



## ● December 31, 2010 Quarterly Report

### Summary

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This is the quarterly report to the Legal and Claims 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 and Claims Committee on the exercise of power delegated to her by Section 6431.

### Attachments

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ATTACHMENT A:	Workers' Compensation Matters Resolved During the Period October 1, 2010 - December 31, 2010.
ATTACHMENT B:	Claims Against Metropolitan During the Period October 1, 2010 - December 31, 2010.
ATTACHMENT C:	Costs Collected During the Period October 1, 2010 - December 31, 2010.
ATTACHMENT D:	Property Damage Written Off as Uncollectible During the Period October 1, 2010 - December 31, 2010 - None
ATTACHMENT E:	Accounts Receivable Written Off as Uncollectible During the Period October 1, 2010 - December 31, 2010 - None.

### Detailed Report

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#### Contracts

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

#### Kenneth W. Abele, Ph.D.

Metropolitan retained this consultant to provide expert consultant services with respect to Bay-Delta ecology, habitat, predation, marsh restoration, food web and estuarine population issues, and other related biological, conservation and restoration matters.

#### ArcherNorris PLC

Metropolitan retained the ArcherNorris law firm to provide professional legal representation and consultation in the defense of Los Angeles Superior Court Case No. BC 447695, *Elizama G. Langer, individually and as representative of the Estate of Juergen J. Langer, Wolfgang Langer, Abraham J. Langer, Elizama I. Langer v. 3M Company, et al.*, and its associated cases, actions and claims. This case is an asbestos wrongful death and related survival action alleging causes of action for negligence, strict liability and premises liability against Metropolitan alleging that the decedent developed mesothelioma as a result of exposure to asbestos while working on Metropolitan property.

#### Burch, Porter & Johnson, PLLC

Metropolitan retained the services of Special Counsel to provide representation and legal counsel in the lawsuit entitled, *J-Line Pump Co. v. Metropolitan Water District*, Circuit Court of Shelby County, Tennessee, Case No. CT-001273-10. This is a breach of contract action based on an alleged duty to pay by Metropolitan for a large water pump procured from a corporation in Tennessee for the benefit of the State Water Project. Metropolitan contends that the pump is defective and there is no duty to pay for it.

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Metropolitan also filed a counterclaim alleging that J-Line Pumps violated the False Claims Act during the transaction.

### Ellison, Schneider & Harris LLP

Metropolitan retained this consultant to provide legal advice and counsel regarding a potential water transfer from Tri-City Water and Farm, LLC and Conaway Preservation Group.

### GeoPentech

Metropolitan retained this consultant to analyze surface and groundwater flows related to that certain real property described as parcels 2, 3 and 4 of parcel Map No. 31527, as shown by map on file in Book 208, pages 1 and 2, of Parcel Maps, records of Riverside County (Riverside County Assessor Parcel Nos. 263-060-036, -037 and -038), and to provide litigation support and expert witness testimony in connection with property claims alleged in the case of *Village Retail Center, LLC v. Metropolitan Water District*, Los Angeles County Superior Court Case No. BC 439334, stemming from the construction of Metropolitan's Perris Valley Pipeline North Reach Project.

### Robert Charles Lesser & Co.

Metropolitan retained this consultant to assist in providing expert advice and testimony in the case entitled, *Village Retail v. Metropolitan Water District*, et al., Los Angeles Superior Court Case No. BC 439334, stemming from the construction of Metropolitan's Perris Valley Pipeline North Reach Project.

### Mason & Mason

Metropolitan retained this consultant to appraise property damage claims, including loss of access and interference with groundwater, and to provide related litigation support and expert witness testimony in *Village Retail Center, LLC v. Metropolitan Water District*, Los Angeles County Superior Court Case No. BC 439334, stemming from the construction of Metropolitan's Perris Valley Pipeline North Reach Project.

### Musick, Peeler & Garrett LLP

Metropolitan retained this consultant to investigate and provide recommendations on charges of discrimination filed with the Equal Employment Opportunity Manager. The consulting services agreements were amended this quarter.

### Richard J. Proctor

Metropolitan retained this consultant to assist with the analysis of disputed property interests in the Lake Mathews area and to provide mediation and other litigation support to Metropolitan related to this property dispute.

### Public Interest Investigations, Inc.

Metropolitan retained this consultant to investigate and provide recommendations on complaints lodged with the Metropolitan Equal Employment Opportunity Manager and to investigate employees' complaints alleging retaliation in violation of law and Metropolitan's administrative policies.

## Claims

1. Between October 1, 2010 and December 31, 2010, Metropolitan initiated, compromised, settled, or otherwise disposed of the following claims:
  - a. Litigated Claims By and Against Third Parties  
Metropolitan did not initiate, compromise, settle, or otherwise dispose of any litigated claims by and against any third parties within this past quarter.

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- b. Workers' Compensation Matters  
Workers' compensation claims settled by the General Manager and the General Counsel within this past quarter are reported in Attachment A.
- c. Other Claims By and Against Third Parties  
Non-litigated third party claims settled by the General Manager and the General Counsel within this past quarter are reported in Attachment B.
- d. SB 90 Claims  
Metropolitan submitted the following SB 90 claims for reimbursement for state-mandated costs within this past quarter.

Local Government Consultants completed the SB-90 work on Public Employment Relations Board claims and, on December 1, 2010 filed with the State Controller's Office claims totaling \$541,531 on Metropolitan's behalf. The state extended the original due date for these claims from December 1, 2009 to December 1, 2010 with a 10% late filing fee.

<i>Fiscal Year</i>	<i>Claim Amount</i>	<i>10% late filing</i>	<i>Net Claim</i>
2008/09	\$86,041	\$(8,604)	\$77,437
2007/08	\$189,716	\$(18,972)	\$170,744
2006/07	\$279,159	\$(27,916)	\$251,243
2005/06	\$37,791	\$(3,779)	\$34,012
2001/02	\$8,994	\$(899)	\$8,095
	\$601,701	\$(60,170)	\$541,531

- e. Separation Agreements  
Metropolitan did not execute any separation agreements within this past quarter.
2. Costs collected for claims within this past quarter are reported in Attachment C.
  3. No Property Damage Claims declared uncollectible by the General Manager were reported within this past quarter.
  4. No accounts receivable were written off as uncollectible by the General Manager within this past quarter.

**ATTACHMENT A**  
Workers' Compensation Matters During the Period  
October 1 – December 31, 2010

<b>Classification</b>	<b>Control No.</b>	<b>Date of Injury</b>	<b>Amount of Settlement</b>	<b>Nature of Injury</b>	<b>Basis for Settlement</b>
Maintenance Mechanic II	2005-0310-0424 2006-0224-0435 2007-0221-0446 2007-0927-0210	1/19/05 2/24/06 2/22/06 1/06/06	\$50,000.00	Back, hips, psyche	Compromise and release, negotiated settlement.
O&M Technician IV	2009-0707-0014	7/7/09	\$6,210.00	Right knee	Stipulated settlement based on treating physician's report.
Senior Engineering Technician	2004-1130-0262 2008-0814-0121 2009-0424-0710	11/30/04 8/12/08 4/24/09	\$30,000.00	Back, neck, right shoulder	Compromise and release, negotiated settlement.
O&M Technician IV	2009-0106-0438	1/6/09	\$23,172.50	Left shoulder	Stipulated settlement based on treating physician's report.
Inspector IV	2007-0905-0158	2/20/07	\$15,000.00	Left shoulder	Compromise and release, negotiated settlement.
Inspection Trip Manager	2009-1005-0232	10/2/09	\$9,717.50	Left hand, left arm, neck	Stipulated settlement based on treating physician's report.

**ATTACHMENT B**  
 Non-Litigated Third Party Claims Resolved During the Period  
October 1 – December 31, 2010

Claimant	Control No. CW No.	Amount of Settlement	Incident Description	Basis for Resolution
Falcon Waterfree Technologies, LLC	2010-1228-0326	\$125,000.00	In FY08-09, Metropolitan cancelled the Public Sector Program (PSP) due to conservation budget overruns of FY08-09. Falcon threatened litigation challenging Metropolitan's refusal to consider PSP applications for approximately 860 installed waterless urinals installed at several public school and municipal facilities.	The threatened claim and litigation was settled based upon evaluation of equitable factors such as water conservation benefits of installed devices, and availability of current-year conservation program funding. As part of settlement, Metropolitan agreed to accept and process applications by Falcon for the installed devices under the Commercial Program, with the incentive amount (\$400 per verified installed unit) applicable in FY08-09.

**ATTACHMENT C**  
Costs Collected During the Period  
October 1 – December 31, 2010

<b>Third Party or Cause</b>	<b>Control No. CW No.</b>	<b>Damage Amount</b>	<b>Incident Description</b>	<b>Basis for Costs Collected</b>
Lisa and Mark Hudson	2010-0119-0405	\$947.51	On 1/17/10, a third party driver struck and damaged a sign at the Lake Skinner main gate.	The property damage claim was paid in full by the third party's insurance carrier.
Paul Chuan Sun, Farmers Insurance Group	2009-0915-0192 CW 1504083	\$3,372.10	On 9/14/09, a third party driver rear-ended District vehicle.	The property damage claim was paid in full by the third party's insurance carrier.
Joel Davis, All State Indemnity Company	2008-1209-0396 CW 1516936	\$1,690.00	On 12/5/08, a third party struck and damaged District fence.	The property damage claim was paid in full by the third party's insurance carrier.
Meva Paving Inc., Century-National Insurance Company	2010-0914-0144 CW1536517	\$2,917.03	On 9/13/10, a third party driver struck and damaged District meter, cabinet, and antenna.	The property damage claim was paid in full by the third party's insurance carrier.



