

# 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  
A. Fellow  
C. Kurtz  
T. McCoy  
C. Miller  
M. Ramos  
K. Seckel

## **Special Legal and Claims Committee**

Meeting with Board of Directors \*

**November 18, 2024**

**11:30 a.m.**

**Monday, November 18, 2024  
Meeting Schedule**

**09:00 a.m. EOT  
11:00 a.m. Break  
11:30 a.m. Legal  
01:00 p.m. Sp Jt OWS  
and BOD**

**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. the 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: 873 4767 0235.**

**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: 876 9484 9772 or to join by computer [click here](#).**

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

**Teleconference Locations:**

**525 Via La Selva • Redondo Beach, CA 90277**

**3008 W. 82nd Place • Inglewood, CA 90305**

**Cedars Sinai • 8700 Beverly Boulevard Room M313 • Los Angeles, CA 90048**

**Conference Room 2nd Floor • 1545 Victory Blvd 2nd FL • Glendale CA 91505**

**5120 West Goldleaf Circle, Ste. 425 • Los Angeles, CA 90056**

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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 [21-3934](#)

**Attachments:** [11192024 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 October 7, 2024 (Copies have been submitted to each Director, any additions, corrections, or omissions) [21-3935](#)

**Attachments:** [11182024 LC 3A \(10072024\) Minutes](#)

**4. CONSENT CALENDAR ITEMS - ACTION**

NONE

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

**5. OTHER BOARD ITEMS - ACTION**

**8-7** Report on litigation in Ryan Tiegs v. Metropolitan Water District of Southern California, Riverside County Superior Court Case No. CVPS2306176; Dane Crawford v. Metropolitan Water District of Southern California, Riverside County Superior Court Case No. CVPS2304015; and Alicia Lorentzen v. Metropolitan Water District of Southern California, Los Angeles County Superior Court Case No. 23STCV19214; authorize increase in the maximum amount payable under a contract for legal services in Ryan Tiegs v. Metropolitan Water District of Southern California with Seyfarth Shaw LLP in the amount of \$275,000 for a total amount not to exceed \$525,000, increase in the maximum amount payable under a contract for legal services in Dane Crawford v. Metropolitan Water District of Southern California with Seyfarth Shaw LLP in the amount of \$275,000 for a total amount not to exceed \$525,000, and increase in the maximum amount payable under a contract for legal services in Alicia Lorentzen v. Metropolitan Water District of Southern California with Sheppard, Mullin, Richter & Hampton LLP in the amount of \$175,000 for a total amount not to exceed \$425,000; and report on two legal claims alleging equal employment opportunity and other violations; the General Manager [21-4071](#)

has determined that the proposed actions are exempt or otherwise not subject to CEQA. [Conference with legal counsel – (1) as to the three cases: existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1); and (2) as to the two legal claims: anticipated litigation; based on existing facts and circumstances of receipt of legal claim communications on behalf of two individuals threatening litigation, there is significant exposure to litigation against Metropolitan: two potential cases; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(2)]. [ADDED ITEM 11/13/2024]

**6. BOARD INFORMATION ITEMS**

NONE

**7. COMMITTEE ITEMS**

- a. Report 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, ten consolidated cases pending in Sacramento County Superior Court under the lead case, Tulare Lake Basin Water Storage District v. California Department of Water Resources, Case No. 24WM000006 and appeals in same, Cal. Court of Appeal for the Third Appellate District Case No. C101878 [21-3980](#)

**Attachments:** [11182024 LC 7a Presentation](#)

- b. Report on Sierra Club et al. v. California Department of Water Resources, Cal. Court of Appeal for the Third Appellate District Case No. C100552 (consolidated with California Department of Water Resources v. All Persons Interested in the Matter, etc., Sacramento County Superior Court Case No. 34-2020-00283112) [Conference with legal counsel – existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1)] [21-3979](#)

**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

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

On October 21, 2024, the court moved the trial date from February 24, 2024, to July 28, 2025, with a final status conference on July 17, 2025.

### ***Ryan Tiegs v. Metropolitan*** **(Riverside County Superior Court)**

On October 17, 2024, the court set the trial date for April 4, 2025.

## Matters Involving Metropolitan

### **Metropolitan Opts Out of Class Action PFAS Settlement with BASF**

On October 15, 2024, Metropolitan opted out of a proposed class action settlement between all eligible public water systems (PWSs) nationwide and BASF Corporation (BASF) in the Aqueous Film-Forming Foams (AFFF) Multidistrict Litigation (MDL). BASF had previously announced on May 21, 2024, a proposed class action settlement with all eligible PWSs that have one or more water sources impacted by per- and polyfluoroalkyl substances (PFAS) as of May 15, 2024, where BASF agreed to pay \$316.5 million (BASF Settlement). Similar to the prior DuPont and 3M class action settlements in the AFFF MDL, all eligible PWSs will be automatically included in and bound by the proposed BASF Settlement unless they opted out by the October 15, 2024, deadline for the proposed BASF Settlement. A consequence of remaining in the proposed settlement is that PWSs' claims against BASF are released in exchange for the payment authorized by the terms of the proposed settlement. The court granted preliminary approval of the proposed BASF Settlement on July 3, 2024. On September 13, 2024, Metropolitan and three other PWSs represented by Marten Law, LLP filed objections to several terms and provisions, including the overbroad release language, in the proposed BASF Settlement.

As reported previously, on August 23, 2024, Metropolitan and three other PWSs represented by Marten Law, LLP, filed objections to a similar proposed class action settlement between all eligible PWSs nationwide with one or more water sources impacted by PFAS as of May 15, 2024, and Tyco Fire Products LP (Tyco) in the AFFF MDL where Tyco agreed to pay \$750 million (Tyco

Settlement). On September 23, 2024, Metropolitan opted out of the proposed Tyco Settlement. Class Counsel filed a motion for final approval, for final certification of the settlement class, and in response to the objections to the proposed Tyco Settlement on September 17, 2024, and to the proposed BASF Settlement on October 15, 2024. Class Counsel's response to Metropolitan's objections to both proposed settlements contained several erroneous and misleading statements about Metropolitan's operations. Metropolitan sent a letter to Class Counsel identifying the false statements, providing the accurate information, and asking them to file a document with the court correcting these misleading statements. Subsequently, although they claimed the issues were moot because Metropolitan had opted out of the two proposed settlements, Class Counsel filed Metropolitan's letter with the court so that the record would be clear.

According to the terms of the proposed settlements, any objections submitted by a PWS that later opts out of the proposed settlements are deemed withdrawn. Otherwise, PWSs that objected to the proposed settlements and are participating in the proposed settlements can argue their objections at the Final Fairness Hearing. Thus, before the Final Fairness Hearing on November 1, 2024, Metropolitan asked Class Counsel, the Special Master, the Opt Out Administrator, Tyco, and BASF to confirm that Metropolitan's requests to opt out of the proposed Tyco and BASF Settlements were timely and valid, and would not be challenged. Class Counsel, the Special Master, and the Opt Out Administrator confirmed that Metropolitan's opt-out requests were timely and complete, but Tyco and BASF refused to agree not to challenge those determinations. As a result, Metropolitan's outside



counsel, Marten Law, LLP, argued Metropolitan’s and their other clients’ objections to the proposed Tyco and BASF Settlements at the Final Fairness Hearing. The court also heard arguments as to whether to grant final approval of the proposed settlements and the proposed settlement class but

did not issue any rulings. Metropolitan staff will continue to monitor the AFFF MDL and the court’s rulings on the proposed Tyco and BASF Settlements. (See General Counsel’s September 2024 Board Report.)

### Matters Concluded and/or Terminated

**State Farm Mutual Automobile Insurance Company (State Farm) v. Metropolitan**

On August 1, 2024, State Farm filed a limited jurisdiction complaint in Orange County for

subrogation recovery in the amount of \$2,905.70 for property damage from a motor vehicle accident. Liability was not in dispute. Metropolitan entered into a settlement and release for the full amount and the case was dismissed.

### Matters Received

<u>Category</u>	<u>Received</u>	<u>Description</u>	
Action in which MWD is a party	1	Complaint for Damages for (1) California Equal Pay Act, (2) Retaliation in Violation of the Equal Pay Act, (3) Whistleblower Retaliation in Violation of the California Labor Code, (4) Failure to Provide Accurate Itemized Wage Statements, (5) Unfair Competition (California Business & Professions Code), filed in Los Angeles County Superior Court, in the case Luz Villavicencio v. MWD, Case No. 24STCV22579	
Subpoenas	1	Subpoena for employment, wage, attendance, medical, claims, and accident records relating to a matter before the Workers’ Compensation Appeals Board	
Requests Pursuant to the Public Records Act	24	<u>Requestor</u>	<u>Documents Requested</u>
		Association of Confidential Employees (ACE)	Records from January 1, 2015, to the present regarding: (1) employees who held a recruiter position; (2) new hires or existing employees who filled positions by appointments or a selection process; (3) employees who held an administrative role to the recruitment process; (4) employees who managed the recruitment and staffing function; and (5) HR group organization, budget and recruitment and selection function
		Bogh Engineering	MWD’s Capital Improvement Plan
		Brown and Caldwell	Proposals submitted in response to the Request for Proposal for Lake Mathews Pressure Control Structure and Electrical Upgrades - PDB OA Services
		Castle Environmental Consulting	List of MWD’s CEQA Projects



<u>Requestor</u>	<u>Documents Requested</u>
CCS Global Tech	Data on vendor rate and hours and purchase order number and date for Request for Qualifications for On-Call Information Technology Services
Center for Contract Compliance	Contractor information, subcontractor list, bid advertisement, and DIR project ID for the Rialto Pipeline Rehabilitation
Devine Management Consulting	Winning proposals submitted in response to the Request for Proposal for Temporary Labor Services – Professional / Administrative, Scientific, and Technical
Foxx Capital Corp.	Water usage records for a residence in the City of Whitewater
Management and Professional Employees Association (MAPA/AFSCME Local 1001)	MWD agreement with Shaw HR Consulting
Private Citizen	List of unclaimed or outstanding checks and funds
Private Citizen (3 requests from 3 different requesters)	Communications between/among Jeff Kightlinger, Katano Kasaine, and/or Marcia Scully from: (1) December 2021 to December 2022; (2) September 2023 to the present; and (3) December 2021 to the present
Private Citizen	Communications between Steven Lem and Rosa Castro from October 1, 2022, to January 31, 2023
Private Citizen	Communications from May 2024 to the present between Deven Upadhyay and any MWD director regarding Adel Hagekhalil and/or Delta Conveyance
Private Citizen (2 requests from same requester)	Communications from October 1, 2023, to October 18, 2024, regarding the Delta Conveyance and/or Adel Hagekhalil: (1) between Katano Kasaine and any MWD director, Jeffrey Kightlinger, Deven Upadhyay and/or Rosa Castro; and (2) between Marcia Scully and Adel Hagekhalil, Rosa Castro, Susan Kennedy, Jeffrey Kightlinger, Deven Upadhyay, and/or Wade Crowfoot



<u>Requestor</u>	<u>Documents Requested</u>
Private Citizen	Communications from January 1, 2023, to October 30, 2024, between Marcia Scully or Cynthia Kurtz and Adán Ortega regarding GM Adel Hagekhalil or Interim GM Deven Upadhyay; between Marcia Scully or Jeffrey Kightlinger and Adán Ortega regarding the Delta Conveyance Project; and between Marcia Scully or Deven Upadhyay and Jeffrey Kightlinger regarding the Delta Conveyance Project
Restore the Delta	Documents from October 1, 2023, through the present, regarding meetings or communications with board member Jeffrey Kightlinger and board chairman Adán Ortega pertaining to complaints filed against General Manager Adel Hagekhalil and/or the Delta Conveyance Project, and any negotiation or press preparation in regard to the Delta Conveyance Project or complaints filed against General Manager Adel Hagekhalil
Sierra Club California	Communications from June 1, 2023, to the present, between any MWD director and Jeffrey Kightlinger, Wade Crowfoot, Susan Kennedy, and/or Adel Hagekhalil
Sierra Club Los Angeles (2 requests)	(1) Results of the Shaw Law Group investigation of 16 complaints in 2021; and (2) communications from June 1, 2023, to the present, between MWD Director Carl Douglas and Katano Kasaine
Southern California Association of Governments	MWD's Public Participation Plan
University of Colorado (Teaching Assistant Professor)	Data on water savings, area of turf replaced, and expenditures relating to MWD's turf replacement program

**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> <p>Sacramento County Superior Ct. (Judge Acquistio)</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>• Deadline for DWR to prepare the administrative record extended to Nov 29, 2024</li> <li>• <del>Next case management conference Oct. 18, 2024</del></li> <li>• 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</li> <li>• Aug. 19, 2024 DWR appealed the injunction</li> <li>• Aug. 23, 2024 trial court denied DWR’s motion to modify or stay the preliminary injunction</li> <li>• Aug. 29, 2024 DWR filed a petition in the court of appeal seeking to stay the preliminary injunction pending a ruling on the merits of its appeal</li> <li>• <del>Sept. 13, 2024 oppositions to DWR’s stay petition filed. Ruling on stay request pending as of Sept. 30, 2024</del> <u>Oct. 18, 2024 stay petition denied.</u></li> <li>• <u>Oct. 24, 2024 cases ordered consolidated for all purposes under Tulare Lake Basin Water Storage District v. California Department of Water Resources</u></li> <li>• <u>April 4, 2025 next case management conference</u></li> </ul>
<p><b>Delta Conveyance Project Water Right Permit Litigation</b></p> <p><i>Central Delta Water Agency et al. v. State Water Resources Control Board</i></p> <p>Fresno County Superior Court (Judge Hamilton)</p>	<ul style="list-style-type: none"> <li>• 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</li> <li>• Sept. 19 hearing date for State Water Resources Control Board demurrer (motion to</li> </ul>



Subject	Status
	dismiss) and motion to strike and DWR's demurrer (motion to dismiss) taken off calendar by court-entered stipulation of the parties after DWR withdrew the 2009 petition to extend its SWP water rights
<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>3d District Court of Appeal Case No. C100552</p>	<ul style="list-style-type: none"> <li>• <b>Validation Action</b></li> <li>• Final Judgment and Final Statement of Decision issued January 16, 2024 ruling the bonds are not valid</li> <li>• DWR, Metropolitan and other supporting public water agencies filed Notices of Appeal on or before the February 16, 2024 deadline</li> <li>• Eight opposing groups filed Notices of Cross Appeals by March 27, 2024</li> <li>• April 16, 2024 DWR moved to dismiss the cross appeals as untimely</li> <li>• <u>Oct. 25, 2024 deadline for DWR's and Supporting Public Water Agencies' Opening Brief and Appellants' Appendix</u></li> <li>• <u>October 4, 2024 DWR's and Supporting SWP Contractors' Joint Opening Brief and Appellants' Appendix filed</u></li> <li>• <u>October 15, 2024 DWR's and Supporting SWP Contractors' joint motion for calendar preference was granted; the appeal will be accorded priority pursuant to statutory provisions, which should accelerate oral argument and the court's decision once briefing is completed in about March 2025</u></li> <li>• <u>Respondents' and Cross-Appellants' briefs due December 3, 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.</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"> <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>• 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</li> </ul>
<p><b>CESA Incidental Take Permit Cases</b></p> <p><b>Coordinated Case Name <i>CDWR Water Operations Cases</i>, JCCP 5117</b></p>	<ul style="list-style-type: none"> <li>• Administrative records certified in October 2023</li> </ul>



Subject	Status
<p><b>(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>• Order entered to delay setting a merits briefing schedule by 90 days and extending the time to bring the action to trial by six months</li> <li>• Deadline to bring all the coordinated cases to trial is now December 5, 2025</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. C100302</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>• May 11, 2022, court of appeal reversed the trial court’s denial of attorney fees and costs</li> <li>• Coordinated cases remitted to trial court for re-hearing of fee motions consistent with the court of appeal’s opinion</li> <li>• Dec. 26, 2023 order denying fee motions</li> <li>• Six notices of appeal filed</li> <li>• <u>Oct. 9, 2024 deadline for appellants’ opening briefs and appendices filed Oct. 29 and Oct. 31</u></li> <li>• <u>DWR’s opposition briefs due Nov. 28 and Dec. 2, 2024</u></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>• 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>
<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 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"> <li>• Filed September 28, 2020</li> <li>• CWIN and Aqualliance allege one cause of action for violation of CEQA</li> <li>• NCRA et al. allege four causes of action for violations of CEQA, the Delta Reform Act, Public Trust Doctrine and seeking declaratory relief</li> <li>• 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>



***San Diego County Water Authority v. Metropolitan, et al.***

Cases	Date	Status
2014, 2016	Sept. 30	Based on the Court of Appeal’s Sept. 21 opinion <a href="#">in the parties’ earlier 2010/2012 cases(described above)</a> , 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



Cases	Date	Status
<b>2014, 2016, 2018 (cont.)</b>		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 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
<b>2014, 2016, 2018 (cont.)</b>	March 14	Court issued amended order granting in part and denying in part SDCWA's motion for partial judgment (ruling that Metropolitan's claims for declaratory relief regarding cost causation are not subject to court review).
	March 29	SDCWA filed objections to tentative statement of decision
	April 3	Metropolitan filed response to amended order granting in part and denying in part SDCWA's motion for partial judgment (requesting deletion of Background section portion relying on pleading allegations).
	April 25	Court issued statement of decision (ruling in Metropolitan's favor on all claims litigated at trial, except for those ruled to be moot based on the rulings in Metropolitan's favor)
	Jan. 10, 2024	Parties filed joint status report and stipulated proposal on form of judgment
	Jan. 17	Court issued order approving stipulated proposal on form of judgment (setting briefing and hearing)
	April 3	Court entered final judgment
	April 3	Court issued writ of mandate regarding demand management costs
	April 3	SDCWA filed notice of appeal
	April 17	Metropolitan filed notice of cross-appeal
	May 3	Participating member agencies filed notice of appeal
	May 31	Parties filed opening briefs on prevailing party
	June 28	Parties filed response briefs on prevailing party
	July 17	Court issued tentative ruling that there is no prevailing party due to mixed results
	July 18	Hearing on prevailing party; court took matter under submission, stating it expects to rule in mid-Aug.
	Aug. 15	Court issued ruling that Metropolitan is the prevailing party and is entitled to SDCWA's payment of its litigation costs and fees under the Exchange Agreement
	Sept. 25	Court issued order extending time for Metropolitan to file its memorandum of costs and motion for attorneys' fees
	Sept. 27	Metropolitan filed its memorandum of costs in the amount of \$372,788.64



Cases	Date	Status
2014, 2016, 2018 (cont.)	<a href="#"><u>Oct. 18</u></a>	<a href="#"><u>Parties filed a joint application to extend the briefing schedule in the Court of Appeal</u></a>
	<a href="#"><u>Oct. 21</u></a>	<a href="#"><u>Court of Appeal granted parties' joint briefing schedule; briefing begins April 11, 2025 and ends October 10, 2025</u></a>
	<a href="#"><u>Oct. 29</u></a>	<a href="#"><u>SDCWA filed its motion to tax (reduce) Metropolitan's costs</u></a>
	<a href="#"><u>Dec. 11</u></a>	<a href="#"><u>Hearing on SDCWA's motion to tax (reduce) Metropolitan's costs</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.



Outside Counsel Agreements				
Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Albright, Yee & Schmit, APC	Employment Matter	216064	06/24	\$100,000
	<u>Employment Matter</u>	<u>220423</u>	<u>10/24</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
Anzel Galvan LLP	Bond Issues	220411	07/24	N/A
Atkinson Andelson Loya Ruud & Romo	Employee Relations	59302	04/04	\$1,316,937
	Delta Conveyance Project Bond Validation-CEQA Litigation	185899	09/21	\$250,000
	MWD Drone and Airspace Issues	193452	08/20	\$50,000
	AFSCME Local 1902 in Grievance No. 1906G020 (CSU Meal Period)	201883	07/12/21	\$30,000
	AFSCME Local 1902 v. MWD, PERB Case No. LA-CE-1438-M	201889	09/15/21	\$20,000
	MWD MOU Negotiations**	201893	10/05/21	\$100,000
BDG Law Group, APLC	Gutierrez v. MWD	216054	03/24	\$250,000
Best, Best & Krieger	Bay-Delta Conservation Plan/Delta Conveyance Project (with SWCs)	170697	08/17	\$500,000
	Environmental Compliance Issues	185888	05/20	\$100,000
	Grant Compliance Issues	211921	05/23	\$150,000
	Pure Water Southern California	207966	11/22	\$100,000
	Progressive Design Build	216053	04/24	\$250,000
Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP	FCC and Communications Matters	110227	11/10	\$100,000
Buchalter, a Professional Corp.	Union Pacific Industry Track Agreement	193464	12/07/20	\$50,000

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Burke, Williams & Sorensen, LLP	Real Property – General	180192	01/19	\$100,000
	Labor and Employment Matters	180207	04/19	\$75,000
	General Real Estate Matters	180209	08/19	\$200,000
	Rancho Cucamonga Condemnation Actions (Grade Separation Project)	207970	05/22	\$100,000
Law Office of Alexis S.M. Chiu*	Bond Counsel	200468	07/21	N/A
	Bond Counsel	220409	07/24	N/A
Castañeda + Heidelman LLP	Employment Matter	216055	04/24	\$100,000
Cislo & Thomas LLP	Intellectual Property	170703	08/17	\$100,000
Curls Bartling P.C.*	Bond Counsel	200470	07/21	N/A
<a href="#"><u>Davis Wright Tremain, LLP</u></a>	<a href="#"><u>Advice and Representation re Potential Litigation</u></a>	<a href="#"><u>220424</u></a>	<a href="#"><u>10/24</u></a>	<a href="#"><u>\$250,000</u></a>
Drooz Legal, LLP	Employment Matter	220402	08/24	\$100,000
Duane Morris LLP	SWRCB Curtailment Process	138005	09/14	\$615,422
Duncan, Weinberg, Genzer & Pembroke	Power Issues	6255	09/95	\$3,175,000
Ellison, Schneider, Harris & Donlan	Colorado River Issues	69374	09/05	\$175,000
	Issues re SWRCB	84457	06/07	\$200,000
Erin Joyce Law, PC	Employment Matter	216039	11/23	\$100,000
	Ethics Advice	216058	05/24	\$100,000
Glaser Weil Fink Howard Jordan & Shapiro	Employment Matter	220395	7/24	\$150,000
Greines, Martin, Stein & Richland LLP	SDCWA v. MWD	207958	10/22	\$100,000
	Colorado River Matters	207965	11/22	\$100,000
Hackler Flynn & Associates	Government Code Claim Advice	216059	5/24	\$150,000
Haden Law Office	Real Property Matters re Agricultural Land	180194	01/19	\$50,000



Hanna, Brophy, MacLean, McAleer & Jensen, LLP	Workers' Compensation	211926	06/23	\$200,000
Hanson Bridgett LLP	SDCWA v. MWD	124103	03/12	\$1,100,000
	Finance Advice	158024	12/16	\$100,000
	Deferred Compensation/HR	170706	10/17	\$500,000
	Tax Issues	180200	04/19	\$50,000
	Alternative Project Delivery (ADP)	207961	10/22	\$250,000
	Ad Valorem Property Taxes	216042	11/23	\$100,000
Harris & Associates	Employment Matter	220397	7/24	\$100,000
Hausman & Sosa, LLP	Jones v. MWD	216056	05/24	\$100,000
	<u>Villavicencio v. MWD</u>	<u>220426</u>	<u>10/24</u>	<u>\$100,000</u>
Hawkins Delafield & Wood LLP*	Bond Counsel	193469	07/21	N/A
	Bond Counsel	220405	07/24	N/A
Hemming Morse, LLP	Baker Electric v. MWD	211933	08/23	\$175,000
Hogan Lovells US LLP	Employment Matter	220400	07/24	\$100,000
Horvitz & Levy	SDCWA v. MWD	124100	02/12	\$1,250,000
	General Appellate Advice	146616	12/15	\$200,000
	Colorado River	203464	04/22	\$100,000
	Delta Conveyance Bond Validation Appeal	216047	03/24	\$25,000
	PFAS Multi-District Litigation – Appeal	216050	03/24	\$200,000
Innovative Legal Services, P.C.	Employment Matter	211915	01/19/23	\$175,000
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	<del>\$10,000</del> <u>\$60,000</u>
Liebert Cassidy Whitmore	Labor and Employment	158032	02/17	\$240,821
	FLSA Audit	180199	02/19	\$50,000
	EEO Advice	216041	12/23	\$200,000
Lieff Cabraser Heimann & Bernstein, LLP	PFAS Multi-District Litigation	216048	03/24	\$200,000
Manatt, Phelps & Phillips	SDCWA v. MWD rate litigation	146627	06/16	\$4,400,000
	Raftelis-Subcontractor of Manatt, Agr. #146627: Per 5/2/22 Engagement Letter between Manatt and Raftelis, MWD paid Raftelis Financial Consultants, Inc.	Invoice No. 23949		\$56,376.64 for expert services & reimbursable expenses in SDCWA v. MWD
Marten Law LLP	PFAS Multi-District Litigation	216034	09/23	\$550,000
	<u>PFAS-Related Issues (PWSC)</u>	<u>220414</u>	<u>08/24</u>	<u>\$100,000</u>
	<u>Perris Valley Pipeline Project</u>	<u>220415</u>	<u>07/24</u>	<u>\$100,000</u>
Meyers Nave Riback Silver & Wilson	Pure Water Southern California	207967	11/22	\$100,000
Miller Barondess, LLP	SDCWA v. MWD	138006	12/14	\$600,000
Morgan, Lewis & Bockius	SDCWA v. MWD	110226	07/10	\$8,750,000
	Project Labor Agreements	200476	04/21	\$100,000
Musick, Peeler & Garrett LLP	Colorado River Aqueduct Electric Cables Repair/Contractor Claims	193461	11/20	\$3,250,000
	Arvin-Edison v. Dow Chemical	203452	01/22	\$150,000
	Semitropic TCP Litigation	207954	09/22	\$75,000

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	Employment Matter	216063	06/24	\$100,000
	Employment Matter	220417	08/24	\$100,000
Nixon Peabody LLP*	Bond Counsel [re-opened]	193473	07/21	N/A
	Special Finance Project	207960	10/22	\$50,000
	Bond Counsel	220404	07/24	N/A
Norton Rose Fulbright US LLP*	Bond Counsel	200466	07/21	N/A
	Bond Counsel	220407	7/24	N/A
Olson Remcho LLP	Government Law	131968	07/14	\$400,000
	Executive Committee/Ad Hoc Committees Advice	207947	08/22	\$60,000
	Advice/Assistance re Proposition 26/Election Issues	211922	05/23	\$100,000
Robert P. Otilie	Employment Matter	220403	09/24	\$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
	Public Records Act Requests	220399	7/24	\$75,000
Renne Public Law Group, LLP	ACE v. MWD (PERB Case No. LA-CE-1574-M)	203466	05/22	\$100,000
	ACE v. MWD (PERB Case No. LA-CE-1611-M)	207962	10/22	\$50,000
	Employee Relations and Personnel Matters	216045	01/24	\$50,000
	ACE v. MWD (PERB Case No. LA-CE-1729-M)	220421	09/24	\$35,000
	AFSCME v. MWD (PERB Case No. LA-CE-1733-M)	220422	09/24	\$35,000
	<u>AFSCME v. MWD (PERB Case No. LA-CE-1738-M)</u>	<u>220425</u>	<u>10/24</u>	<u>\$35,000</u>
Ryan & Associates	Leasing Issues	43714	06/01	\$200,000



	Oswalt v. MWD	211925	05/23	\$100,000
	Unlawful Encroachment on Metropolitan Rights-of-Way	216065	06/24	\$100,000
Sanders Roberts LLP	Employment Matter	220401	7/24	\$100,000
Seyfarth Shaw LLP	Claim (Contract #201897)	201897	11/04/21	\$350,000
	Claim (Contract #203436)	203436	11/15/21	\$350,000
	Claim (Contract #203454)	203454	01/22	\$210,000
	Reese v. MWD	207952	11/22	\$750,000
	General Labor/Employment Advice	211917	3/23	\$100,000
	Civil Rights Department Complaint	211931	07/23	\$100,000
	Crawford v. MWD	216035	09/23	\$100,000
	Tiegs v. MWD	216043	12/23	\$250,000
	Zarate v. MWD	216044	01/24	\$250,000
<u>Sheppard Mullin Richter &amp; Hampton LLP</u>	<u>Lorentzen v. MWD</u>	<u>216036</u>	<u>09/23</u>	<del>\$100,000</del> <u>\$200,000</u>
Stradling Yocca Carlson & Rauth*	Bond Counsel	200471	07/21	N/A
	Bond Counsel	220408	7/24	N/A
Theodora Oringher PC	Construction Contracts - General Conditions Update	185896	07/20	\$100,000
Thompson Coburn LLP	NERC Energy Reliability Standards	193451	08/20	\$300,000
Van Ness Feldman, LLP	General Litigation	170704	07/18	\$50,000
	Colorado River MSHCP	180191	01/19	\$50,000
	Bay-Delta and State Water Project Environmental Compliance	193457	10/15/20	\$50,000
	Colorado River Issues	211924	05/23	\$100,000

\*Expenditures paid by Bond Proceeds/Finance

\*\*Expenditures paid by another group

**THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA**

**MINUTES**

**LEGAL AND CLAIMS COMMITTEE**

**October 7, 2024**

Chair Luna called the meeting to order at 12:49 pm.

Members present: Directors Camacho (entered after roll call), Cordero, Fellow, Garza, Kurtz, Luna, McCoy, Miller, Ramos (teleconference posted location), and Seckel.

Members absent: Directors Dick and Douglas.

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

Committee Staff present: Beatty, Gaxiola, Scully, and Upadhyay.

**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 the recent fluoridated drinking water ruling.

**CONSENT CALENDAR ITEMS – ACTION**

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

- A. Subject: Approval of the Minutes of the Legal and Claims Committee for September 9, 2024.

**4. CONSENT CALENDAR ITEMS – ACTION**

None

Director Fellow made a motion, seconded by Director Miller, to approve item 3A.

The vote was:

Ayes: Directors Camacho, Fellow, Garza, Kurtz, Luna, McCoy, Miller, Ramos, and Seckel.

Noes: None

Abstention(s): Cordero

Absent: Dick and Douglas

The motion for Item 3A passed by a vote of 9 ayes, 0 noes, 1 abstention, and 2 absent.

**END OF CONSENT CALENDAR ITEMS**

**5. OTHER BOARD ITEMS – ACTION**

None

**6. BOARD INFORMATION ITEMS**

None

Chair Luna called the meeting into closed session.

## 7. COMMITTEE ITEMS

- a. Subject: Report on litigation in 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; including report on discussions regarding potential settlement of 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. [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 Goldberg, Fong-Sakai, Miller, and Smith, representing the San Diego County Water Authority, withdrew from the meeting for the report on item 7a.

Chair Luna reported the committee discussed and conferred with legal counsel regarding Item 7a. No action was taken in closed session.

## 8. FOLLOW-UP ITEMS

None

## 9. FUTURE AGENDA ITEMS

None

Next meeting will be held on November 18, 2024.

Meeting adjourned at 1:50 pm

Miguel Luna  
Chair



Legal & Claims Committee

# Report on Delta Conveyance Project Environmental Litigation

Item 7a

November 18, 2024

## Item 7a Introduction

### Subject

- Report on environmental litigation challenging DWR's Delta Conveyance Project approval, certification of the Final Environmental Impact Report and other actions taken under the California Environmental Quality Act, currently ten consolidated cases pending in Sacramento County Superior Court

### Purpose

- Status update

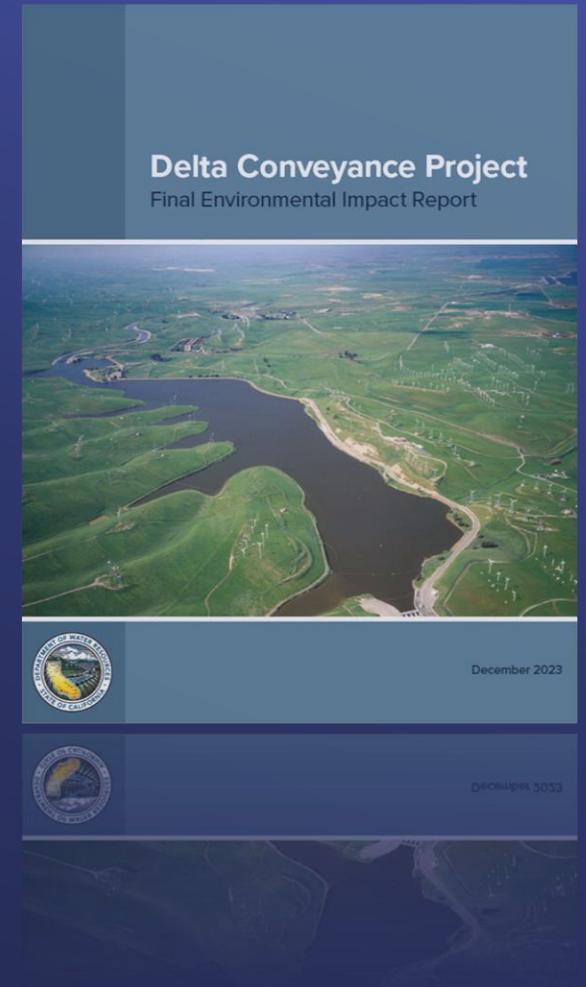
### Next Steps

- Regular updates in GC reports and committee

# Background

## Project Approval and CEQA Actions Dec. 21, 2023

- DWR certified the Final EIR
- Approved the DCP (Alt 5)
- Filed a Notice of Determination  
→ 30-day statute of limitations
- Nine cases filed in January 2024
- Tenth case filed May 13, 2024



# Ten Cases

(DWR is the only named defendant)

- City of Stockton
- Butte County
- Sacramento County, et al.
- San Joaquin County, et al.
- Sacramento Area Sewer District
- San Francisco Baykeeper, et al.
- Sierra Club, et al.
- Tulare Lake Basin Water Storage District
- South Delta Water Agency & Rudy Mussi Investm't L.P.
- North Delta Water Agency

# 36 Plaintiffs

- 13 Environmental NGOs
- 5 Delta Counties (members of the DCC)
- 5 Fishing NGOs
- 7 In-Delta Agencies
- 2 SWP Contractors
  - Butte County
  - Tulare Lake Basin WSD
- 1 Tribe
- 1 Tribal Environmental NGO
- 1 City (Stockton)
- 1 Delta Landowner

# Causes of Action

- CEQA
- Delta Reform Act
- Public Trust Doctrine
- Delta and Watershed Protection Acts
- Fully Protected Species Statute (Birds)
- Prop. 9
  - 1982 referendum on Peripheral Canal
- Central Valley Project Act
  - Exceeds DWR's authority to modify the SWP

# Preliminary Injunction on Geotech

- 5 Motions to halt geotechnical soils testing along the 45-mile alignment
- Based on Delta Reform Act
  - Is the geotech “initiation of implementation” of the DCP?
  - Trial court ruled it is, thus, a certification of consistency with the Delta Plan is required
- June 2024 Injunction (Geotech only)
- DWR appealed
- DWR’s motions to modify and stay the injunction denied
- Next step: briefing the appeals



# Preliminary Injunction on Geotech (cont.)

- DWR filed a Delta Plan certification of consistency for geotech on October 7, 2024
- 4 appeals filed with the Delta Stewardship Council
- Hearing on appeals Dec. 19, 2024
- Written ruling within 60 days of hearing
- If appeals are denied, DWR must move to lift the injunction



# Case status

## Cases still in early stage

- Oct. 24<sup>th</sup> order consolidating the cases under *Tulare Lake Basin Water Storage District v. California Department of Water Resources*
- DWR completing the administrative record (est. early 2025)
  - The administrative record is foundational
  - Once certified, merits briefing begins
- CEQA claims entitled to priority

# Next Steps

- April 2025 Case Management Conference
- Regular updates in the monthly GC Report and at Legal & Claims Committee

