



Matters Involving Metropolitan

Omega Chemical Corporation Superfund Site, *United States of America v. Abex Aerospace*, (U.S. District Court, Central District of California)

In December 2015, staff reported to the Board on Metropolitan's involvement in the Omega Chemical Corporation (Omega) Superfund Site (Omega Site), and requested authority to enter into a consent decree for a partial settlement with the U.S. Environmental Protection Agency (EPA) as part of a work group of potentially responsible parties (PRPs). On March 31, 2017, the federal court approved EPA's proposed consent decree, approving the terms of this settlement.

Between 1989 and 1991, Metropolitan sent waste to the Omega Site, located in Whittier, California, for recycling and disposal. Omega was, at the time, fully permitted by both the California Department of Toxic Substances Control (DTSC) and EPA as a hazardous waste treatment, storage, and disposal facility. Manifests signed by Omega indicate that the material was received and recycled in accordance with all applicable laws.

Following the time that Metropolitan sent waste to the site, Omega was cited by the DTSC for failure to properly manage the facility. Eventually its permits were revoked and operations at the site were suspended. Criminal charges were brought against the Omega Site owner/operator.

In 1995, EPA issued Administrative Order 95-15 requiring Metropolitan and 169 other named PRPs to undertake immediate cleanup of the Omega Site under provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Metropolitan, in compliance with the order, has participated in the cleanup as a member of the PRP work group since May 1995. Under the initial EPA order and PRP work group agreement, the parties removed the

hazardous waste drums from the Site and completed a site characterization and preparation of a work plan.

As reported to the Board in 2000, Metropolitan entered into a partial consent decree that year to address preliminary cleanup of the Omega Site. Under the work plan for this partial consent decree, the parties designed and implemented a groundwater containment and treatment system, implemented a remedial investigation/feasibility study for contaminated soils at the Omega Site, and installed three sentinel wells to monitor the Site. The estimated operation of the groundwater treatment system is 20 years.

Between 2010 and 2012, EPA developed a further work plan for cleanup of a groundwater plume, allegedly emanating from the Omega Site. During this time, the PRP work group continued cleanup and study efforts to control the spread of the contamination. The PRP work group completed negotiations on a partial settlement of the groundwater cleanup in late 2015.

As authorized by the Board in December 2015, Metropolitan signed the partial settlement agreement, as a member of the settling work group. The partial settlement agreement was memorialized by EPA in a proposed consent decree, which was circulated for public comment. After receipt of comments and legal briefing on the matter, on March 31, 2017, the court found that the settlement was procedurally and substantively fair, reasonable, and consistent with governing statutes, primarily, CERCLA, and approved the consent decree.

Absent any further legal challenges or appeals, this allows the PRP working group to move forward with additional groundwater investigation and remediation. Staff will update the Board on any significant future activity in this matter.



Cases to Watch

U.S. Supreme Court Will Decide Which Court Should Hear Clean Water Rule Challenges

On April 3, 2017, the U.S. Supreme Court denied the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers' (Corps) motion to put on hold the briefing in the appeal of the Sixth Circuit's decision that it has jurisdiction to hear challenges to the Clean Water Rule (also known as the waters of the U.S. (WOTUS) rule). The agencies had asked that the briefing be held in abeyance until, pursuant to President Trump's Executive Order, they review and either rescind or revise the Clean Water Rule. The Natural Resources Defense Council, National Wildlife Federation, American Farm Bureau Federation, and others had opposed the agencies' motion and urged the Supreme Court not to put the briefing on hold. The deadline for petitioners to file their opening brief is currently April 13, 2017.

Michigan To Pay \$87 Million to Replace Flint Water Lines

On March 28, 2017, a federal district court judge approved a settlement agreement by which the state of Michigan will pay \$87 million for the city of Flint to replace lead and galvanized steel service lines at a minimum of 18,000 houses served by Flint's public water system over the next three years. Lead and galvanized steel water lines will be replaced with copper water service lines. The settlement resolves a lawsuit brought by the Natural Resources Defense Council, American Civil Liberties Union, Concerned Pastors for Social Action, and Melissa Mays seeking immediate and long-term remedial action to address lead contamination in Flint's public water system. According to the settlement agreement, the plaintiffs will receive \$895,000 for their fees and costs.

Other Matters

Finance

On March 1, 2017, Metropolitan issued \$80,000,000 Water Revenue Bonds, 2017 Authorization, Series A to pay a portion of Metropolitan's capital expenditures. Also, on March 1, Metropolitan and Citibank, N.A. executed a standby bond purchase agreement for the bonds to provide liquidity support. Legal Department staff worked with finance staff, bank counsel, outside bond counsel and disclosure counsel to prepare the Official Statement and other disclosure documents and to negotiate and provide the agreements, notices, certifications and opinions necessary for closing.

On March 21, Metropolitan posted the remarketing statement for its \$88,800,000 Water Revenue Bonds, 2000 Authorization, Series B-3 in connection with: a) the March 29, 2017 remarketing of the bonds, b) the replacement of

the liquidity facility, c) the replacement of the remarketing agent and d) the amendment of the paying agent agreement. Metropolitan and Citibank, N.A. executed a standby bond purchase agreement dated March 29, 2017 to provide the liquidity support for these bonds which will terminate on March 27, 2020, unless extended or terminated sooner. Metropolitan also executed a remarketing agreement dated March 29, 2017 to replace the remarketing agent for the bonds with Citigroup Global Markets Inc. On March 29, Metropolitan and Wells Fargo Bank National Association executed the second supplement to the paying agent agreement for the bonds, amending and updating certain provisions of the paying agent agreement. Legal Department staff attorneys worked with finance staff, bank counsel, outside bond counsel and disclosure counsel to negotiate, prepare and deliver the documents for these transactions.



Matters Received by the Legal Department

<u>Category</u>	<u>Received</u>	<u>Description</u>	
Government Code Claim	60	55 Claims for possible bacterial infections and other injuries due to alleged exposure to contaminated water while Claimants were treated at Children's Dental Group in Orange County; 4 claims for loss of rent and business income due to construction work to replace an MWD valve on Collis Avenue in Los Angeles; 1 claim for an accident involving an MWD vehicle	
Subpoenas	2	Two subpoenas for employment-related records served in the same workers' compensation matter	
Requests Pursuant to the Public Records Act	16	<u>Requestor</u>	<u>Documents Requested</u>
		Allied Universal Janitorial Services	Evaluation data for proposals submitted for Janitorial Services
		Applied EarthWorks, Inc.	1935 and 1943 editions of Aqueduct News, and MWD paper on "Camps and Housing"
		California Employment Development Department	Job titles and wages for MWD employees working in Riverside and Los Angeles Counties
		California State University, San Marcos, Student	Types and frequency of thermo imagery inspections performed by MWD of its facilities
		Center for Contract Compliance (3)	Contract information for: (1) Lake Mathews Power Plant Powerhouse Repair; (2) Allen McColloch Pipeline Cathodic Protection; and (3) CRA Whitewater Siphons Erosion Protection
		Geocon West, Inc.	Geologic or geotechnical studies prepared to develop Lake Skinner Reservoir
		NCS as Agent for Tessco Incorporated	Payment bond for Unispec Construction, Inc. for work on wireless-related products for the telecommunications and control systems DVL Wide Area Network Microwave Upgrade Project
		Olin Corporation	Bid tabulation for proposals submitted for bulk chlorine and caustic soda
		Pencco	Bid tabulation for proposals submitted for bulk chlorine and caustic soda



<u>Category</u>	<u>Received</u>	<u>Requestor</u>	<u>Description</u>	<u>Documents Requested</u>
		Private Citizen		MWD Capital Projects Plan
		Regional Government Services		Job description for Administration Service Manager/Director
		SDCWA (2)		(1) MWD request for quotation for Landscape Design Consulting Services; and (2) spreadsheet showing program-wide data for MWD's Water Savings Incentive Program
		University of Texas at Austin Graduate Student		Turf removal data, including square footage of turf removed, type of replacement, and refund rates
Other Matters	1	Wage garnishment		