

● **Board of Directors**
Subcommittee on Real Property and Asset Management

June 13, 2000 Board Meeting

8-10

Subject

Authority to execute joint use agreements with Kaiser Eagle Mountain, Inc. for rights-of-way at the Eagle Mountain Pumping Plant.

Description

Since 1947, Metropolitan has authorized Kaiser Steel Corporation and its subsidiaries to use portions of Metropolitan property at Eagle Mountain in connection with Kaiser's adjacent mining operations. Kaiser ceased its active mining operations and began planning for use of its property as a landfill for non-hazardous waste. In 1992, the board approved a memorandum of understanding with Kaiser providing protections against landfill impacts to Metropolitan's Colorado River Aqueduct facilities. Specifically, Kaiser agreed that Metropolitan would have the right to review and approve the plans for any portion of the landfill project which affects Metropolitan facilities, including the road and railroad crossings of Metropolitan's wasteway for emergency releases. In addition, Kaiser agreed to allow access over its property for maintenance of v-dikes protecting the Aqueduct, to grant Metropolitan additional land for expansion of its airstrip, and to improve and maintain existing Eagle Mountain Road which provides access to the Eagle Mountain Pump Plant. In exchange, Metropolitan agreed to renew Kaiser's existing rights-of-way and provide further rights for the extension of Eagle Mountain Road across small portions of Metropolitan's property. Kaiser has now completed its environmental review and permitting process and is proceeding with its project. In order to implement the technical objectives of the 1992 MOU, the renewal of Kaiser's existing rights-of-way is required. Metropolitan has proposed an agreement which provides for the reciprocal grant to Metropolitan of the rights-of-way specified in the 1992 MOU.

The agreement includes:

1. Grant to Metropolitan of right-of-way to extend and access its existing air strip which is surrounded by Kaiser property. Kaiser will have the right to use the air strip upon complying with insurance and Federal Aviation Administration requirements. Metropolitan is also granted rights to construct drainage facilities on Kaiser property to route surface drainage away from the airstrip.
2. Grant to Metropolitan a right of access across Kaiser land to maintain and protect the system of v-dikes that protect the Colorado River Aqueduct.
3. Grant to Kaiser of right-of-way to extend the existing Eagle Mountain Road, and confirmation of the right of Metropolitan to use of the Road. The plans for construction are subject to Metropolitan's review and approval. Kaiser will maintain this Eagle Mountain Road Extension at no cost to Metropolitan. The 1992 MOU also includes provisions for Kaiser to improve and maintain the existing road for the joint use of both parties.
4. Renewal of Kaiser's existing right-of-way for railroad and utility lines across Metropolitan's Eagle Mountain Pump Plant property. Kaiser will improve and maintain the drainage crossings for the railroad in accordance with plans approved by Metropolitan.

The agreement has a term of fifty (50) years, with a provision for extension of the agreement for an additional twenty-five (25) years. Each party will indemnify the other for any damage or injury caused by that party's use of the property.

CEQA Compliance

Pursuant to California Environmental Quality Act (CEQA), the County of Riverside, acting as lead agency, certified the Final Environmental Impact Report (FEIR) for the Eagle Mountain Landfill and Recycling Center Project in September 1997. Included as components of the Project and analyzed within the FEIR were the extension of the Eagle Mountain Road, drainage improvements necessary to protect Metropolitan facilities and railroad/utility line crossing of Metropolitan's property referenced as items 3 and 4 of the proposed Agreement. Metropolitan as a Responsible Agency under CEQA is required to certify that it has reviewed and considered the information contained in the FEIR relative to the environmental effects of the proposed action and adopt the lead agency's findings prior to approval of the Agreement. Copies of the FEIR are available in the office of the Secretary of the Board.

Execution of the proposed Agreement would provide Metropolitan with the necessary right-of-way to extend its existing air strip and maintain existing v-dikes for the protection of the Colorado River Aqueduct. Metropolitan's activities outlined as items 1 and 2 of the proposed agreement are categorically exempt under the provisions of CEQA as a Class 1 project involving the operation, maintenance or minor alteration of existing public facilities (State CEQA Guidelines section 15301).

Policy

The General Manager is authorized to grant to private persons and private entities any real property interests in District real property that will not interfere with the District's operations (MWD Admin. Code Section 8240).

Board Options/Fiscal Impacts

Option #1

Enter into the agreement for the improvement and use of rights-of-way with Kaiser Eagle Mountain, Inc. as contemplated by the 1992 MOU, and the obligations of Kaiser to improve and maintain the rights-of-way will reduce Metropolitan's operating costs.

Fiscal Impact: There will be a reduction in maintenance and operating costs for the Eagle Mountain Pump Plant through the transfer of maintenance obligations to Kaiser for Eagle Mountain Road, and easier access to Metropolitan's facilities. Metropolitan will also acquire land to extend the existing airstrip at no monetary cost.

Option #2

Do not enter into the agreement, and refuse Kaiser access on Metropolitan land. Metropolitan will be required to use alternate access to its v-dikes adjacent to the Kaiser property, forego any future extension of the airstrip without purchasing the land from Kaiser, and perform maintenance on Eagle Mountain Road at its own expense.

Fiscal Impact: Increased costs of maintenance and operations for the Eagle Mountain Pump Plant, and loss of oversight over landfill facilities which may affect the Colorado River Aqueduct.

Staff Recommendation

Authorize the execution of the proposed agreement in accordance with the 1992 memorandum of understanding to transfer rights-of-way to Metropolitan, and to renew and grant Kaiser rights-of-way subject to Metropolitan's authority to review and approve the construction and maintenance of facilities.


General Counsel

5/26/2000
Date