

The Metropolitan Water District of Southern California

Agenda

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

L&C Committee

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

Legal and Claims Committee - Final - Revised 1

Meeting with Board of Directors *

April 11, 2022

12:00 p.m.

Agendas, live streaming, meeting schedules, and other board materials are available here: <https://mwdh2o.legistar.com/Calendar.aspx>. If you have technical difficulties with the live streaming page, a listen-only phone line is available at 1-877-853-5257; enter meeting ID: 862 4397 5848. Members of the public may present their comments to the Board on matters within their jurisdiction as listed on the agenda via in-person or teleconference. To participate via teleconference 1-833-548-0276 and enter meeting ID: 815 2066 4276 or click <https://us06web.zoom.us/j/81520664276pwd=a1RTQWh6V3h3ckFhNmDsUWpKR1c2Zz09>

Monday, April 11, 2022 Meeting Schedule

09:30 am - RP&AM
10:00 am - E&O
11:30 am - Break
12:00 pm - L&C
01:00 pm - C&L
02:00 pm - OP&T
02:30 pm - F&I

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

* 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 REPORTS

A. General Counsel's report of monthly activities

[21-1039](#)

Attachments: [04112022 LC 2A Report - Revised](#)

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

3. CONSENT CALENDAR OTHER ITEMS - ACTION

- A. Approval of the Minutes of the Meeting of the Legal and Claims Committee held February 8, 2022 and the Joint Meeting of the Legal and Claims Committee and Organization, Personnel and Technology Committee held February 8, 2022 (Legal and Claims Committee only)

[21-1038](#)

Attachments: [04122022 LC 3A minutes.pdf](#)
[04122022 Joint LC & OPT minutes.pdf](#)

4. CONSENT CALENDAR ITEMS - ACTION

- 7-17 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 \$600,000 to an amount not to exceed \$900,000; and authorize an increase in the maximum amount payable under contract with Exponent, Inc. for consultant services by \$300,000 to an amount not to exceed \$400,000; the General Manager has determined 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). [SUBJECT REVISED 4/7/2022]

[21-1008](#)

- 7-18 Authorize settlement of John Campbell v. The Metropolitan Water District of Southern California Workers Compensation Appeals Board, Riverside, Case Numbers ADJ11262832, ADJ9311537, ADJ7783020, and ADJ8290584; 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 Government Code Section 54956.9(d)(1)]

[21-1041](#)

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

5. OTHER BOARD ITEMS - ACTION

NONE

6. BOARD INFORMATION ITEMS

NONE

7. COMMITTEE ITEMS

- a. Report on Pacific Coast Federation of Fishermen's Assns., et al. v. Ross, et al., Federal District Court for the Eastern District of California, Case No. 1:20-CV-00431-DAD-SAB and Calif. Natural Resources Agency, et al. v. Ross, et al., Federal District Court for the Eastern District of California, Case No. 1:20-CV-00426-DAD-SKO [Conference with legal counsel - existing litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(1)]. [21-1044](#)
- b. Report on litigation, including discussions regarding potential settlement, 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; and the Metropolitan Water District of Southern California v. San Diego County Water Authority cross-complaints in the 2014, 2016, and 2018 actions. [Conference with legal counsel - existing litigation; to be heard in closed session pursuant to Gov. Code Sections 54956.9(d)(1)] [21-1040](#)

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. Agendas for the meeting of the Board of Directors may be obtained from the Board Executive Secretary. 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 <http://www.mwdh2o.com>.

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

Association of Confidential Employees v. Metropolitan (Public Employment Relations Board)

On April 4, 2022, the Association of Confidential Employees (ACE) filed an unfair practice charge with the Public Employment Relations Board (PERB). The Charge alleges Metropolitan failed to adequately complete the meet and confer process when Metropolitan created the new unrepresented EEO Officer position and advertised the opening for this position on Metropolitan's website in December 2021. The Charge is based, in

significant part, on the presumption the new EEO Officer position will replace key functions currently performed by the ACE-represented EEO Manager position. ACE requests an order that, *inter alia*, would require Metropolitan to restore the status quo by returning the job duties it asserts were transferred to the EEO Officer position back to the EEO Manager position, and which would direct Metropolitan to provide ACE with notice and an opportunity to meet and confer about changes to matters subject to bargaining within the scope of representation. The Legal Department is representing Metropolitan.

Other Matters

Garvey Reservoir

Staff from Engineering Services Group and the General Counsel's Office worked together to secure the removal of a backyard encroachment into a small portion of Metropolitan's Garvey

Reservoir in the City of Monterey Park, California. Metropolitan staff secured the necessary legal instruments to allow for the timely completion of stormwater drainage and erosion control improvements to protect Metropolitan facilities. .

Matters Received by the Legal Department

<u>Category</u>	<u>Received</u>	<u>Description</u>	
Government Code Claims	3	Claims relating to: (1) tree falling on claimant's vehicle in the city of Fallbrook; and (2) two accidents involving MWD vehicles	
Requests Pursuant to the Public Records Act	19	<u>Requestor</u>	<u>Documents Requested</u>
		AKM Consulting Engineers	Meter data for Three Valleys PM-18 for August and September 2021
		Brown and Caldwell	Statement of Qualifications for pre-qualified firms to provide engineering services for water treatment facilities, conveyance, storage and distribution facilities, and large rotating equipment
		California Regional Water Quality Control Board	Drawings showing how the flow from Goodhart Canyon and other drainages east of the East Dam connect to the Salt Creek drainage
		Green Media Creations	Cost proposal for winning bidder for California Friendly & Native Plant Landscape Training, Design Seminar and Turf Removal



<u>Requestor</u>	<u>Documents Requested</u>
GVR Group	Financial details relating to Southern Nevada Water Authority, Central Arizona Project, and Arizona Department of Water Resources offers to California water agencies for the Regional Recycled Water Program
Fomotor Engineering (2 requests)	Existing utility plans/as-built drawings for two projects in Desert Hot Springs
Lagrange Communications	Submissions and scoring sheets for Multi-Media Placement Consulting Services for Water Awareness & Outreach Campaign
Law Offices of Michael A. Brodsky	Delta Conveyance Project Administrative Draft Environmental Impact Report
Los Angeles County Civil Grand Jury	Data on average water use in 2021 for Los Angeles County
Michael Baker International	Proposals and scoring/evaluations for Request for Proposal for Colorado River Conduit Erosion Control Improvements
MWD Supervisors Association	Written transcript, digital media, and chats from Coffee with the General Manager session held on April 27, 2022
OnPoint Insights	Proposals and ranking data for Request for Proposal for Enterprise Data Analytics
Orbach Huff & Henderson	Documents relating to the termination of the sublease between Hooman Enterprises and MWD, and permits issued and work performed on the property
Padre Associates	Drawings for any MWD pipelines in area of a proposed school site for the Fontana Unified School District
Private Citizen	Rebate records for properties on certain streets in San Juan Capistrano
Southern California Edison	List of zip codes in MWD service area
Transparent California	MWD Employee Compensation Report for 2021
WestWater Research	Documents on the status of the sale of the Palo Verde property



Bay-Delta and SWP Litigation	
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>	<ul style="list-style-type: none">• Validation Action<ul style="list-style-type: none">• Metropolitan, Mojave Water Agency, Coachella Valley Water District, and Santa Clarita Valley Water Agency have filed answers in support• Kern County Water Agency, Tulare Lake Basin Water Storage District, Oak Flat Water District, County of Kings, Kern Member Units & Dudley Ridge Water District, and City of Yuba City filed answers in opposition• North Coast Rivers Alliance et al., Howard Jarvis Taxpayers Association, Sierra Club et al., County of Sacramento & Sacramento County Water Agency, CWIN et al., Clarksburg Fire Protection District, Delta Legacy Communities, Inc, and South Delta Water Agency & Central Delta Water Agency have filed answers in opposition• Case ordered consolidated with the DCP Revenue Bond CEQA Case for pre-trial and trial purposes and assigned to Judge Earl for all purposes• DWR's motions for summary judgment re CEQA affirmative defenses granted; cross-motions by opponents denied• CEQA Case<ul style="list-style-type: none">• Sierra Club, Center for Biological Diversity, Planning and Conservation League, Restore the Delta, and Friends of Stone Lakes National Wildlife Refuge filed a standalone CEQA lawsuit challenging DWR's adoption of the bond resolutions• Alleges DWR violated CEQA by adopting bond resolutions before certifying a Final EIR for the Delta Conveyance Project• Cases ordered consolidated for all purposes• DWR's motion for summary judgment granted; Sierra Club's motion denied



SWP-CVP 2019 BiOp Cases

Pacific Coast Fed'n of Fishermen's Ass'ns, et al. v. Raimondo, et al. (PCFFA)

Calif. Natural Resources Agency, et al. v. Raimondo, et al. (CNRA)

Federal District Court, Eastern Dist. of California,
Fresno Division
(Judge [Thurston](#))

- SWC intervened in both *PCFFA* and *CNRA* cases
- Briefing on federal defendants' motion to dismiss CNRA's California ESA claim is complete; no hearing date set and may be decided on the papers
- Federal defendants circulated administrative records for each of the BiOps
- December 18, 2020 PCFFA and CNRA filed motions to complete the administrative records or to consider extra-record evidence in the alternative
- Federal defendants reinitiated consultation on Oct 1, 2021
- On Nov. 8, 2021, Federal Defendants and PCFFA plaintiffs stipulated to inclusion of certain records in the Administrative Records and to defer further briefing on the matter until July 1, 2022
- On Nov. 12, 2021, SWC filed a motion to amend its pleading to assert cross-claims against the federal defendants for violations of the ESA, NEPA and WIIN Act; Court has yet to set a hearing date
- November 23, 2021, Federal Defendants filed a motion for voluntary remand of the 2019 Biological Opinions and NEPA Record of Decision and requesting that the Court issue an order approving an Interim Operations Plan through September 30, 2022; that the cases be stayed for the same time period; and that the Court retain jurisdiction during the pendency of the remand. State Plaintiffs filed a motion for injunctive relief seeking judicial approval of the Interim Operations Plan
- December 16, 2021 – NGO Plaintiffs filed a motion for preliminary injunction related to interim operations
- Motions fully briefed as of Jan. 24, 2022
- Hearing on motions held Feb. 11, 2022
- District court (1) approved the State and Federal Government's Interim Operations Plan (IOP) through September 30, 2022; (2) approved the federal defendants' request for a stay of the litigation through September 30, 2022; (3) remanded the BiOps without invalidating them for



	<p>reinitiated consultation with the 2019 BiOps in place; (4) denied PCFFA's alternative request for injunctive relief; and (5) by ruling on other grounds, denied the state plaintiffs' motion for injunctive relief and the federal defendants' request for equitable relief</p>
<p>CESA Incidental Take Permit Cases</p> <p>Coordinated Case Name <i>CDWR Water Operations Cases, JCCP 5117</i> (Coordination Trial Judge Gevercer)</p> <p><i>Metropolitan & Mojave Water Agency v. Calif. Dept. of Fish & Wildlife, et al.</i> (CESA/CEQA/Breach of Contract)</p> <p><i>State Water Contractors & Kern County Water Agency v. Calif. Dept. of Fish & Wildlife, et al.</i> (CESA/CEQA)</p> <p><i>Tehama-Colusa Canal Auth., et al. v. Calif. Dept. of Water Resources</i> (CEQA)</p> <p><i>San Bernardino Valley Municipal Water Dist. v. Calif. Dept. of Water Resources, et al.</i> (CEQA/CESA/ Breach of Contract/Takings)</p> <p><i>Sierra Club, et al. v. Calif. Dept. of Water Resources</i> (CEQA/Delta Reform Act/Public Trust)</p> <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"> • All 8 cases ordered coordinated in Sacramento County Superior Court • Stay on discovery issued until coordination trial judge orders otherwise • All four Fresno cases transferred to Sacramento to be heard with the four other coordinated cases • SWC and Metropolitan have submitted Public Records Act requests seeking administrative record materials and other relevant information • Answers filed in the three cases filed by State Water Contractors, including Metropolitan's • Draft administrative records produced on Sept. 16, 2021 • Certified administrative records lodged March 4, 2022 • May 13, 2022 Case Management Conference



<p>CDWR Environmental Impact Cases Sacramento Superior Ct. Case No. JCCP 4942, 3d DCA Case No. C091771 (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>	<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 • Parties have appealed attorneys’ fees and costs rulings • Hearing on attorneys’ fee appeals held March 28, 2022 and matter submitted
<p>COA Addendum/ No-Harm Agreement</p> <p><i>North Coast Rivers Alliance v. DWR</i> Sacramento County Superior Ct. (Judge Gevercer)</p>	<ul style="list-style-type: none"> • Plaintiffs allege violations of CEQA, Delta Reform Act & public trust doctrine • USBR Statement of Non-Waiver of Sovereign Immunity filed September 2019 • Westlands Water District and North Delta Water Agency granted leave to intervene • Metropolitan & SWC monitoring • Deadline to prepare administrative record extended to May 20, 2022 • July 22, 2022 hearing on the merits
<p>Delta Plan Amendments and Program EIR 4 Consolidated Cases Sacramento County Superior Ct. (Judge Gevercer)</p> <p><i>North Coast Rivers Alliance, et al. v. Delta Stewardship Council</i> (lead case)</p> <p><i>Central Delta Water Agency, et al. v. Delta Stewardship Council</i></p> <p><i>Friends of the River, et al. v. Delta Stewardship Council</i></p> <p><i>California Water Impact Network, et al. v. Delta Stewardship Council</i></p> <p>Delta Stewardship Council Cases 3 Remaining Cases (CEQA claims challenging original 2013 Delta Plan EIR) (Judge Chang)</p> <p><i>North Coast Rivers Alliance, et al. v. Delta Stewardship Council</i></p> <p><i>Central Delta Water Agency, et al. v. Delta Stewardship Council</i></p> <p><i>California Water Impact Network, et al. v. Delta Stewardship Council</i></p>	<ul style="list-style-type: none"> • Cases challenge, among other things, the Delta Plan Updates recommending dual conveyance as the best means to update the SWP Delta conveyance infrastructure to further the coequal goals • Allegations relating to “Delta pool” water rights theory and public trust doctrine raise concerns for SWP and CVP water supplies • Cases consolidated for pre-trial and trial under <i>North Coast Rivers Alliance v. Delta Stewardship Council</i> • SWC granted leave to intervene • Metropolitan supports SWC • 2013 and 2018 cases to be heard separately due to peremptory challenge • SWC and several individual members, including Metropolitan, SLDMWA and Westlands have dismissed their remaining 2013 CEQA claims but remain intervenor-defendants in the three remaining <i>Delta Stewardship Council Cases</i> <p>2013 Cases</p> <ul style="list-style-type: none"> • After a hearing on Feb. 25, 2022 the court ruled against plaintiffs on the merits of their BDCP-related CEQA claims



	<ul style="list-style-type: none"> April 22, 2022 <u>court ruled against the remaining CEQA claims and denied the petitions for writs of mandamus</u> <p>2018 Cases</p> <ul style="list-style-type: none"> 2018 Cases fully briefed as of Jan. 24, 2022, hearing on the merits set for July 22, 2022
<p>SWP Contract Extension Validation Action Sacramento County Superior Ct. (Judge Culhane)</p> <p><i>DWR v. All Persons Interested in the Matter, etc.</i></p>	<ul style="list-style-type: none"> DWR seeks a judgment that the Contract Extension amendments to the State Water Contracts are lawful Metropolitan and 7 other SWCs filed answers in support of validity to become parties Jan. 5-7, 2022 Hearing on the merits held with CEQA cases, below Final statement of decision in DWR's favor filed March 9, 2022 Final judgment pending
<p>SWP Contract Extension CEQA Cases Sacramento County Superior Ct. (Judge Culhane)</p> <p><i>North Coast Rivers Alliance, et al. v. DWR</i> <i>Planning & Conservation League, et al. v. DWR</i></p>	<ul style="list-style-type: none"> Petitions for writ of mandate alleging CEQA and Delta Reform Act violations filed on January 8 & 10, 2019 Deemed related to DWR's Contract Extension Validation Action and assigned to Judge Culhane Administrative Record completed DWR filed its answers on September 28, 2020 Metropolitan, Kern County Water Agency and Coachella Valley Water District have intervened and filed answers in the two CEQA cases Final statement of decision in DWR's favor denying the writs of mandate filed March 9, 2022 Final judgments pending



<p>Delta Conveyance Project Soil Exploration Case</p> <p><i>Central Delta Water Agency, et al. v. DWR</i> Sacramento County Superior Ct. (Judge Chang)</p>	<ul style="list-style-type: none"> • Filed August 10, 2020 • Plaintiffs Central Delta Water Agency, South Delta Water Agency and Local Agencies of the North Delta • One cause of action alleging that DWR's adoption of an Initial Study/Mitigated Negative Declaration (IS/MND) for soil explorations needed for the Delta Conveyance Project violates CEQA • March 24, 2021 Second Amended Petition filed to add allegation that DWR's addendum re changes in locations and depths of certain borings violates CEQA • Deadline to prepare the administrative record extended to April 22, 2022 • DWR's petition to add the 2020 CEQA case to the <i>Department of Water Resources Cases</i>, JCCP 4594, San Joaquin County Superior Court denied
<p>Water Management Tools Contract Amendment</p> <p><i>California Water Impact Network et al. v. DWR</i> Sacramento County Superior Ct. (Judge Eurie)</p> <p><i>North Coast Rivers Alliance, et al. v. DWR</i> Sacramento County Super. Ct. (Judge Eurie)</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 • Parties have stipulated to production of a draft administrative record by April 1, 2022 and to a timeline to attempt to resolve any disputes over the contents • CWIN case reassigned to Judge Earl so both cases will be heard together • SWC motion to intervene in both cases granted



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

Cases	Date	Status
2010, 2012	Aug. 13-14, 2020	Final judgment and writ issued. Transmitted to the Board on August 17.
	Sept. 11	Metropolitan filed notice of appeal of judgment and writ.
	Jan. 13, 2021	Court issued order finding SDCWA is the prevailing party on the Exchange Agreement, entitled to attorneys' fees and costs under the contract.
	Feb. 10	Court issued order awarding SDCWA statutory costs, granting SDCWA's and denying Metropolitan's related motions.
	Feb. 16	Per SDCWA's request, Metropolitan paid contract damages in 2010-2012 cases judgment and interest. Metropolitan made same payment in Feb. 2019, which SDCWA rejected.
	Feb. 25	Metropolitan filed notice of appeal of Jan. 13 (prevailing party on Exchange Agreement) and Feb. 10 (statutory costs) orders.
	Sept. 21	Court of Appeal issued opinion on Metropolitan's appeal regarding final judgment and writ, holding: (1) the court's 2017 decision invalidating allocation of Water Stewardship Rate costs to transportation in the Exchange Agreement price and wheeling rate applied not only to 2011-2014, but also 2015 forward; (2) no relief is required to cure the judgment's omission of the court's 2017 decision that allocation of State Water Project costs to transportation is lawful; and (3) the writ is proper and applies to 2015 forward.
	Mar. 17, 2022	Court of Appeal unpublished decision affirming orders determining SDCWA is the prevailing party in the Exchange Agreement and statutory costs.
	Mar. 21	Metropolitan paid SDCWA \$14,296,864.99 for attorneys' fees and \$352,247.79 for costs, including interest.
2014, 2016	Aug. 28, 2020	SDCWA served first amended (2014) and second amended (2016) petitions/complaints.
	Sept. 28	Metropolitan filed demurrers and motions to strike portions of the amended petitions/complaints.



Cases	Date	Status
	Sept. 28-29	Member agencies City of Torrance, Eastern Municipal Water District, Foothill Municipal Water District, Las Virgenes Municipal Water District, Three Valleys Municipal Water District, Municipal Water District of Orange County, West Basin Municipal Water District, and Western Municipal Water District filed joinders to the demurrers and motions to strike.
	Feb. 16, 2021	Court issued order denying Metropolitan's demurrers and motions to strike, allowing SDCWA to retain contested allegations in amended petitions/complaints.
	March 22	Metropolitan filed answers to the amended petitions/complaints and cross-complaints against SDCWA for declaratory relief and reformation, in the 2014, 2016 cases.
	March 22-23	Member agencies City of Torrance, Eastern Municipal Water District, Foothill Municipal Water District, Las Virgenes Municipal Water District, Three Valleys Municipal Water District, Municipal Water District of Orange County, West Basin Municipal Water District, and Western Municipal Water District filed answers to the amended petitions/complaints in the 2014, 2016 cases.
	April 23	SDCWA filed answers to Metropolitan's cross-complaints.
	Sept. 30	Based on the Court of Appeal's Sept. 21 opinion (described above), and the Board's Sept. 28 authorization, Metropolitan paid \$35,871,153.70 to SDCWA for 2015-2017 Water Stewardship Rate charges under the Exchange Agreement and statutory interest.
2017	July 23, 2020	Dismissal without prejudice entered.
2018	July 28, 2020	Parties filed a stipulation and application to designate the case complex and related to the 2010-2017 cases, and to assign the case to Judge Massullo's court.
	Nov. 13	Court ordered case complex and assigned to Judge Massullo's court.
	April 21, 2021	SDCWA filed second amended petition/complaint.
	May 25	Metropolitan filed motion to strike portions of the second amended petition/complaint.
	May 25-26	Member agencies City of Torrance, Eastern Municipal Water District, Foothill Municipal Water District, Las Virgenes Municipal Water District, Three Valleys Municipal Water District, Municipal Water District of Orange County, West Basin Municipal Water District, and Western Municipal Water District filed joinders to the motion to strike.
	July 19	Court issued order denying Metropolitan's motion to strike portions of the second amended petition/complaint.



Cases	Date	Status
2018 (cont.)	July 29	Metropolitan filed answer to the second amended petition/complaint and cross-complaint against SDCWA for declaratory relief and reformation.
	July 29	Member agencies City of Torrance, Eastern Municipal Water District, Foothill Municipal Water District, Las Virgenes Municipal Water District, Three Valleys Municipal Water District, Municipal Water District of Orange County, West Basin Municipal Water District, and Western Municipal Water District filed answers to the second amended petition/complaint.
	Aug. 31	SDCWA filed answer to Metropolitan's cross-complaint.
2014, 2016, 2018	June 11, 21	Deposition of non-party witness.
	Aug. 25	Hearing on Metropolitan's motion for further protective order regarding deposition of non-party witness.
	Aug. 25	Court issued order consolidating the 2014, 2016, and 2018 cases for all purposes, including trial.
	Aug. 30	Court issued order granting Metropolitan's motion for a further protective order regarding deposition of non-party witness.
	Aug. 31	SDCWA filed consolidated answer to Metropolitan's cross-complaints in the 2014, 2016, and 2018 cases.
	Oct. 27	Parties submitted to the court a joint stipulation and proposed order staying discovery through Dec. 8 and resetting pre-trial deadlines.
	Oct. 29	Court issued order staying discovery through Dec. 8 and resetting pre-trial deadlines, while the parties discuss the prospect of settling some or all remaining claims and crossclaims.
	Jan. 12, 2022	Case Management Conference. Court ordered a 35-day case stay to allow the parties to focus on settlement negotiations, with weekly written check-ins with the court; and directed the parties to meet and confer regarding discovery and deadlines.
	Feb. 22	Court issued order resetting pre-trial deadlines as proposed by the parties.
	Feb. 22	Metropolitan and SDCWA each filed motions for summary adjudication.
	April 13	Hearing on Metropolitan's and SDCWA's motions for summary adjudication.
	<u>April 18</u>	<u>Parties filed supplemental briefs regarding their respective motions for summary adjudication, as directed by the court.</u>



Cases	Date	Status
	<u>April 18</u>	<u>Court issued order resetting pre-trial deadlines as proposed by the parties.</u>
	<u>April 29</u>	<u>Parties filed pre-trial briefs.</u>
	<u>April 29</u>	<u>Metropolitan filed motions in limine.</u>
	<u>May 4</u>	<u>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.</u>
2014, 2016, 2018 (cont.)	May 16-27, 2022	Trial.
All Cases	April 15, 2021	Case Management Conference on 2010-2018 cases. Court set trial in 2014, 2016, and 2018 cases on May 16-27, 2022.
	April 27	SDCWA served notice of deposition of non-party witness.
	May 13-14	Metropolitan filed motions to quash and for protective order regarding deposition of non-party witness.
	June 4	Ruling on motions to quash and for protective order.



Outside Counsel Agreements				
Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Andrade Gonzalez LLP	MWD v. DWR, CDFW and CDNR Incidental Take Permit (ITP) CESA/CEQA/Contract Litigation	185894	07/20	\$250,000
Aleshire & Wynder	Oil, Mineral and Gas Leasing	174613	08/18	\$50,000
Atkinson Andelson Loya Ruud & Romo	Employee Relations	59302	04/04	\$1,214,517
	MWD v. Collins	185892	06/20	\$100,000
	Delta Conveyance Project Bond Validation-CEQA Litigation	185899	09/21	\$100,000
	MWD Drone and Airspace Issues	193452	08/20	\$50,000
	Equal Employee Opportunity Commission Charge	200462	03/21	\$20,000
	Public Employment Relations Board Charge No. LA-CE-1441-M	200467	03/21	\$30,000
	Representation re the Shaw Law Group's Investigations	200485	05/20/21	\$50,000
	DFEH Charge- (DFEH Number 202102-12621316)	201882	07/01/21	\$25,000
	AFSCME Local 1902 in Grievance No. 1906G020 (CSU Meal Period)	201883	07/12/21	\$30,000
	AFSCME Local 1902 v. MWD, PERB Case No. LA-CE-1438-M	201889	09/15/21	\$20,000
	MWD MOU Negotiations**	201893	10/05/21	\$100,000
	DFEH Charge- (DFEH Number 202106-13819209)	203439	12/14/21	\$15,000
Best, Best & Krieger	Navajo Nation v. U.S. Department of the Interior, et al.	54332	05/03	\$185,000
	Bay-Delta Conservation Plan/Delta Conveyance Project (with SWCs)	170697	08/17	\$500,000
	Environmental Compliance Issues	185888	05/20	\$50,000



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP	FCC and Communications Matters	110227	11/10	\$100,000
Brown White & Osborn LLP	HR Matter	203450	03/22	\$50,000
Buchalter, a Professional Corp.	Union Pacific Industry Track Agreement	193464	12/07/20	\$50,000
Burke, Williams & Sorensen, LLP	Real Property - General	180192	01/19	\$100,000
	Labor and Employment Matters	180207	04/19	\$50,000
	General Real Estate Matters	180209	08/19	\$100,000
Law Office of Alexis S.M. Chiu*	Bond Counsel	200468	07/21	N/A
Cislo & Thomas LLP	Intellectual Property	170703	08/17	\$75,000
Curls Bartling P.C.*	Bond Counsel	174596	07/18	N/A
	Bond Counsel	200470	07/21	N/A
Duane Morris LLP	SWRCB Curtailment Process	138005	09/14	\$615,422
Duncan, Weinberg, Genzer & Pembroke PC	Power Issues	6255	09/95	\$3,175,000
Ellison, Schneider, Harris & Donlan	Colorado River Issues	69374	09/05	\$175,000
	Issues re SWRCB	84457	06/07	\$200,000
Haden Law Office	Real Property Matters re Agricultural Land	180194	01/19	\$50,000
Hanson Bridgett LLP	SDCWA v. MWD	124103	03/12	\$1,100,000
	Finance Advice	158024	12/16	\$100,000
	Deferred Compensation/HR	170706	10/17	\$ 400,000
	Tax Issues	180200	04/19	\$50,000
Hausman & Sosa, LLP	MOU Hearing Officer Appeal	201892	09/21	\$25,000



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Hawkins Delafield & Wood LLP*	Bond Counsel	193469	07/21	N/A
Horvitz & Levy	SDCWA v. MWD	124100	02/12	\$900,000
	General Appellate Advice	146616	12/15	\$100,000
	MWD v. Collins	203449	01/03/22	\$20,000
	<u>Colorado River</u>	<u>203464</u>	<u>04/22</u>	<u>\$100,000</u>
Hunt Ortmann Palffy Nieves Darling & Mah, Inc.	Construction Contracts/COVID-19 Emergency	185883	03/20	\$40,000
Internet Law Center	HR Matter	174603	05/18	\$60,000
	Cybersecurity and Privacy Advice and Representation	200478	04/13/21	\$100,000
	Systems Integrated, LLC v. MWD	201875	05/17/21	\$40,000
Amira Jackmon, Attorney at Law*	Bond Counsel	200464	07/21	N/A
Jackson Lewis P.C.	Employment: Department of Labor Office of Contract Compliance (OFCCP)	137992	02/14	\$45,000
Jones Hall, A Professional Law Corporation*	Bond Counsel	200465	07/21	N/A
Kegel, Tobin & Truce	Workers' Compensation	180206	06/19	\$250,000
Lesnick Prince & Pappas LLP	Topock/PG&E's Bankruptcy	185859	10/19	\$30,000
Liebert Cassidy Whitmore	Labor and Employment	158032	02/17	\$201,444
	EEO Investigations	180193	01/19	\$100,000
	FLSA Audit	180199	02/19	\$50,000
LiMandri & Jonna LLP	Bacon Island Subrogation	200457	03/21	\$50,000
Manatt, Phelps & Phillips	In Re Tronox Incorporated	103827	08/09	\$540,000
	SDCWA v. MWD rate litigation	146627	06/16	\$2,900,000



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Meyers Nave Riback Silver & Wilson	OCWD v. Northrop Corporation	118445	07/11	\$2,300,000
	IID v. MWD (Contract Litigation)	193472	02/21	\$100,000
Miller Barondess, LLP	SDCWA v. MWD	138006	12/14	\$600,000
Morgan, Lewis & Bockius	SDCWA v. MWD	110226	07/10	\$8,750,000
	Project Labor Agreements	200476	04/21	\$100,000
Musick, Peeler & Garrett LLP	Colorado River Aqueduct Electric Cables Repair/Contractor Claims	193461	11/20	\$300,000
	Arvin-Edison v. Dow Chemical	203452	01/22	\$50,000
Nixon Peabody LLP*	Bond Counsel	193473	07/21	N/A
Norton Rose Fulbright US LLP*	Bond Counsel	200466	07/21	N/A
Olson Remcho LLP	Government Law	131968	07/14	\$200,000
	Ethics Office	170714	01/18	\$350,000
	<u>MWD Board/Ad Hoc Committee Advice</u>	<u>203459</u>	<u>03/22</u>	<u>\$60,000</u>
Ryan & Associates	Leasing Issues	43714	06/01	\$200,000
Seyfarth Shaw LLP	HR Litigation	185863	12/19	\$250,000
	Claim (Contract #201897)	201897	11/04/21	\$100,000
	Claim (Contract #203436)	203436	11/15/21	\$100,000
	Claim (Contract #203454)	203454	01/22	\$100,000
	Claim (Contract #203455)	203455	10/21	\$100,000
Stradling Yocca Carlson & Rauth*	Bond Counsel	200471	07/21	N/A
Theodora Oringher PC	OHL USA, Inc. v. MWD	185854	09/19	\$1,100,000
	Construction Contracts - General Conditions Update	185896	07/20	\$100,000



Firm Name	Matter Name	Agreement No.	Effective Date	Contract Maximum
Thomas Law Group	MWD v. DWR, CDFW, CDNR – Incidental Take Permit (ITP) CESA/CEQA/Contract Litigation	185891	05/20	\$250,000
	Iron Mountain SMARA (Surface Mining and Reclamation Act)	203435	12/03/21	\$100,000
Thompson Coburn LLP	FERC Representation re Colorado River Aqueduct Electrical Transmission System	122465	12/11	\$100,000
	NERC Energy Reliability Standards	193451	08/20	\$100,000
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
Western Water and Energy	California Independent System Operator Related Matters	193463	11/20/20	\$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

February 8, 2022

Chair Dick called the teleconference meeting to order at 9:01 a.m.

Members present: Chair Dick, Directors Atwater, Camacho, Fellow, Goldberg, Phan, Record, Smith, Sutley, and Tamaribuchi.

Members absent: Director Kassakhian.

Other Directors present: Chairwoman Gray, Directors Abdo, Ackerman, Blois, Cordero, De Jesus, Dennstedt, Erdman, Faessel, Fong-Sakai, Jung, Kurtz, Lefevre, McCoy, Miller, Morris, Ortega, Peterson, and Pressman.

Committee Staff present: Beatty, Hagekhalil, Miyashiro, Scully, Torres, and Upadhyay.

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

None

2. MANAGEMENT REPORTS

a. Subject: General Counsel's report of monthly activities

General Counsel referred the committee to her written report.

CONSENT CALENDAR ITEMS – ACTION

3. CONSENT CALENDAR OTHER ITEMS – ACTION

A. Approval of the Minutes of the Meeting of the Legal and Claims Committee meeting held January 11, 2022.

No comments on the minutes.

4. CONSENT CALENDAR ITEMS – ACTION

None

Director Sutley made a motion, seconded by Director Fellow, to approve the consent calendar consisting of Item 3A:

The vote was:

Ayes:	Directors Atwater, Camacho, Dick, Fellow, Goldberg, Phan, Record, Smith, Sutley, and Tamaribuchi
Noes:	None
Abstain:	None
Absent:	Kassakhian

The motion for Item 3A passed by a vote of 10 ayes, 0 noes, 0 abstain, and 1 absent.

END OF CONSENT CALENDAR ITEMS

5. OTHER BOARD ITEMS – ACTION

None

6. BOARD INFORMATION ITEMS

None

7. COMMITTEE ITEMS

- | | | |
|----|---------|---|
| a. | Subject | Discussion of Department Head Performance and Goal Setting [Public employees' performance evaluations – General Counsel; to be heard in closed session pursuant to Gov. Code Section 54957] |
|----|---------|---|

Presented by:	Human Resources Group Manager Diane Pitman
---------------	--

In closed session, the committee discussed item 7a. No action was taken in closed session

- | | | |
|----|---------|---|
| b. | Subject | Report on litigation, including discussions regarding potential settlement, 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; and the Metropolitan Water District of Southern California v. San Diego County Water Authority cross-complaints in the 2014, 2016, and 2018 actions. [Conference with legal counsel - existing litigation; to be heard in closed session pursuant to Gov. Code Sections 54956.9(d)(1)]

Presented by: General Manager Adel Hagekhalil and General Counsel Marcia Scully

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

Director Phan recused herself for the report on this item because of a financial conflict of interest in that the City of Torrance is a client of her employer Rutan and Tucker.

In closed session, General Manager Adel Hagekhalil gave a report on this item with input from General Counsel Marcia Scully. No action was taken in closed session.

8. FOLLOW-UP ITEMS

None

9. FUTURE AGENDA ITEMS

None

Next meeting will be held on March 8, 2022.

Meeting adjourned at 9:54 a.m.

Larry Dick
Chair

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
MINUTES

JOINT MEETING OF THE LEGAL AND CLAIMS COMMITTEE

AND

ORGANIZATION, PERSONNEL AND TECHNOLOGY COMMITTEE

February 8, 2022

Legal and Claims Committee Chair Dick called the teleconference meeting to order at 10:03 a.m.

Legal and Claims Committee Members present: Chair Dick, Directors Atwater, Camacho, Fellow, Goldberg, Phan, Record, Smith, Sutley, and Tamaribuchi.

Legal and Claims Committee Members absent: Director Kassakhian.

Organization, Personnel and Technology Committee Members present: Vice Chair McCoy, Directors Blois, Camacho, Cordero, Faessel, Fellow, Jung, Lefevre, Morris, Ortega, Peterson, Smith, Tamaribuchi, and Williams.

Organization, Personnel and Technology Committee Members absent: None

Other Directors present: Chairwoman Gray, Directors Abdo, Ackerman, De Jesus, Dennstedt, Erdman, Fong-Sakai, Kurtz, Miller, Pressman, Quinn, Ramos, and Repenning.

Staff present: Beatty, Hagekhalil, Kasaine, Miyashiro, Scully, Torres, and Upadhyay.

1. OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE COMMITTEE ON MATTERS WITHIN THE COMMITTEES' JURISDICTION

Name	Affiliation	Item
1. Ellen Mackey	Chair of AFSCME Women's Caucus	Agenda Item 2b
2. Alan Shanahan	President of AFSCME Local 1902	Agenda Item 2b

The following Directors provided comments or asked questions:

1. Goldberg
2. Camacho

General Manager Hagekhalil and Ethics Officer Abel Salinas responded to questions.

2. COMMITTEE ITEMS

- a. Subject Report on legal claims alleging equal employment opportunity violations. [Conference with legal counsel – anticipated litigation; based on existing facts and circumstances of receipt of four legal claims threatening litigation, there is significant exposure to litigation against Metropolitan: four potential cases; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(2)]

Presented by: Outside Counsel Jeffrey Wortman of the law firm, Seyfarth Shaw LLP

In closed session, General Counsel Marcia Scully and Outside Counsel Jeffrey Wortman of the law firm, Seyfarth Shaw gave a report on this item.

- b. Subject Discussion regarding potential public release of documents by Shaw Law Group, PC concerning its investigations of equal employment opportunity complaints by four employees. [Conference with legal counsel – anticipated litigation; based on existing facts and circumstances, including receipt of a legal claim threatening litigation, there is significant exposure to litigation against Metropolitan: unknown number of potential cases; to be heard in closed session pursuant to Gov. Code Section 54956.9(d)(2)]

Presented by: General Manager Adel Hagekhalil, General Counsel Marcia Scully, and Ethics Officer Abel Salinas

In closed session, General Manager Adel Hagekhalil, General Counsel Marcia Scully, and Ethics Officer Abel Salinas gave a report on this item.

Vice Chair McCoy announced that no action was taken in closed session on both items 2a and 2b.

3. FOLLOW-UP ITEMS

None

4. FUTURE AGENDA ITEMS

None

5. ADJOURNMENT

Meeting adjourned at 12:56 p.m.

Larry Dick and Tana McCoy
Chair and Vice Chair