

- December 31, 2008 Quarterly Report

Summary

This is the quarterly report to the Legal & Human Resources Committee on the exercise of powers delegated to the General Manager and the General Counsel by Administrative Code Sections 6431, 6433 and 6434. In addition, the General Counsel reports to the Legal & Human Resources Committee on the exercise of power delegated to her by Section 6431.

Attachments

- ATTACHMENT A - Workers' Compensation Matters Resolved During the Period of October 1, 2008 - December 31, 2008
- ATTACHMENT B - Claims Against Metropolitan During the Period of October 1, 2008 - December 31, 2008
- ATTACHMENT C - Costs Collected During the Period of October 1, 2008 - December 31, 2008
- ATTACHMENT D - Property Damage Written Off as Uncollectible During the Period of October 1, 2008 - December 31, 2008
- ATTACHMENT E - Accounts Receivable Written Off as Uncollectible During the Period of October 1, 2008 - December 31, 2008

Detailed Report

Contracts

Within the past quarter, the General Counsel entered into the following contracts pursuant to her authority under Administrative Code Section 6431:

Executive Presentations, Inc.

Metropolitan retained this consultant to provide litigation support services in connection with the litigation of *Alameda Flood Control and Water Conservation District, Zone 7, et al. v. California Department of Water Resources*.

Harkins Cunningham, LLP

This consultant was retained to provide legal services in the development of strategy for negotiation and legislation related to the renewal or amendment of contracts for electric power generated by hydro-electric facilities located on the Colorado River.

Meserve, Mumper & Hughes, LLP

Metropolitan retained this consultant to provide legal advice and representation in the litigation of *Gregg Whittlesey v. Metropolitan Water District of Southern California*. A brief description of the case can be found on the next page.

Remy Thomas Moose & Manley, LLP

This consultant was retained to provide legal services on various matters concerning the California Environmental Quality Act and/or the National Environmental Policy Act.

Claims

1. Between October 1, 2008 and December 31, 2008, Metropolitan initiated, compromised, settled, or otherwise disposed of the following claims:

- a. Litigated Claims By and Against Third Parties

During the past quarter, Metropolitan initiated, compromised, settled, or otherwise disposed of the following litigated claims by and against third parties.

Gregg Whittlesey v. Metropolitan

Gregg Whittlesey, a former Metropolitan employee who was released during his probationary period, sued Metropolitan alleging wrongful termination in violation of public policy, defamation, and intentional infliction of emotional distress. Metropolitan filed its answer, containing a general denial and affirmative defenses. The parties participated in mediation in August 2008, but did not resolve the case. In August 2008, Metropolitan filed a motion for summary judgment or, alternatively, summary adjudication, requesting dismissal of part or all of the case, which was scheduled for hearing on October 31, 2008. In October 2008, the Court granted Plaintiff's request to continue the motion hearing to December 15, 2008 to permit Plaintiff to conduct further discovery, and the Court rescheduled the December 3, 2008 trial to begin on January 23, 2009. In October 2008, the parties agreed to a settlement of the case pursuant to the General Manager's authority. The terms of the settlement agreement are confidential. The Court dismissed the case with prejudice on November 6, 2008.

Foothill Power Plant Notice of Violation

Metropolitan received a Notice of Violation (NOV) from the Los Angeles Regional Water Quality Control Board (Regional Board) related to Metropolitan's Foothill Power Plant, located near Lake Castaic. The NOV alleged numerous violations of Metropolitan's National Pollutant Discharge Elimination System permit, including discharges exceeding permit limits and the late filing of annual reports between 2001 and 2004. Through mitigation the Regional Board revised the NOV and rescinded 125 of the alleged reporting violations. Among the remaining fifteen alleged violations, seven were classified as "serious" and subject to minimum mandatory penalties of no less than \$3,000 per violation.

Ultimately, Metropolitan was able to settle the case for \$33,000. The State Water Resources Control Board's acceptance of the settlement is made subject to a 30-day comment period after the State Board publishes notice of the proposed settlement and allows public comment. If "significant comments are received in opposition to the settlement," or "new material facts" come to light during the comment period, the State Board reserves the ability to withdraw the offer. In the unlikely event that the settlement offer should be withdrawn, Metropolitan would have the full ability to defend the action and assert all applicable defenses.

- b. Workers' Compensation Matters

The workers' compensation claims settled by the General Manager and the General Counsel within the past quarter are reported in Attachment A.

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- c. Other Claims By and Against Third Parties
Non-litigated third party claims settled by the General Manager and the General Counsel within the past quarter are reported in Attachment B.
 - d. SB 90 Claims
During the past quarter, Metropolitan did not submit any SB 90 claims for reimbursement for state-mandated costs.
 - e. Separation Agreements
Metropolitan did not execute any separation agreement during this period.
2. Costs collected for claims during the past quarter are reported in Attachment C.
 3. Property Damage Claims declared uncollectible by the General Manager within the past quarter are reported in Attachment D.
 4. Accounts Receivable Written Off as Uncollectible by the General Manager during the past quarter are reported in Attachment E.

BLA # 6535

ATTACHMENT A
Workers' Compensation Matters Resolved During the Period of
October 1, 2008 – December 31, 2008

Classification	Control No.	Date of Injury	Amount of Settlement	Nature of Injury	Basis for Settlement
Engineering Technician	2008-0325-0607	3/24/08	\$2,070.00	Lower back	Stipulated settlement based on treating physician's report.
Maintenance Mechanic	1999-1011-0161	10/6/99	\$3,780.00	Left knee	Stipulated settlement based on treating physician's report.
Maintenance Mechanic	2006-0731-0068	5/22/06	\$25,000.00	Respiratory/pulmonary system, chest	Compromise and release, negotiated settlement of all claims, all issues.
Engineering Technician	2007-0424-0603	4/18/07	\$6,177.14	Bilateral hearing loss	Stipulated settlement based on Qualified Medical Evaluator's report.
Administrative Assistant	98-0916-0132 2003-0224-0526 2004-0225-0464	9/16/98 2/22/03 CT* 2/24/03	\$71,453.75	Back, chest	Stipulated settlement based on Agreed Medical Evaluator's report.
Hydroelectric Technician	2001-0319-0545 2001-1105-0224 2002-0320-0478 2003-0107-0417 2005-0929-0167 2006-0215-0421 2006-1106-0246	3/16/01 10/30/01 3/18/02 12/23/02 9/28/05 12/31/05 CT* 10/31/06	\$5,280.00	Neck, thoracic & lumbar spine, right elbow	Stipulated settlement based on Agreed Medical Evaluator's report.
Electronic Technician	2005-1104-0224	11/1/05 CT*	\$0.00	Bilateral hearing loss	Stipulated settlement (providing future medical treatment only) based on treating physician's report.

* CT = Continuing Trauma

ATTACHMENT B
Claims Against Metropolitan During the Period of
October 1, 2008 – December 31, 2008

Claimant	Control No. CW No.	Amount of Settlement	Incident Description	Basis for Resolution
Jesus Rivera	2008-0407-0642 CW 1478899	\$1,100.00	On 3/28/08, a District driver struck and damaged a third party vehicle.	The third party property damage claim was settled based on evaluation of damages and the repair estimate.
Jesus Rivera	2008-0407-0641 CW 1478897	\$1,319.36	On 3/24/08, a District driver struck and damaged a third party vehicle.	The third party property damage claim was settled based on evaluation of damages and the repair estimate.
Marisa Wright	2008-0220-0526 CW 1471683	\$250.00	On 2/16/08, a District driver rear-ended a third party vehicle.	The third party bodily injury claim was settled based on evaluation of the cause, impact, damages, and treatment.
Bobby Hunt	2008-0220-0526 CW 1471683	\$1,891.20	On 2/16/08, a District driver rear-ended a third party vehicle.	The third party property damage claim was settled based on evaluation of damages and the repair estimate.

ATTACHMENT C
Costs Collected During the Period of
October 1, 2008 – December 31, 2008

Third Party or Cause	Control No. CW No.	Damage Amount	Incident Description	Basis for Costs Collected
Olin Corporation	2005-1121-0264 CW 1396599	\$2,043.13	On 11/17/05, third party damaged District gate.	The claim for property damage was paid in full by the third party.

ATTACHMENT D
Invoices Written Off as Uncollectible During the Period of
October 1, 2008 – December 31, 2008

Third Party or Cause	Control No. "CW No.	Project No.	Damage Amount	Incident Description	Basis for Write-Off	Date Written Off
Unidentified Third Party	2008-1003-0242 CW 1488264	761550	\$630.00	On 10/1/08, an unidentified third party damaged a section of District fence.	The property damage costs were written off because the third party could not be identified.	12/12/08
Unidentified Third Party	2008-0826-0152 CW 1488263	761542	\$5,280.00	On 8/25/08, an unidentified third party damaged a section of District fence.	The property damage costs were written off because the third party could not be identified.	12/12/08
Unidentified Third Party	2008-0807-0108 CW 1488262	761534	\$480.00	On 8/5/08, an unidentified third party damaged a section of District fence.	The property damage costs were written off because the third party could not be identified.	12/12/08
Damage During Use	2008-0730-0090 CW 1482493	761531	\$2,372.99	On 7/29/08, a District driver backed into a concrete planter and damaged District vehicle.	The property damage costs were written off because the damage occurred during the course and scope of employment.	12/12/08
Damage During Use	2008-0715-0044 CW 1481577	761527	\$617.43	On 7/14/08, a District vehicle was struck and damaged by road debris.	The property damage costs were written off because the damage occurred during the course and scope of employment.	12/12/08

ATTACHMENT D
Invoices Written Off as Uncollectible During the Period of
October 1, 2008 – December 31, 2008

Third Party or Cause	Control No. "CW No.	Project No.	Damage Amount	Incident Description	Basis for Write-Off	Date Written Off
Damage During Use	2008-0521-0782 CW 1477291	761503	\$1,006.14	On 5/16/08, a District driver backed into another parked District vehicle.	The property damage costs were written off because the damage occurred during the course and scope of employment.	12/12/08
Unidentified Third Party	2008-0407-0648 CW 1474388	761487	\$425.32	On 5/4/08, an unidentified third party damaged a section of District fence.	The property damage costs were written off because the third party could not be identified.	12/12/08

ATTACHMENT E
 Accounts Receivable Written Off as Uncollectible During the Period of
October 1, 2008 – December 31, 2008

Invoice Date	Invoice Number	Customer Name	Invoice Amount	Brief Description	Basis for Write-Off	Date Written Off
8/3/07	34798	John Laing Homes	\$83,723.57	Reimbursable cost incurred by the relocation of Metropolitan's Orange County Feeder project 701522	Long-standing debt uncollectible in lawsuit due to expiration of statute of limitations.	10/27/08
2/5/07	34390	Louis Cardenas	\$1,679.42	To recover balance due to MWD for workers compensation payment in excess of base salary.	After lawsuit and settlement resulted in collection of a portion of the debt, remaining amount written-off due to debtor's lack of funds.	11/5/08
		Total	\$85,402.99			