

FILED
San Francisco County Superior Court



APR 23 2013

CLERK OF THE COURT
BY: Sharon V. [Signature]
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

SAN DIEGO COUNTY WATER
AUTHORITY,

Plaintiff/Petitioner,

vs.

METROPOLITAN WATER DIST. OF
SOUTHERN CALIFORNIA, et al.

Defendants/Respondents.

Case No. CFP-10-510830

ORDER GRANTING SAN DIEGO
COUNTY WATER AUTHORITY'S
MOTION TO COMPEL RESPONSES TO
REQUESTS SERVED ON
METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA

The captioned motion came on regularly for a hearing this date. The parties appeared through counsel. For the reason stated on the record as amplified here, the motion is granted. In so doing, I have in some instances modified the reading of the interrogatory to make more plain the scope of discovery and to ameliorate burdens imposed on Metropolitan.

Discussion

Clarified at the hearing was the fact that San Diego does not seek to have Metropolitan create new documents for purposes of responses. Rather, San Diego is fundamentally, and properly, interested in fixing which document Metropolitan might rely on to support its

determinations the subject of the writ proceeding, or, concomitantly, to establish that certain determinations were not made. The parties may differ on whether certain sorts of determinations had to have been made under the law, but that is not pertinent now.

If Metropolitan has not made certain estimates, calculations, reconciliations or other types of accountings, it need not do so now, and may simply respond that none exists. If they do exist, Metropolitan should identify the documents (where the discovery demands ask for the identification of document) that displays them.

Below, the listed discovery demand should be responded to, as indicated. No comments indicate that no construction of the demand is necessary.

First set special interrogatories.

1. This is construed as expenditures (etc.) *in fact* used by MWD.
2. If MWD has not calculated these accrual actual costs, it may say so.
3. See 1.
4. This is construed as seeking previously created reconciliations. The clause “or enable” is elided.
5. See 4.
6. This is construed as seeking extant projections.
7. This is construed as seeking extant documents sufficient to show the revenue.
8. This is construed as seeking extant documents which in fact ‘break out’ the described costs.
9. This is construed as seeking those extant documents which Metropolitan contends show the described incorporation of Water Stewardship Rates.
10. See 9.

12. This is construed as eliding “or would enable the evaluation of,” and seeking those extant documents which Metropolitan contends show the described benefit .

13, 14, 16, 18, 19 [No comments]

15. See 1.

17. The spreadsheet containing active (i.e., programmable) cells should be disclosed. To be express, this is disclosure of software.¹ The parties should negotiate a suitable protective order.

20. This is construed as seeking extant documents sufficient to show the costs.

21. See 20.

22. See 20.

The balance of the discovery requests at issue in this motion should be responded to as written. As with any interrogatory, responses to form interrogatory 17.1 may be in whole or in part responded to by identifying documents where the burden of gathering the detail is about the same for the demanding and responding parties.

Timing of responses

Metropolitan need not devise or create any documents in order to fully respond, and it has indicated that many of the documents have already been produced. Thus Metropolitan should provide responses (including the actual production of any further documents) no later than May 10.

¹ It may be that additional programs are required to actually operate the spreadsheet even if it is provided as stated here. The parties should confer how best to enable San Diego to manipulate the spreadsheet.

Sanctions

Sanctions were sought for the first time in the reply brief. For that reason, and because it appeared that the motion was necessary to clarify significant issues in the scope of discovery and burdens, the request is denied.

San Diego to give notice of this order.

Dated: April 23, 2013



Curtis E.A. Karnow
Judge of the Superior Court