



- Board of Directors
Legal and Claims Committee

4/9/2013 Board Meeting

7-6

Subject

Approve writing off uncollectible cleanup and repair costs

Executive Summary

The Administrative Code authorizes the General Manager, after receiving the advice of the General Counsel, to determine that claims or accounts receivable are not collectible and to direct the writing off of such items in order to adjust Metropolitan's accounts. For items in excess of \$125,000, such action requires approval by the Board of Directors.

This letter seeks board approval for the writing off of the costs of four reimbursable projects discussed in this letter. The uncollectible amount for each of these projects exceeds \$125,000. The unreimbursed project costs total \$1,426,394.77 and would be written-off in the current fiscal year.

Details

When reviewing expenditure records for reimbursable projects, staff determined that the costs for two cleanup projects and two repair projects exceeding \$125,000 would not likely be recovered from third parties. This letter provides details about the projects and requests board concurrence that the costs cannot be collected and authorization to write off the uncollectible costs in the current fiscal year. This action is consistent with accounting standards that require project costs be written off when determined to be uncollectible. These projects were set up as reimbursable projects with the goal that third-party liability and eventual cost recovery would be established. However, as noted, approximately \$1.4 million remains uncollected, and based on review of these projects, it has been determined that Metropolitan will not likely recover any costs from third parties.

Orange County Feeder leak investigation and repair, Costa Mesa (2004)

In June 2004, a Metropolitan patroller noticed surfacing of water above the Orange County Feeder in a street intersection in the city of Costa Mesa. Metropolitan's own forces conducted the inspections, shutdowns, and necessary repairs at a cost of \$488,512.46.

Investigations concluded an errant boring drill had struck the pipeline during construction of underground telecommunications conduits circa 1993, thereby damaging the pipeline's protective coating. It can take several years for a leak to develop as a result of oxidation and corrosion of the exposed steel. In January 2007, Metropolitan initiated litigation against a telecommunications company for damages and repair costs arising from the leak. During discovery, previously unknown evidence came to light that caused Metropolitan to reevaluate the case. The parties settled Metropolitan's claim for \$12,000, which reduced operating and maintenance expenses. The project has been closed, and it is recommended that these costs be written off.

Arroyo Seco contaminated soil removal, Pasadena (1989)

In 1989, Metropolitan removed an underground fuel storage tank from its Arroyo Seco property in Pasadena. The tank had been installed prior to Metropolitan's purchase of the property. The surrounding soil evidenced petrochemical contamination, and Metropolitan retained a contractor to perform the cleanup. The total cost of the work was \$362,049.83.

Staff searched and reviewed site history documentation with the Environmental Health and Safety, Real Property, Risk Management, and the Legal Department. The research indicated that multiple lessees and/or trespassers may have contributed to the contamination. Based on information retrieved from previously prepared property appraisals, environmental assessments, and confidential Legal Department analyses, staff determined that there was insufficient evidence to identify a party liable for the cleanup costs. The project has been closed, and it is recommended that these costs be written off.

Eagle Valley West cleanup of oil released from storage tank, Riverside (1995)

In 1995, over 5,000 gallons of oil were released from a storage tank on the Eagle Valley West property near Lake Mathews. Metropolitan retained a contractor to perform the cleanup. The total cost of the work was \$354,958.62. Later, records could not be located regarding the origin or use of the tank. Staff determined it was impossible to identify a responsible third party. The project has been closed and it is recommended that these costs be written off.

Orange County Feeder leak investigation and repair, Newport Beach (2009)

In February 2009, a Metropolitan patroller discovered water surfacing above another apparent leak in the Orange County Feeder in the city of Newport Beach. Metropolitan's own forces conducted the inspections, shutdowns, and necessary repairs at a cost of \$220,873.86.

Similar to the 2004 incident, investigations indicated that errant drilling of underground conduit borings caused the initial damage to the pipeline, in this case from construction in 1996. In June 2009, Metropolitan submitted payment demands to two telecommunications companies believed to be liable for the damages. Metropolitan later determined that recovery of the costs was not feasible from the two corporations. The project has been closed and it is recommended that these costs be written off.

Refinements to project cost tracking

Since these incidents occurred, staff from engineering, risk management, and finance have implemented new practices for classifying and tracking repair project costs. Now, project costs are attributed to reimbursable projects only after a case-specific analysis in consultation with the Legal Department determines that third-party liability can be established and reimbursement is possible. If third-party liability cannot be established, such repair projects are completed under operations and maintenance budgets.

Policy

Metropolitan Water District Administrative Code Section 6434: Writing Off Uncollectible Claims

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not subject to CEQA because it involves government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (Section 15378(b)(4) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Section 15378(b)(4) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination and

- a. Approve the determination that the four reimbursable projects discussed in this letter are not collectible; and
- b. Approve the write-off of such claims in the current fiscal year.

Fiscal Impact: For accounting purposes, approximately \$1.4 million written off to expense in current fiscal year. Since funds were expended in prior years, there is no cash flow impact.

Business Analysis: Writing off uncollectible claims is in conformance with generally accepted accounting principles.

Option #2

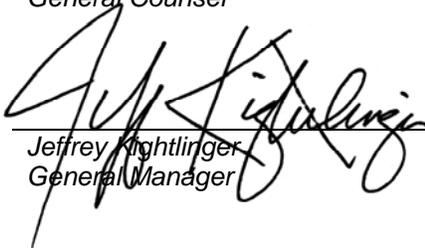
Do not authorize write-offs.

Fiscal Impact: None, because costs were expended in prior years.

Business Analysis: Deferring write-off of these amounts would be inconsistent with generally accepted accounting principles.

Staff Recommendation

Option #1

	3/22/2013
_____ Marcia Scully General Counsel	Date
	3/26/2013
_____ Jeffrey Nightlinger General Manager	Date