

## ITEM 10

### CHIEF LEGAL COUNSEL'S REPORT New Filings, Recent Decisions, Litigation Calendar

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This public session report is intended only as an information item for the public.<sup>1</sup> Commission communications with legal counsel about pending litigation or potential litigation are reserved for Closed Executive Session, per the Notice and Agenda.

#### New Filings

- *City of San Diego v. Commission on State Mandates, State Water Resources Control Board, Department of Finance*  
Sacramento County Superior Court, Case No. 2019-80003169  
(*Lead Sampling in Schools: Public Water System No. 3710020 (17-TC-03)*),  
Decision Adopted March 22, 2019  
Petition for Writ of Mandate Filed: June 20, 2019  
Date Served: July 10, 2019

#### Recent Decisions

- Petition for Review Denied by California Supreme Court  
*Paradise Irrigation District, et al. v. Commission on State Mandates, Department of Finance, and Department of Water Resources*  
California Supreme Court, Case No. S255512  
Third District Court of Appeal, Case No. C081929  
(*Water Conservation (10-TC-12/12-TC-01)*)  
Petition filed: April 29, 2019  
Petition denied: June 19, 2019

The Court of Appeal's decision is now final, and holds that the claimants continue to have the legal authority to levy fees, even if that authority is subject to the majority protest provisions of Proposition 218. The Court's opinion rejects claims that as a matter of practical reality, the majority protest procedure allows customers to defeat the authority to levy fees. In this respect, the Court continues to adhere to its earlier ruling in *Connell* that the inquiry into fee authority constitutes an issue of law rather than a question of fact. "Fee authority is a matter governed by statute rather than by factual considerations of practicality."

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<sup>1</sup> Based on information available as of July 11, 2019. Release of this litigation report shall not be deemed to be a waiver of any privileged communication or act, including, but not limited to, the attorney-client privilege and the attorney work product doctrine.

Litigation Calendar

<u>Cases</u>	<u>Date of Hearing</u>
<p><b>REMAND of State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Control Board, San Diego Region v. Commission on State Mandates and County of San Diego, et al.</b> <b>Sacramento County Superior Court, Case No. 34-2010-80000604 On remand from Third District Court of Appeal, Case No. C070357</b> <i>Discharge of Stormwater Runoff, 07-TC-09</i> (California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-001)</p>	<p>December 6, 2019 (Continued from June 7, 2019)</p>