

FILE
San Francisco County Superior Court



DEC 21 2015

CLERK OF THE COURT
BY: [Signature] Deputy Clerk

SUPERIOR COURT 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-14-514004

ORDER DENYING SAN DIEGO'S
MOTION FOR PARTIAL LIFTING OF
STAY

In this case San Diego attacks Met's 2015-2016 rates which implicates the 2014 administrative record before Met. In February 2015, the parties stipulated to stay this matter while the similar 2010 and 2012 cases were before me, the parties reserving their right to move to lift the stay. San Diego now moves for a partial lift of the stay to have Met lodge the 2014 administrative record. I provided an oral tentative on the record at today's hearing and now adopt it.

Generally the parties' arguments come to this: (i) whether the pending appeal might moot this case or affect the issues and administrative record that would be assembled for the 2015-16 rates, and (ii) whether if we wait until after the Court of Appeal rules, San Diego will be frustrated in its ability to know what was actually before Met at the time it set the 2014 rates.

1 I conclude that the result of the pending appeal may moot at some issues, affecting the
2 scope of the administrative record which Met would assemble for the new case. For example,
3 some rulings could render moot part of the record devoted to the SWP costs. While it is
4 concomitantly true that Met might shape the new record with an eye to the appellate rulings, San
5 Diego will be able to challenge those parts which are improperly part of the record. *See generally*
6 *Evans v. City of San Jose*, 128 Cal.App.4th 1123 (2005); *City of Santa Cruz v. Local Agency*
7 *Formation Comm'n*, 76 Cal.App.3d 381 (1978)

9 I do not find that San Diego's interests in the 2016 administrative record (not before this
10 court) is the sort of consideration I should entertain in this context. And as San Diego agreed at
11 today's hearing, we do not have a serious issue with fading memories and the like in the creation
12 of the record.

14 I turn to San Diego's interest in summary judgment or adjudication. The notion here is
15 that I might enter summary judgment in the new case, and we could have that follow the present
16 appeals. But having me generate another set of rulings—presumably based on the same
17 reasoning I used in the cases now on appeal—doesn't advance the ball. The Court of Appeal will
18 not be further enlightened by that iteration of rulings, and the parties' energies are best harnessed
19 after we have heard from the appellate court.

21 The motion is denied.

24 Dated: December 21, 2015



Curtis E.A. Karnow
Judge Of The Superior Court

CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.260(g))

I, DANIAL LEMIRE, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On **DEC 21 2015**, I electronically served THE ATTACHED DOCUMENT via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: **DEC 21 2015**

T. Michael Yuen, Clerk

By: 

DANIAL LEMIRE, Deputy Clerk