

**Metropolitan Domestic Water Improvement District
Board of Directors Meeting**

September 10, 2012

Response to Public Comment made at the August 13, 2012 Meeting

Synopsis

At the August 13, 2013 Board meeting, Mr. Donovan Hemway spoke to the Board during the first call to the audience. Mr. Hemway made several allegations regarding perceived safety violations and policy and procedural violations he believed to have encountered in his employment with the District. This agenda item will address Mr. Hemway's allegations.

Background

Mr. Hemway first briefly referenced an incident that had happened on May 10, 2012 at the Deconcini well site in the performance of a pump efficiency test. There were seven (7) staff present at this jobsite including Deputy Manager Chris Hill who was overseeing the pump efficiency program and Frank Gallego, Electrical Supervisor. Other staff present included Cory Bott, Donovan Hemway, Rob Welch, Amadeo Villanueva and Ian Scrimshaw. At the August 13, 2012 meeting, Mr. Hemway stated that he was nearly killed, however, he did not describe what happened that he felt nearly killed him.

A pump off trailer was used for this test as the Deconcini well was off line and had not been put back into service. The pump off trailer is used to flush a well and discharge the water to a nearby wash or drainage structure. As part of this process, a hose was placed under pressure and during the test, it ruptured and sprayed water into the air in the direction of Mr. Hemway and he got wet. As an electrician with the District, Mr. Hemway was standing in the vicinity of the electrical panel when this happened. Mr. Gallego quickly shut off the power. Mr. Hemway did not say anything to either Mr. Gallego (Mr. Hemway's direct supervisor) or Mr. Hill regarding any concerns that he felt his life had been endangered, either at the time or later.

Issues

At the August 13, 2012 meeting, Mr. Hemway chronicled some events since the May 10, 2012 event. The following re-states his assertions and provides staff's response.

- ◆ Mr. Hemway asserted that both supervisors on the scene that day failed to report the incident to risk management, as is our policy.

The incident involved a hose rupturing during a pump efficiency test at the Deconcini well site. When the hose ruptured, water was sprayed into the air and fell primarily on Mr. Hemway who was standing in the vicinity of an electric panel box. There were several staff members there including Chris Hill, Deputy Manager who was in charge of the program, and Frank Gallego, Electrical supervisor and Mr. Hemway's direct supervisor. Mr. Hemway did not make either of those individuals aware of any issues or problems he had as a result of the incident and as per the District's policy, was required to inform his supervisor or team leader and the Risk Management Specialist with 12 hours of the incident. Nor did anyone else at the site report this situation as being a concern. It was several days later that Mr. Hemway mentioned the incident to the Risk Management Specialist. I discussed this with Mr. Hemway in detail after Mr. Hemway continued to express concerns about the situation.

- ◆ Mr. Hemway stated there has been reluctance to investigation, discussion, or following Metro's usual post-incident procedure.

The District disagrees with Mr. Hemway's assessment. Following the May 10 incident, Mr. Hill revised the procedure for the pump efficiency testing that excluded the use of the pump trailer and hose. It was felt that this change in procedure eliminated the need to follow up on the incident since it was the corrective action used to negate the potential of another hose rupture on future efficiency testing. See the attached memorandum from Mr. Hill describing this change.

In addition, Mr. Hemway was informed on several occasions by Mr. Hill and Mr. Shepard as to the change in procedure for the pump efficiency testing. Mr. Hemway has also spoken with me regarding his concerns and I advised him of the District's plan for addressing them.

- ◆ Mr. Hemway claimed the District failed to send possible defective parts as part of usual post-incident procedure.

The hose used for this test was determined to be a newer hose that had been recently purchased by the District to replace a worn out hose. The original hose had a rating of 200psi, however, it was determined that the replacement hose only had a rating of 50psi. As stated previously, the hose is no longer being used in the pump efficiency testing procedure. See attached memo from Mr. Hill describing this investigation.

- ◆ Mr. Hemway stated there was reluctance to secure or allow the usual safety review of the site security video capturing the event, including losing of the original copies and later procuring a different copy that is minus four minutes in length.

The Risk Management Specialist downloaded the video of the incident shortly after she was informed by Mr. Hemway of the incident. The District understands that Mr. Hemway viewed this video with the Risk Management Specialist. Subsequently, the Utility Supervisor downloaded another copy of the incident, which did not include a 4 minute portion of the beginning of the same video Mr. Hemway had seen earlier. However, the video that was downloaded shows the relevant

timeframe, from just before the hose ruptured to a period of time after power was shut down and Mr. Hemway is seen with his arms up in the air showing others he got wet.

- ◆ Mr. Hemway asserted that at least one witness coworker was threatened to change his account or receive false blame for the incident.

Neither the General Manager nor anyone else in Management has heard from any employee that any individual was threatened or coerced to change the accounting of this incident. Such actions would violate District policy, and Mr. Hemway had not previously made any such allegations to the District. The District has promptly investigated Mr. Hemway's concerns, and is very concerned that Mr. Hemway did not provide this information to the District prior to the Board Meeting.

- ◆ Mr. Hemway claimed that personal intimidation and a hostile work environment existed, including several written threats of termination of employment and threats that insomnia stemming from this incident will be used as punishment for performance issue.

Each of the disciplinary actions that have been given to Mr. Hemway reference the possibility of further discipline including termination if Mr. Hemway continued to engage in the actions for which he received the disciplinary action. As stated above, his reprimand for excessive absenteeism did have that statement as well as a reprimand by me to Mr. Hemway for insubordination. Because of continued insubordination by Mr. Hemway, his employment with the District was terminated on August 13, 2013.

- ◆ Mr. Hemway stated that he was suffering the loss of wages and benefits due to an incident known to be no fault of my own.

When the incident was eventually reported to the Risk Management Specialist, several days after the fact, the Risk Management Specialist began the process for a Workmen's Comp claim. The claim was denied by Workmen's Comp for any "injury" caused to Mr. Hemway which in turn did not obligate the District to reimburse Mr. Hemway for any time taken by him for what he determined was as a result of this incident. The District has nothing on file from Mr. Hemway from any physician stating that he has suffered from a work related injury despite repeated requests by the Human Resource Specialist for him to provide documentation to the District.

- ◆ Mr. Hemway claimed there were the beginnings of character assassination, suggesting potential harm to other employees.

It is District policy and staff has been trained that if there is harassment or threats, an employee should report it to a Team Manager, Human Resources Specialist or General Manager. Mr. Hemway nor any other employee has notified anyone in management of potential harm. Management staff has promptly addressed Mr. Hemway's concerns and kept confidential issues related to Mr. Hemway's performance.

- ◆ Mr. Hemway asserted the imposition of unusual and changing requirements for a Metro employee to follow post-on-the-job-injury.

The District's post-incident policies are documented in the District's personnel manual. After reviewing the circumstances surrounding this incident, it is unclear why the Risk Management Specialist would require an employee to see our physician seven days after an incident which automatically included a drug screen being performed on the employee. The District is clarifying the procedure for when employees should be taken to our physician and whether that should include a drug screen or not.

As shown in the attached memos, the District has responded to this incident and Mr. Hemway's subsequent concerns promptly and in an appropriate manner. The District made changes to the procedure to no longer use the pump off trailer before the next efficiency test was performed. It should be noted that the only reason the pump off trailer was used was that the well was not suitable to be put into service and any water pump needed to be discharged to a nearby wash or drainage system. Additionally, the inclusion of a sign off by all participants of a hazard awareness form provides a total consensus on whether a job site is deemed safe to proceed.

In addition, District staff has been reminded that it is their responsibility to report to their supervisor any incident involving them within the timeframe allowed. The District believes it has fully responded to Mr. Hemway's concerns as expressed to the Board.

Recommendation

No action is required for this agenda item; however, Board members are encouraged to ask questions and provide any comments or directions that are deemed appropriate.

The District has been and continues to be committed to a safe work environment for its employees and customers. Safety is a team effort that involves the alertness and efforts of all employees. The District will continue to emphasize the importance of safety and will make every reasonable effort to prevent the occurrence of injury or illness with the District's employees and customers, and will continue to promptly and thoroughly investigate any concerns expressed by District employees, and will continue to take steps to prohibit any retaliation against employees who raise a concern or complaint in good faith.

Respectively submitted,

Mark R. Stratton, P.E.
General Manager