



## • March 31, 2017 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 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  
January 1, 2017 - March 31, 2017.
- ATTACHMENT B: Claims Against Metropolitan Resolved by Risk Management During the Period  
January 1, 2017 - March 31, 2017.
- ATTACHMENT C: Costs Collected During the Period  
January 1, 2017 - March 31, 2017.
- ATTACHMENT D: Property Damage Written Off as Uncollectible During the Period  
January 1, 2017 - March 31, 2017 - None.
- ATTACHMENT E: Accounts Receivables Written Off as Uncollectible During the Period  
January 1, 2017 - March 31, 2017.

### Detailed Report

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#### Contracts

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

#### **Animators at Law, Inc. dba A2L Consulting**

Metropolitan retained this consultant to provide litigation consulting services in connection with the *San Diego County Water Authority v. Metropolitan Water District of Southern California*, San Francisco County Superior Court Case Nos. CPF-10-510830 and CPF-12-512466, CPF-14-514004 and CPF-16-515282; and the appeal of the 2010 and 2012 actions, Court of Appeal for the First Appellate District Case Nos. 146901 and A148266.

#### **Atkinson, Andelson, Loya, Ruud & Romo**

Metropolitan retained the services of special counsel to investigate and provide recommendations on allegations of discrimination lodged by an employee with Metropolitan's EEO office.

#### **Hanson Bridgett LLP**

Metropolitan retained the services of special counsel to provide Metropolitan with the following services: advice on water rates, charges and assessments, advice on property tax matters, advice regarding pending or proposed federal and state legislation or regulatory agency rules, actions or policies which have a bearing on rates, advice and representation of Metropolitan in litigation or administrative agency proceedings other than the *San Diego County Water Authority v. Metropolitan Water District of Southern California*, San Francisco County Superior Court Case Nos. CPF-10-510830 and CPF-12-512466, CPF-14-514004 and CPF-16-515282;

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and the appeal of the 2010 and 2012 actions, Court of Appeal for the First Appellate District Case Nos. A146901 and A148266.

### **Horvitz & Levy LLP**

Metropolitan retained the services of special counsel to provide appellate legal advice in connection with the *State Water Contractors, et al. v. Delta Stewardship Council* appeals pending in the Third Appellate District Case No. C082944.

### **Liebert Cassidy Whitmore**

Metropolitan retained the services of special counsel to provide legal advice, opinions, assistance and representation to the General Counsel to assist in representing Metropolitan and protecting Metropolitan's interest in the areas of labor and employment relations law.

### **Olson Hagel & Fishburn LLP**

This agreement was amended this quarter to reflect an increase in the maximum amount payable and to modify the Special Counsel Guidelines.

### **Public Interest Investigations, Inc.**

This agreement was amended this quarter to reflect an increase in the maximum amount payable.

### **Umberg Zipser LLP**

Metropolitan retained the services of special counsel to provide advice as requested on ethics and professional responsibility and related matters.

## **Claims and Other Matters**

1. Between January 1, 2017 – March 31, 2017, Metropolitan initiated, compromised, settled, or otherwise disposed of the following claims and entered into the following separation agreements:
  - a. Litigated, Compromised and Settled Claims By and Against Third Parties  
Metropolitan entered into the following settlement agreement within this past quarter.

### **Please see the following activity:**

On September 22, 2016, the Department of Toxic Substances Control (“DTSC”) conducted an inspection at Metropolitan’s Iron Mountain Pumping Plant. The inspection was prompted by the accidental disposal of several air filters containing hazardous waste at an off-site non-hazardous landfill in September 2015. As a result of the inspection, DTSC issued a Summary of Violations which listed three violations (classified as “Class I”) and the actions Metropolitan must take by October 21, 2016 to correct the violations. The violations are: (1) Metropolitan caused the disposal of hazardous waste at a facility without a valid hazardous waste treatment permit or authorization; (2) Metropolitan failed to determine if the waste was a hazardous waste; and (3) Metropolitan failed to prepare an appropriate manifest for shipping hazardous waste to an off-site facility.

The corrective actions include: (1) Metropolitan shall implement a plan to prevent the future shipment of hazardous waste to a facility without a hazardous waste treatment permit or authorization to treat hazardous waste; (2) Metropolitan shall implement a plan to properly determine the characteristics of its wastes; and (3) Metropolitan must use hazardous waste manifests when it ships its hazardous waste off-site to a permitted facility. On November 18, 2016, DTSC sent Metropolitan an Inspection Report. Similar to the Summary of Violations, the Inspection Report described the findings of the inspection, including the violations and the actions Metropolitan should take to correct

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the violations. On March 7, 2017, DTSC offered to settle with Metropolitan for a penalty of \$6,250 and scheduled a meeting for April 5, 2017, to discuss the terms of the settlement. The proposed Consent Decree attached to DTSC's letter indicates that the alleged violations have been corrected.

Mark Brody v. Metropolitan Water District of Southern California  
(San Diego Superior Court Case No. 37-2016-00331563)

On October 31, 2016, Metropolitan was served with a complaint filed in the County of San Diego's Small Claims Court by Mark Brody, a resident of San Marcos, California. Mr. Brody alleged that he was entitled to a turf removal rebate from Metropolitan in the amount of \$3,000.

Although Mr. Brody's rebate application was pre-approved, payment of the rebate was denied because Mr. Brody had not timely complied with all of the applicable rebate guidelines. These included a requirement to submit photos verifying the amount of turf removal. Mr. Brody ultimately submitted the requisite photos and an inspection of his property indicated that all turf had been removed as proposed in his application. Accordingly, the General Counsel recommended settling this matter.

To that end, the parties executed a settlement agreement and general release of claims pursuant to which Metropolitan paid Mr. Brody \$3,000 and, in turn, he agreed to dismiss the case. The case was dismissed on December 16, 2016.

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 Resolved by Risk Management

Non-litigated third party claims resolved by Risk Management (under authority delegated by the General Manager) and approved by the General Counsel within this past quarter are reported in Attachment B.

d. SB 90 Claims

There were no SB 90 claims for reimbursement for state-mandated costs collected within this past quarter.

e. Separation Agreements

Metropolitan did not enter into any separation agreements within this past quarter.

2. Costs collected for claims within this past quarter are reported in Attachment C.

3. There were no Property Damage Claims declared as uncollectible by the General Manager within this past quarter.

4. Accounts Receivables that were written off as uncollectible by the General Manager within this past quarter are reported in Attachment E.

**ATTACHMENT A**  
 Workers' Compensation Matters Resolved During the Period  
January 1, 2017 – March 31, 2017

<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>
O&M Technician IV	2014-0326-0422	3/26/14	\$5,220.00	Right shoulder	Stipulated settlement based on Panel Qualified Medical Evaluator's report
O&M Technician IV	2016-0920-0152	9/16/16 CT	\$4,350.00	Bilateral hearing loss	Stipulated settlement based on consulting physician's report
O&M Technician IV	2015-1116-0214	11/16/15 CT	\$6,090.00	Bilateral hearing loss	Stipulated settlement based on consulting physician's report
General Maintenance Assistant/ O&M Technician II	2014-0303-0380	2/28/14	\$21,895.00	Lumbar spine	Stipulated settlement based on treating physician's report

**ATTACHMENT B**  
 Claims Against Metropolitan Resolved by Risk Management During the Period  
January 1, 2017 – March 31, 2017

<b>Claimant</b>	<b>Control No. TPA No.</b>	<b>Amount of Settlement</b>	<b>Incident Description</b>	<b>Basis for Resolution</b>
Progressive Insurance for William Titov (Jessica Titov – Driver)	2016-0607-0520 MEWD-1610A2	\$1,943.12	On 6/7/16, an MWD vehicle struck third party vehicle while making a left hand turn.	The third party claim was settled based upon an evaluation of the damage and repair costs.
Robert Butler	2016-0502-0449 MEWD-1604A2	\$1,062.88	On 5/2/16, an MWD vehicle rear-ended a third party vehicle.	The third party claim was settled based upon an evaluation of the damage and repair costs.
Doug Oliver	2016-1109-0232 MEWD 1633A2	\$471.49	On 10/11/16, an MWD gate/arm struck and damaged third party vehicle.	The third party claim was settled at 50% upon evaluation of the liability, damage and repair costs.
Pedro Martinez Mendoza	2016-0823-0089 MEWD-1620A1	\$6,553.00	On 8/23/16, an MWD vehicle rear-ended a third party vehicle causing injury to the third party driver.	The third party claim was settled based on the medical invoices and lost wages.

**ATTACHMENT C**  
 Cost Collected During the Period  
January 1, 2017 – March 31, 2017

<b>Claimant</b>	<b>Control No. TPA No.</b>	<b>Amount of Settlement</b>	<b>Incident Description</b>	<b>Basis for Resolution</b>
Greg Scarvich	2016-0923-0157 METP-4717A9	\$1,684.80	On 9/18/16, a third party vehicle struck and damaged an MWD vent stack.	The property damage claim was paid in full by the third party insurance carrier.
Marygrace Phillips-Lee	2016-1214-0281 METP-4738A9	\$795.00	On 12/14/16, a third party vehicle struck and damaged a section of MWD fence.	The property damage claim was paid in full by the third party insurance carrier.
Perla Moreno	2016-1214-0278 METP-4736A9	\$2,975.00	On 12/13/2016, a third party vehicle struck and damaged an MWD gate and a section of fence.	The property damage claim was paid in full by the third party insurance carrier.
Martin Ramirez	2016-0907-0123 METP-4710A9	\$985.00	On 09/04/2016, a third party vehicle struck and damaged a section of MWD fence.	The property damage claim was paid in full by the third party insurance carrier.

**ATTACHMENT E**  
 Accounts Receivable Written Off as Uncollectible During the Period  
 January 1, 2017 – March 31, 2017

<b>Invoice Date</b>	<b>Invoice Number</b>	<b>Customer Name</b>	<b>Amount Written off</b>	<b>Brief Description</b>	<b>Basis for Write-Off</b>	<b>Date Written Off</b>
08/24/15	42310	MARINA E. NEVOLAS	\$17.39	INVOICE FOR UNDERCOLLECTED MEDICARE TAX FOR 2013	AR HAS EXHAUSTED ALL COLLECTION EFFORTS	03/22/17
08/24/15	42308	STACY C. MACIAS	\$47.21	INVOICE FOR UNDERCOLLECTED MEDICARE TAX FOR 2013 & 2014	AR HAS EXHAUSTED ALL COLLECTION EFFORTS	03/22/17
08/24/15	42306	SHANNON L. LEAVEY	\$172.66	INVOICE FOR UNDERCOLLECTED MEDICARE TAX FOR 2013 & 2014	AR HAS EXHAUSTED ALL COLLECTION EFFORTS	03/22/17
08/24/15	42303	WYNAYA M. KENNEDY	\$111.94	INVOICE FOR UNDERCOLLECTED MEDICARE TAX FOR 2013 & 2014	AR HAS EXHAUSTED ALL COLLECTION EFFORTS	03/22/17
08/24/15	42302	DONOVAN C. KEEFE	\$39.80	INVOICE FOR UNDERCOLLECTED MEDICARE TAX FOR 2014	AR HAS EXHAUSTED ALL COLLECTION EFFORTS	03/22/17
08/24/15	42301	SHERRY A JOBE	\$114.04	INVOICE FOR UNDERCOLLECTED MEDICARE TAX FOR 2013 & 2014	AR HAS EXHAUSTED ALL COLLECTION EFFORTS	03/22/17
08/24/15	42299	BRANDON J. HUNDLEY	\$73.37	INVOICE FOR UNDERCOLLECTED MEDICARE TAX FOR 2014	AR HAS EXHAUSTED ALL COLLECTION EFFORTS	03/22/17
08/24/15	42298	NATALIE A. HOUSEBERG	\$37.21	INVOICE FOR UNDERCOLLECTED MEDICARE TAX FOR 2013	AR HAS EXHAUSTED ALL COLLECTION EFFORTS	03/22/17
08/24/15	42297	DAVID GREEN	\$135.07	INVOICE FOR UNDERCOLLECTED MEDICARE TAX FOR 2013 & 2014	AR HAS EXHAUSTED ALL COLLECTION EFFORTS	03/22/17
08/24/15	42293	KIMBERLY BYRGE	\$22.01	INVOICE FOR UNDERCOLLECTED MEDICARE TAX FOR 2014	AR HAS EXHAUSTED ALL COLLECTION EFFORTS	03/22/17
08/24/15	42292	WINSTON BARKER	\$186.15	INVOICE FOR UNDERCOLLECTED MEDICARE TAX FOR 2013 & 2014	AR HAS EXHAUSTED ALL COLLECTION EFFORTS	03/22/17
		<b>Total</b>	\$956.85			