

ITEM 15

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

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

New Filings

None.

Recent Decisions

1. **Court of Appeal decision issued (October 16, 2013); Modified opinion filed with no change in judgment (November 14, 2013)**

State of California Department of Finance, State Water Resources Control Board, et al. v. Commission on State Mandates and County of Los Angeles,
Second District Court of Appeal, Case No. B237153
[*Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04,
03-TC-19, 03-TC-20, and 03-TC-21]

The Court of Appeal affirmed the trial court's decision, finding as a matter of law that the requirements of the permit in this case are mandated by federal law and, thus reimbursement is not required pursuant to article XIII B, section 6. The court found, on page 36 of the decision, that:

In reviewing whether particular mandates fall within the maximum extent practicable standard, with respect to the trash receptacle and inspection provisions at issue, we apply *Building Industry, supra*, 124 Cal.App.4th 866 and balance numerous factors, including the particular requirement's technical feasibility, cost, public acceptance, regulatory compliance, and effectiveness. (*Id.* at p. 889.) Trash receptacles are a simple method of keeping stormwater clean because they prevent trash and other debris from entering storm drains and entering the ocean and local rivers and drainage canals. Inspections to insure that the commercial, industrial and construction sites likewise maintain careful practices to prevent stormwater from becoming contaminated is a first line of defense; indeed, insuring compliance in these areas places some of the burden for maintaining clean water on private parties. As a result,

¹ Based on information available as of November 19, 2013. 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.

those provisions further the state Clean Water Act goal of reducing pollution to the maximum extent practicable and thus constitute federal mandates. However, given the flexibility and mutability of the maximum extent practicable standard, of necessity our decision is limited to the specific mandates addressed here.

Litigation Calendar

<u>Case</u>	<u>Date of Hearing</u>
None Scheduled.	