies may also have a more difficult time defending their actions on appeal. In turn, Congress will have to either try to draft legislation to avoid ambiguity, or expressly delegate authority to the executive body to address areas of ambiguity.

As noted in *Loper Bright*, the decision may help provide more certainty and mitigate the whiplash that regulated entities experience when new administrations interpret statutes differently from prior administrations. One example is the

numerous definitions of the Clean Water Act term “waters of the United States” (WOTUS) proposed by various administrations over the years. However, the decision may also result in courts across the country reaching different conclusions about how to interpret the same statutory language. The Supreme Court may eventually resolve some of these disputes – like with WOTUS – but most lawsuits will not reach the Supreme Court. This means that the same statutory provision may be interpreted and applied differently in various parts of the country. Metropolitan staff will monitor the impact of these rulings.

Matters Concluded and/or Terminated

Supervisors Association v. Metropolitan (Public Employment Relations Board)

On December 11, 2023, The Supervisors Association of The Metropolitan Water District of Southern California, IBEW Local 11, Unit 76, filed an unfair practice charge with the Public Employment Relations Board regarding the discipline of one of its members. In the charge, the Association contended that Metropolitan disciplined one of its members due to union

activity. On February 5, 2024, PERB issued a complaint and the parties participated in a settlement conference. The parties subsequently agreed upon a settlement in which the Association member received the lesser discipline of a written reprimand and the member also agreed to participate in training. As a result of the settlement, the Association agreed to dismiss its PERB charge and submitted its withdrawal of the charge on June 25, 2024. The Legal Department represented Metropolitan.

Matters Received

<u>Category</u>	<u>Received</u>	<u>Description</u>				
Government Code Claims	3	(1) Claim that MWD vehicle tracked rocks from access road onto Claimant's parking lot without sweeping up the rocks; and (2) two claims relating to motor vehicle accidents involving MWD vehicles				
Subpoenas	1	Deposition Subpoena for Production of Business Records, served by Defendants in the case <i>Jose Angel Santos v. Horizon Window Care, Inc., Mario Sanchez</i> , Riverside County Superior Court, Case No. CVRI2306535, requesting employee records relating to plaintiff, who worked at various MWD field locations as a temporary employee from the Carpenters Union				
Requests Pursuant to the Public Records Act	7	<table><tr><th><u>Requestor</u></th><th><u>Documents Requested</u></th></tr><tr><td>Center for Contract Compliance</td><td>Bid results and contract documents for Live Oak Landscape and Tree Maintenance Services at Live Oak Reservoir</td></tr></table>	<u>Requestor</u>	<u>Documents Requested</u>	Center for Contract Compliance	Bid results and contract documents for Live Oak Landscape and Tree Maintenance Services at Live Oak Reservoir
<u>Requestor</u>	<u>Documents Requested</u>					
Center for Contract Compliance	Bid results and contract documents for Live Oak Landscape and Tree Maintenance Services at Live Oak Reservoir					



<u>Requestor</u>	<u>Documents Requested</u>
Flatiron Construction Corp.	Proposals submitted by the prime contractors in response to the RFQ/RFP for the Progressive Design-Build Services for the Sepulveda Feeder Pump Station Project
JJ Property Maintenance Network	Current contract for janitorial supplies
Los Angeles Times (2 requests)	(1) Copy of Katano Kasaine's May 27, 2024 letter regarding General Manager, Adel Hagekhalil; and (2) documents during the time period January 1, 2023 and June 24, 2024 regarding (a) MWD contracts with Jeff Millman (Relay Team), Varouj Abkian (Abkian Management Group), Janine Hamner (J&J Consulting Group), and Mohsen Mortada (3 iStrategies); (b) reports from these consultants; and (c) communications between Katano Kasaine and Adel Hagekhalil and between Katano Kasaine and Mohsen Mortada relating to these consultants, the FY 23/24 and FY 24/25 budget process, LA City Watch articles, and CAMP4W discussions
MWD Supervisors Association	MWD board presentations regarding wage increases, lump sum payments, and financial costs to MWD for the increases and payments made to members of AFSCME Local 1902, MAPA/AFSCME Local 1001, Association of Confidential Employees, and Unrepresented Employees
Private Citizen	Employment contract, including all amendments, and related staff reports, for General Manager Adel Hagekhalil



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
Delta Conveyance Project CEQA Cases <i>City of Stockton v. California Department of Water Resources</i> <i>County of Butte v. California Department of Water Resources</i> <i>County of Sacramento v. California Department of Water Resources</i> <i>County of San Joaquin et al. v. California Department of Water Resources</i> <i>Sacramento Area Sewer District v. California Department of Water Resources</i> <i>San Francisco Baykeeper, et al. v. California Department of Water Resources</i> <i>Sierra Club, et al. v. California Department of Water Resources</i> <i>South Delta Water Agency and Rudy Mussi Investment L.P. v. California Department of Water Resources</i> <i>Tulare Lake Basin Water Storage District v. California Department of Water Resources</i> Sacramento County Superior Ct. (Judge Acquisto)	<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 Second case management conference and hearing on motion for preliminary injunction re geotechnical work held May 31, 2024 Deadline for DWR to prepare the administrative record extended to Sept. 30, 2024 Next case management conference Oct. 18, 2024 Ruling on motions for preliminary injunction re geotechnical work TBD 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 deadline for DWR to appeal the injunction
Delta Conveyance Project Water Right Permit Litigation <i>Central Delta Water Agency et al. v. State Water Resources Control Board</i> Fresno County Superior Court (Judge Brickey <u>Whalen</u>)	<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 July 17, 2024 hearing date for State Water Resources Control Board demurrer (motion to dismiss) <u>and motion to strike</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>	<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 • Motion to dismiss cross appeals denied without prejudice to renewing the motion in merits briefing Parties meeting and conferring on briefing schedule
<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"> • 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>	<ul style="list-style-type: none"> • Administrative records certified in October 2023 • Parties are conferring on stipulation to delay setting a merits briefing schedule by 90 days and extending the time to bring the action to trial by six months



Subject	Status
<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>	
<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
<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 Acquisto)</p> <p><i>North Coast Rivers Alliance, et al. v. DWR</i> Sacramento County Super. Ct. (Judge Acquisto)</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">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
	<u>May 31</u>	<u>Parties filed opening briefs on prevailing party</u>
	<u>June 28</u>	<u>Parties filed response briefs on prevailing party</u>
	July 18	Hearing on prevailing party
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	211923	05/23	\$60,000
	<u>Employment Matter</u>	<u>216064</u>	<u>06/24</u>	<u>\$100,000</u>
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	\$1,316,937
	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	\$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
	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
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
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	\$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
Hausman & Sosa, LLP	Jones v. MWD	216056	05/24	\$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
	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
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



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
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
Lieff Cabraser Heimann & Bernstein, LLP	PFAS Multi-District Litigation	216048	03/24	\$200,000 \$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	\$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	\$2,500,000
	Arvin-Edison v. Dow Chemical	203452	01/22	\$100,000
	Semitropic TCP Litigation	207954	09/22	\$75,000
	<u>Employment Matter</u>	<u>216063</u>	<u>06/24</u>	<u>\$100,000</u>
Nixon Peabody LLP*	Bond Counsel [re-opened]	193473	07/21	N/A \$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
	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
	Zarate v. MWD	216044	01/24	\$250,000



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
	Lorentzen v. MWD	216036	09/23	\$100,000
Stradling Yocca Carlson & Rauth*	Bond Counsel	200471	07/21	N/A
Theodora Oringer 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

June 10, 2024

Vice Chair Garza called the meeting to order at 11:35 am

Chair Luna indicated he is participating under AB 2449 “just cause” due to legislative business. Chair Luna appeared by audio and on camera. He stated he was alone in the room and no one over the age of 18 was with him.

Members present: Directors Camacho (entered after roll call), Cordero, Dick, Douglas (entered after roll call, teleconference posted location), Garza, Kurtz, Luna (AB 2449 “just cause”), McCoy, Miller, Ramos (entered after roll call, teleconference posted location), and Seckel.

Members absent: None

Other Directors present: Directors Abdo, Ackerman, Alvarez, Armstrong, Bryant, De Jesus (teleconference posted location), Dennstedt, Erdman, Faessel, Fong-Sakai, Goldberg, Gray (teleconference posted location), Lefevre, McMillan, Morris, Ortega, Pressman (teleconference posted location), and Sutley.

Committee Staff present: Gaxiola, Hagekhalil, Mortada, Scully, and Torres.

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 had nothing to add to her written report.

CONSENT CALENDAR ITEMS – ACTION

3. CONSENT CALENDAR OTHER ITEMS – ACTION

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

4. CONSENT CALENDAR ITEMS – ACTION

None

Director Dick made a motion, seconded by Director Seckel, to approve item 3A.

The vote was:

Ayes: Directors, Cordero, Dick, Garza, Kurtz, Luna, McCoy, Miller, and Seckel.
Noes: None
Abstentions: None
Absent: Camacho, Douglas, and Ramos
The motion for Item 3A passed by a vote of 8 ayes, 0 noes, 0 abstentions, and 3 absent.

END OF CONSENT CALENDAR ITEMS

Agenda was reordered to take Item 7a. first.

6. BOARD INFORMATION ITEMS

None

7. COMMITTEE ITEMS

- a. Subject Update on the Water Quality Control Plan for the San Francisco Bay/Sacramento San Joaquin Delta Estuary: Phase 1, State Water Board Cases, Sacramento County Superior Court Case No. JCCP 5113, and Phase 2
Presented by: Rebecca Sheehan, Sr. Deputy General Counsel

Ms. Sheehan gave a presentation on this item.

Director Camacho entered the meeting.

Director Douglas entered the meeting.

Director Miller recused himself on Item 8-4 because he is the director on San Diego County Water Authority.

Director Ramos entered the meeting.

Vice Chair Garza called the meeting into closed session.

7. COMMITTEE ITEMS

- | | | |
|----|---------------|--|
| b. | Subject | Update on environmental litigation challenging the Department of Water Resources Delta Conveyance Project approval, certification of the Final Environmental Impact Report and other actions taken under the California Environmental Quality Act, currently ten related cases pending in Sacramento County Superior Court: Tulare Lake Basin Water Storage District v. California Department of Water Resources, Case No. 24WM000006, Sierra Club, et al. v. California Department of Water Resources, Case No. 24WM000008, City of Stockton v. California Department of Water Resources, Case No. 24WM000009, County of San Joaquin et al. v. California Department of Water Resources, Case No. 24WM000010, County of Butte v. California Department of Water Resources, Case No. 24WM000011, Sacramento Area Sewer District v. California Department of Water Resources, Case No. 24WM000012, County of Sacramento, et al. v. California Department of Water Resources, Case No. 24WM000014, San Francisco Baykeeper, et al. v. California Department of Water Resources, Case No. 24WM000017, South Delta Water Agency and Rudy Mussi Investment L.P. v. California Department of Water Resources, Case No. 24WM000062 and North Delta Water Agency v. Cal. Dept. of Water Resources, Case No. 24WM000076.
[Conference with legal counsel – anticipated litigation (ten or more cases); to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(4)] |
| | Presented by: | Robert Horton, Principal Deputy General Counsel |

In closed session, the committee heard the item. No action was taken.

5. OTHER BOARD ITEMS – ACTION

8-4 Subject Report on San Diego County Water Authority v. Metropolitan Water District of Southern California, et al., San Francisco County Superior Court Case Nos. CPF-10-510830, CPF-12-512466, CPF-14-514004, CPF-16-515282, CPF-16-515391 , CGC-17-563350, and CPF-18-516389; the appeals of the 2010 and 2012 actions, Court of Appeal for the First Appellate District Case Nos. A146901, A148266, A161144, and A162168, and California Supreme Court Case No. S243500; the petition for extraordinary writ in the 2010 and 2012 actions, Court of Appeal for the First Appellate District Case No. A155310; the petition for extraordinary writ in the second 2016 action, Court of Appeal for the First Appellate District Case No. A154325 and California Supreme Court Case No. S251025; the Metropolitan Water District of Southern California v. San Diego County Water Authority cross-complaints in the 2014, 2016, and 2018 actions; and the appeals of the 2014, 2016, and 2018 actions, Court of Appeal for the First Appellate District Case No. A170156; authorize initiation of settlement negotiations with SDCWA and provide direction to staff regarding the 2014, 2016, and 2018 actions, including the cross-complaints and appeals, San Francisco County Superior Court Case Nos. CPF-14-514004, CPF-16-515282, and CPF-18-516389 and Court of Appeal for the First Appellate District Case No. A170156; 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: Marcia Scully, General Counsel

Directors Fong-Sakai, Goldberg, and Miller, representing the San Diego County Water Authority, withdrew from the meeting for the report on this item.

Vice Chair Garza reported there were no reportable actions taken in closed session on Item 8-4.

8. FOLLOW-UP ITEMS

None

9. FUTURE AGENDA ITEMS

None

Next meeting will be held on July 8, 2024.

Meeting adjourned at 12:58 pm

Juan Garza
Vice Chair



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Committee Item INFORMATION

• **Legal and Claims Committee**

July 8, 2024 Committee Meeting

7a

Subject

General Counsel's Business Plan for fiscal year 2024/2025

Role of the General Counsel

The role of the General Counsel is to serve as the attorney for The Metropolitan Water District of Southern California; to represent Metropolitan in all actions and proceedings; to serve as the legal advisor to the Board and Officers of Metropolitan; and to cooperate with and assist the General Manager and his staff by providing a full range of legal services in a professional, timely, cost effective, and creative manner.

Description

The General Counsel's fiscal year 2024/2025 Business Plan establishes the anticipated focus of the Legal Department for the next fiscal year. The Business Plan focuses on the work required to support Metropolitan's priorities, authorized by the Board, and described in the General Manager's Business Plan.

Drivers:

Unplanned matters – Litigation and other adversary actions:

The General Counsel represents Metropolitan in all actions and proceedings. In addition to litigation, this involves pre-litigation claims, regulatory matters such as Cal-OSHA citations and permits. In over 90% of such matters, Metropolitan is the defendant: the litigation is not planned or initiated by Metropolitan. The Department must be flexible and capable of responding on short notice to litigation and other unanticipated matters. Although the nature and timing of matters are unplanned, the General Counsel's Office anticipates and plans to respond to claims, citations, and litigation that will be filed each year.

Priorities of the Board and the General Manager

Equally important to representing Metropolitan in disputed matters, the role of the Department is to support the priorities established by the Board of Directors and the General Manager. The goal of the Legal Department is to provide a full range of legal services in a professional, timely, cost effective, and creative manner that assist with implementation of Board priorities in a manner that minimizes risk to Metropolitan.

Legal's support includes providing advice, drafting documents, and taking other actions to minimize risk to Metropolitan in the implementation of the District's priorities as well as in responding to requests of Metropolitan from third parties.

The proposed Business Plan ([Attachment 1](#)) includes anticipated activities consistent with the priorities of Metropolitan as set forth in the Budget and the General Manager's Business Plan.

Policy

Metropolitan Water District Administrative Code Section 6436(b): Annual and Quarterly Reports to Legal and Claims Committee

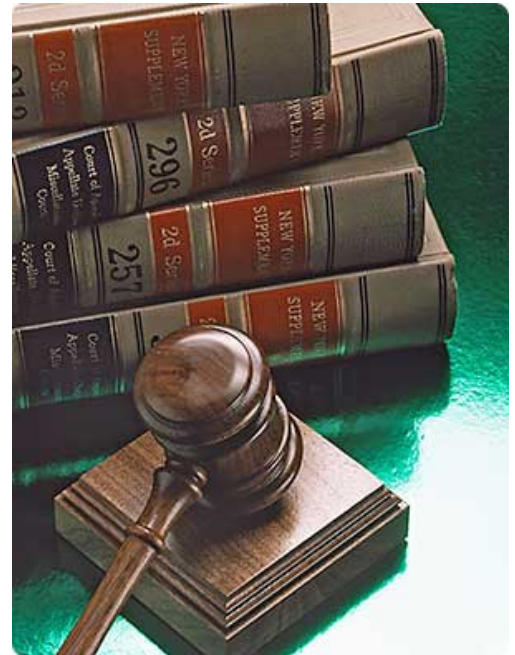
	7/3/2024
Marcia Scully	Date
General Counsel	

Attachment 1 – General Counsel’s Business Plan for Fiscal Year 2024-2025

The Metropolitan Water District of Southern California



General Counsel's Business Plan Fiscal Year 2024/2025



Purpose: The General Counsel's fiscal year 2024/2025 Business Plan establishes the anticipated focus of the Legal Department for the next fiscal year. The role of the Department is to support the priorities established by the Board of Directors and the General Manager, and to provide a full range of legal services in a professional, timely, cost effective, and creative manner.

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	Disputed Matters/Litigation	9
	Operations/Sustainability	10
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	Workforce/Human Resources	14
	Technology	16
	Legislation	17
	District Governance and Support	18
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Water Supply Reliability

Colorado River: Climate Change

Provide legal advice and assist with documentation and implementation with proposed voluntary or potential mandatory Colorado River conservation measures, and strategies relating to negotiation of new guidelines to minimize risk and protect water supply.

Assist with negotiation and drafting agreements necessary to implement short and long term conservation measures required by the Bureau of Reclamation (Bureau) to stabilize Lake Mead and Lake Powell, including forbearance and fallowing agreements.

- Advise regarding the required actions for approval
- Review and assist with preparation of requests for federal funds
- Provide support in renegotiation of the Colorado River Interim and Post-2026 Operating Guidelines, and related environmental studies and permitting coverage
- Represent Metropolitan in the implementation of agreements with the Republic of Mexico
- Represent Metropolitan in other administrative proceedings and litigation relating to the Colorado River

Water Quality

Continue to monitor and comment on matters impacting Colorado River water quality including:

- Remediation of groundwater contamination at Topock
- Remediation of the former Tronox site and use of settlement funds from the Tronox adversary action, and remediation of the former PEPCON/AMPAC site
- Investigation and remediation of the Hoover Dam waste disposal site
- Changes to state and federal perchlorate and chromium 6 regulations
- Assist as requested with program to reduce salt/dissolved solids

State Water Project (SWP)/Bay Delta

Represent Metropolitan, as a separate party or working through the State Water Contractors (SWC), in litigation and regulatory proceedings relating to:

- Permits and operation of the SWP
- Water diversions and deliveries
- Delta/SWP supplies
- The update to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary
- The Delta Plan and regulations

Provide legal advice and representation regarding compliance with the Delta Plan and regulations adopted by the Delta Stewardship Council.

Provide legal support regarding Delta science and habitat restoration objectives.

Represent Metropolitan's interests before the State Water Resources Control Board (SWRCB) as a separate party or through the SWC on matters of concern to Metropolitan, including:

- Bay Delta Water Quality Control Plan amendments, including assisting with negotiation of the Agreements to Support Healthy Rivers and Landscapes
- Methyl Mercury TMDL
- Protecting stored water releases

Provide legal support in ongoing negotiations between SWC and Department of Water Resources (DWR) concerning various SWP financial and billing issues in the annual Statement of SWP Charges.

Provide legal advice and support for:

- Metropolitan's and DWR's cooperative efforts relating to SWP infrastructure
- Implementation of the SWP Contract Extension Amendment

- Development of the SWP Multi-Year Market Pool and similar programs for the sale and purchase of SWP water
- Relicensing of the Oroville/Hyatt-Thermalito Power Complex by the Federal Energy Regulatory Commission

Provide legal advice and support for drought response actions, including potential legislation or regulations affecting SWP supplies.

Continue to assist with negotiation, drafting, and documentation of proposed agreements or amendments to existing agreements, including Metropolitan's SWP contract.

Delta Conveyance Project (DCP)

As authorized by the Board, assist with the work required to complete necessary regulatory approvals and permitting, including the change in point of diversion petition at the State Water Resources Control Board and certification of consistency with the Delta Plan.

Represent Metropolitan in environmental litigation challenging DWR's compliance with CEQA and other environmental laws.

Review and analyze proposed legislation, regulations and amendments that may affect implementation of DCP or impact Metropolitan's interest in the Delta.

Continue to assist with negotiations of SWP contract amendments to allocate costs and benefits of the DCP.

Water Supply Issues

Provide legal advice and support regarding:

- Water supply, delivery, and quality issues
- Development and implementation of a legislative and regulatory strategy addressing the Governor's Water Resilience Portfolio
- Draft documentation and advise on Future Supply Actions Funding Program and Local Resources Program

Pure Water Southern California

Assist with the development and implementation of the proposed Pure Water Southern California recycled water project with Los Angeles County Sanitation Districts, including assistance with:

- environmental studies and permitting
- right-of-way acquisition
- preliminary design
- construction contracts
- electrical upgrades
- grant funding applications
- regulatory compliance issues and other matters

Provide legal support to secure grant funds for planning and infrastructure projects, including the Pure Water Southern California Project.

Groundwater Storage Projects

Assist with implementation of Antelope Valley-East Kern Water Agency (AVEK) High Desert Water Bank Groundwater Storage Program, including:

- contracts
- permitting and water quality issues
- power issues and agreements
- environmental review

Arvin-Edison Water Storage District Groundwater Storage Program:

- Existing and emerging contaminants
- Operational challenges

Semitropic Storage Program

Continue to represent Metropolitan in water quality litigation, including:

- Monitoring Arvin-Edison Water Storage District's (Arvin-Edison) and Semitropic Water Storage District's (Semitropic) lawsuits regarding 1,2,3-trichloropropane (TCP) in Arvin-Edison's and Semitropic's groundwater
- Continue to represent Metropolitan's interests with respect to nationwide per and polyfluoroalkyl litigation (PFAS).

Surface Water Storage

Assist with the Sites Reservoir planning effort to augment dry-year supplies.

Distribution/Delivery

State Water Project Dependent Areas

Assist with permits and capital projects required to:

- provide additional flexibility in the operation of Metropolitan's distribution system
- meet the special needs of SWP-dependent member agencies
- address potential issues relating to potential invasive species within the SWP

Transfer/Exchanges

Provide legal advice and support for documentation of water transfers and exchanges and development of demand management programs.

Conservation

Provide legal advice and support regarding:

- Development and implementation of emergency conservation measures intended to maximize available supplies
- LRP and other conservation programs

Legislation/Regulation

Provide legal advice and support regarding:

- issues and proposed legislation and regulations regarding both regulated and emerging contaminants, such as PFAS

Continue to monitor and participate as amicus (as appropriate) in litigation regarding:

- The definition and scope of waters of the United States protected under the federal Clean Water Act
- EPA determinations and actions to regulate specific contaminants in drinking water

Water Supply Plans

- Implementation of the 2020 Integrated Water Resources Plan (IRP) and implementation of the 2020 Urban Water Management Plan (UWMP) and Water Shortage Contingency Plan (WSCP)
- Development of the 2025 UWMP and WSCP
- Preparation of the annual SB 60 Report to the California State Legislature regarding Metropolitan's achievements in conservation, recycling, and groundwater recharge
- Preparation of the Annual Drinking Water Quality Report

Finance/Business Model/Camp4W

Revenue

Provide legal advice regarding adoption of rates and charges and levying of ad valorem taxes.

Financial Transactions

Provide legal support for Metropolitan's financial transactions, including issuance of bonds and other debt instruments.

Provide review of legal compliance with financial documents in connection with the annual audit and quarterly financial reports.

Assist in development of proposed financing structures.

Assist in the preparation of accurate and timely disclosures to the municipal markets.

Investment/Expenditures/CAMP4W

Provide legal support for Metropolitan's financial planning in relation to its capital investment plan and other long-term investments.

Regulation/Legislation

Monitor and report on litigation and legislation relating to public agency water rates at the wholesale and retail levels and public finance.

Training

Provide training to staff and the Board regarding financial disclosures and related securities laws.

Representation of District in Disputed Matters/Litigation

Represent Metropolitan in litigation including:

- Defend Metropolitan against disputed matters, claims and litigation arising from construction contracts, operations, and CEQA compliance
- Provide amicus support in litigation impacting Metropolitan's interests
- Coordinate with Risk Manager to resolve Government Code claims, workers' compensation claims, and settlement of litigation

Continue to represent Metropolitan's interests in pending litigation and/or engage in settlement discussions as appropriate, including litigation regarding:

- Rates and exchange agreement
- DWR funding of the Delta Conveyance Project
- Permits relating to the operation of the SWP
- DCP
- SWP contract

Anticipated unknown new matters

- Government Code claims and tort litigation
- CEQA issues
- Employment matters
- Construction-related litigation
- Eminent domain, pre-condemnation activities, and real property issues
- Finance-related matters
- Notices of Violation from Cal-OSHA/AQMD and other regulatory entities
- Rates
- Other matters

Operations/Sustainability

Safety

Provide legal support for operational safety and environmental compliance. Coordinate with Safety Staff to respond to Cal-OSHA and other regulatory issues.

Provide legal support with the development of a FEMA Hazard Mitigation Plan.

Infrastructure

Provide legal assistance with:

- Negotiating and preparing new or amended service connection agreements
- Regulatory and permitting issues relating to both water deliveries and changes to Metropolitan's infrastructure to support operational requirements
- CEQA compliance for operations and maintenance projects

Permits

Work with the SWRCB and Regional Boards as they revise municipal stormwater discharge permits to ensure that Metropolitan maintains the ability to discharge system water as part of maintenance operations.

Energy Costs and Management

Assist with implementation of the Energy Management Plan, including providing advice on:

- Wholesale energy transactions
- Sustainable energy projects
- Energy-related contracts
- Legislation and regulations

Assist staff with long-term resource and transmission planning and compliance with national electric reliability standards.

Climate Action/Energy

Assist staff with implementing the Climate Action Plan, Energy Sustainability Plan, Transmission Strategic Plan, and Risk Management Policy.

Assist with implementation of contracts with Southern California Edison, the Arizona Electric Power Cooperative, Inc., and the California

independent System Operator for the operation and resource management of the Colorado River Aqueduct Transmission System.

Provide legal support to ensure that SWP energy needs are met in a cost-effective and sustainable manner.

Participate in or monitor proceedings to protect and promote Metropolitan's financial and regulatory interests at:

- Federal Energy Regulatory Commission
- California Independent System Operator
- California Public Utilities Commission
- Other agencies, as appropriate

Monitor climate change litigation and legislation pertaining to carbon-free generation, DWR energy procurement, and regionalization of transmission operations.

Corporate Resources/ District Infrastructure/CIP

Provide legal support with respect to contracting for:

- Capital investment projects
- Repair and replacement projects
- Professional services
- Procurement

Provide legal support for CEQA compliance of Metropolitan's capital projects and other discretionary actions.

Analyze potential operational and environmental impacts of other agencies' projects on Metropolitan's properties and facilities.

Provide legal support to Engineering and Contracting Services on construction, and professional services contracts and solicitations.

Assist Business Outreach with policies related to small, regional, veteran-owned, and historically underutilized businesses.

Assist in the management and development of a new records retention schedule.

Assist with the implementation of the PLA.

Real Property

Assist and support:

- the acquisition, management, and protection of real property assets
- reduction of expenses related to real property holdings
- generation of revenues.

Assist Asset Management in:

- Maintaining and operating MWD real property assets, Union Station Headquarters Building and Diamond Valley Lake Visitor Center in an environmentally sustainable manner

Assist Planning and Acquisition in:

- Negotiation and documentation of real property transactions

- Disposal of surplus real property
- Planning and valuation of real property and real property rights in support of near term and long-term capital projects and strategic initiatives to meet water supply and infrastructure reliability targets
- Title reviews and environmental property assessments
- Property owner and tenant relocations

Assist Land Management in:

- Management and protection of property assets and the development of secondary revenues from such holdings
- Negotiation and documentation of easements, licenses and permits for the use of land, site use agreements, and leases
- Elimination of unauthorized encroachments on Metropolitan's property
- Annexation matters

Workforce/Human Resources

Provide representation and proactive counsel on workforce and deferred compensation plan matters.

Provide legal advice and support concerning:

- Metropolitan Memoranda of Understanding (MOUs) with Metropolitan's Bargaining Units
- Metropolitan Administrative Code and Operating Policies provisions regulating employee relations and personnel matters
- Employee benefits
- Bargaining unit consultation and negotiations
- Personnel transactions, including recruitment, promotions, transfers, and separations
- Workforce housing and recreational activities for Metropolitan's desert facilities
- When requested, assist with Equal Employment Opportunity (EEO) matters, including mediation of federal U.S. Equal Employment Opportunity Commission (EEOC) and state Civil Rights Department (CRD) Complaints
- Misconduct matters and threat assessments, as requested
- Diversity, Equity, and Inclusion initiatives and compliance, as requested

Supervise consultant investigations concerning:

- Misconduct, as referred by Human Resources or management
- Incident response investigations, as requested by management

Represent Metropolitan in:

- Pre-litigation employment claims
- Employment litigation
- California Public Employment Relations Board (PERB) matters, grievances and hearing officer appeals

Provide specialized advice on Metropolitan's deferred compensation plans, including:

- The plan governance structure
- The recordkeeper contract
- Plan amendments
- Plan loans, distributions, and death benefits

Technology

Collaborate on information governance initiatives and policies with:

- Chief Sustainability Resiliency and Innovation Officer
- Information Technology Group, including software upgrades
- Administrative Services
- External Affairs, including ADA compliance
- Human Resources

Continue to work collaboratively with staff to advise on:

- Appropriate use of new technology and equipment
- Training and pilot testing in use of Generative Artificial Intelligence (AI) applications
- The use of drones, mobile devices, and MWD applications
- Cybersecurity issues, incident response and reporting, new cybersecurity regulations, and the cybersecurity operations center
- Data management, secure data sharing, and records retention
- Calendaring and document management system
- Website content management, access, and regulatory compliance

Work with appropriate business units for a district-wide calendaring system to track key dates for agreement terms.

Provide training to the Board on emerging legal issues relating to technology and social media.

Legislation

Analyze proposed legislation affecting Metropolitan and assist with comments and draft amendments, as requested.

Prepare and/or review Metropolitan-proposed legislation and amendments.

Assist with the development of legislative strategy.

Participate in and support industry groups regarding proposed legislation, including the review and drafting of comments on proposed regulations and legislation.

District Governance and Support

Administration

Provide timely advice to the Board and committees and the Board Executive Officers and staff on governance and legal compliance matters.

Assist board support staff on board letter, board meeting process and technology.

When requested, assist the Chair of the Board, management, and staff regarding amendments to the Administrative Code.

Prepare annual update of the Administrative Code to conform to new legislation.

Assist with review and updates to Metropolitan's Operating Policies, and other internal policies and procedures.

Review and assist with delegations of authority.

Continue to coordinate Metropolitan's responses to Public Records Act requests.

Review contracts to ensure compliance with MWD requirements.

Legal Department Administration

Aggressively manage outside counsel costs, while obtaining effective representation to protect Metropolitan's interests.

Upgrade technology within the Legal Department and improve the efficient use of Metropolitan resources.

Provide training in new technologies, including Generative AI and cybersecurity.

Provide ongoing training opportunities related to:

- Minimum Continuing Legal Education compliance
- Litigation skills
- Drafting of contracts and other documents
- Oral and written communication
- Presentation skills
- Leadership and management skills
- Various substantive areas

Develop and implement succession planning.

Provide an appropriate level of staffing.

Provide timely employee evaluations.