



- Board of Directors  
*Legal and Claims Committee*

12/10/2019 Board Meeting

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**7-4**

## **Subject**

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Authorize filing claims with the federal government for the recovery of costs resulting from damages to Metropolitan infrastructure due to the crash of a military helicopter in the amount of approximately \$315,000; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

## **Executive Summary**

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A United States military helicopter accidentally struck and damaged Metropolitan's high-voltage transmission ground lines northwest of Parker Dam, California. Metropolitan is seeking to file a claim with the federal government to recover costs for the damages incurred.

### **Timing and Urgency**

Metropolitan has two years from the date of the incident, October 28, 2018, to file claims with the federal government.

## **Details**

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### **Background**

On October 28, 2018, a United States military helicopter struck and damaged Metropolitan's high-voltage transmission ground lines about 10 miles northwest of Gene and Intake Pumping Plants. Metropolitan entered into an emergency contract with a contractor to make repairs to the damaged transmission ground lines, transmission line conductor, and steel tower components. In addition, Metropolitan mobilized staff and provided materials to make the emergency repairs to the transmission and ground lines. As a result of the incident, there was a power outage at Iron Mountain Pumping Plant for approximately forty minutes. During the power outage, about 50.2 acre-feet of water spilled from the Colorado River Aqueduct through a spillway onto the desert floor. Metropolitan's claim for damages arises under the Federal Tort Claims Act and the Military Claims Act. Under these laws, the claim will be submitted to the federal government.

### **Summary of Costs**

Metropolitan entered into an emergency contract with the contractor Henkels and McCoy to repair approximately 8,000 feet of transmission ground lines, a small section of transmission line, and the supporting structural components in the amount of \$166,962.70. The contractor costs included labor hours, equipment rentals, lodging, and meals. Metropolitan also used in-house labor for field inspection and to assist in making repairs. The project was characterized as a capital project due to the infrastructure repairs, and Metropolitan provided labor totaling approximately \$96,458. The labor costs included labor hours, overhead, and additives to cover costs for employee benefits.

Metropolitan provided all the materials needed to make the repairs, which Metropolitan stocks specifically in the event of an emergency. The material costs for repairs was approximately \$16,843. These costs included actual costs for materials Metropolitan had to restock, quotes for items that were used but not replaced because Metropolitan has surplus stock of these items, and an item where there was no equivalent replacement but an estimated cost was provided by staff.

As a result of the power outage, 50.2 acre-feet of water spilled onto the desert floor and was lost. This water was untreated water, which in 2018 cost \$695 per acre-foot at Metropolitan's Tier 1 rate. Accordingly, the total costs for the 50.2 acre-feet of spilled untreated water at \$695 was \$34,889.

There were also a number of miscellaneous costs for the recording of the final project in Riverside County and extra security for the removal of the helicopter from the area, which was approximately \$170.

The grand total for all the costs is approximately \$315,000. Metropolitan has been damaged in this amount, and staff recommends that the Board grant authority to file claims under the Federal Tort Claims Act and the Military Claims Act.

## Policy

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Metropolitan Water District Administrative Code Section 6433: Authority to Litigate, Compromised and Settle Claims By and Against the District

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

## California Environmental Quality Act (CEQA)

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### CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves the creation of government funding mechanisms or other 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). In addition, the proposed action is not defined as a project under CEQA (Public Resources Code Section 21065, State CEQA Guidelines Section 15378) because the proposed action will not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). Finally, it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, therefore the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

### CEQA determination for Option #2:

None required

## Board Options

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### Option #1

Authorize filing claims with the federal government for the recovery of damages to Metropolitan in the amount of approximately \$315,000.

**Fiscal Impact:** If Metropolitan is able to collect on the claims, it could recover damages up to approximately \$315,000.

**Business Analysis:** Filing claims with the federal government will enable Metropolitan to seek costs as a result of the incident.

### Option #2

Take no action and do not authorize filing claims.

**Fiscal Impact:** Metropolitan would write-off \$315,000.

**Business Analysis:** If Metropolitan does not file claims with the federal government, it would write-off the costs incurred as a result of this incident.

## Staff Recommendation

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Option #1

  
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 Marcia Scully  
 General Counsel

11/14/2019  
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 Date