



*The Metropolitan Water District of Southern California*

# NEWS RELEASE

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## SUPERIOR COURT MAKES SERIES OF RULINGS IN LAWSUIT CHALLENGING METROPOLITAN RATE STRUCTURE

The Superior Court for the County of San Francisco today took a series of actions related to the San Diego County Water Authority's challenge of Metropolitan Water District's water rate structure.

Most important to Metropolitan, the court sustained the district's demurrer to the Water Authority's breach of fiduciary duty claim against the district, without leave to amend the complaint.

"This eliminates from the case SDCWA's allegations that Metropolitan and its member agencies engaged in any improper procedures in adopting rates or taking other board actions," stated interim MWD General Counsel Marcia Scully in a memo to the district's Board of Directors this afternoon.

The court also sustained Metropolitan's demurrer to SDCWA's cause of action for breach of the covenant of good faith and fair dealing in the exchange agreement involving San Diego's water transfer with Imperial Irrigation District based on MWD's adoption and implementation of the Rate Structure Integrity language, without leave to amend. That language is contained in Metropolitan's resource contracts with its member agencies.

A demurrer is a request for dismissal because the allegations are not sufficient to state a claim, even if they are accepted as true. These rulings eliminate these causes of action from the case.

"Although the court denied Metropolitan's motion to strike the fiduciary duty claim, the ruling on the demurrer makes this denial irrelevant," Scully said in the memo.

The Water Authority's motion to award attorney's fees against Metropolitan for allegedly frivolous filing of the motion to strike was denied, with the court finding that the motion was not frivolous because the court sustained MWD's demurrer.

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The Water Authority's separate cause of action challenging Metropolitan's adoption and implementation of the Rate Structure Integrity language was not addressed by the court today.

The court overruled Metropolitan's demurrer to the Water Authority's claim that MWD breached the exchange agreement by charging illegal rates. This cause of action remains in the case; however, it will be resolved as a part of the determination of the legality of the rates when the first three causes of action are addressed.

The court also overruled Metropolitan's demurrer to the Water Authority's claim alleging San Diego's payments pursuant to the exchange agreement should be credited to SDCWA's preferential rights. The court, however, deferred ruling on the merits and expressly invited a subsequent motion to address this question.

The hearing is scheduled to continue this Friday (Jan. 6) at 2 p.m. At that time, the court is expected to consider Imperial Irrigation District's motion to obtain discovery relating to the original action challenging the rates and Metropolitan's motion to bifurcate the initial rate challenge from the remaining causes of action in SDCWA's first amended petition filed last October.

The Water Authority originally filed its case in June 2010 as a reverse validation action challenging water rates adopted by Metropolitan in April 2010. IID and the Utility Consumers' Action Network joined the case supporting the Water Authority.

Eight Metropolitan member agencies—the city of Glendale, the Los Angeles Department of Water and Power, city of Torrance, Foothill Municipal Water District, Las Virgenes Municipal Water District, the Municipal Water District of Orange County, Three Valleys Municipal Water District and West Basin Municipal Water District—joined the case supporting the district.

Last October, the Water Authority filed its first amended complaint alleging additional causes of action, including breach of contract, breach of fiduciary duty, the unconstitutionality of Metropolitan's Rate Structure Integrity language; and wrongful calculation of San Diego's preferential rights.

Metropolitan staff will provide a detailed discussion of the court action in closed session at the MWD board's Legal and Claims Committee meeting next Tuesday (Jan. 10).

More information on the lawsuit is available on Metropolitan's website, [www.mwdh2o.com](http://www.mwdh2o.com).

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*The Metropolitan Water District of Southern California is a cooperative of 26 cities and water agencies serving nearly 19 million people in six counties. The district imports water from the Colorado River and Northern California to supplement local supplies, and helps its members to develop increased water conservation, recycling, storage and other resource-management programs.*