

- **Board of Directors (For Action)**
Asset, Real Estate and Infrastructure Policy Committee
(Information Only)

February 10, 2004 Board Meeting

9-2

Subject

Hearing on adoption of resolution of necessity directing the General Counsel to condemn property required for the San Diego Pipeline No. 6 Project in Riverside County, California, identified by Riverside County Assessor's Parcel No. 951-230-007, Metropolitan's right-of-way Parcel No. SDSIX1-15-170TEA1, and owner's name: Kevin Colard and Barbara Colard

Description

Certain temporary construction easements are required for the construction of the North Reach of the San Diego Pipeline No. 6 Project along Anza Road in Temecula, California, County of Riverside. The pipeline itself will be located within the public road right-of-way. These temporary construction easements are for a period of five years. There are no residences or other structures located on the temporary construction easements, although they may be part of a larger parcel containing one or more residences. For the most part, the temporary construction easement areas contain driveways and landscaping. It is anticipated that ingress and egress to any such residences will be maintained throughout construction. Kevin Colard and Barbara Colard are the owners of one of the parcels required for a temporary construction easement, denominated Metropolitan right-of-way Parcel No. SDSIX1-15-170TEA1 which consists of a strip of land 100 feet wide and 235 feet long consisting of 0.540 acres. The subject property is part of a larger parcel containing 2.96 acres and the residence of the owners. The easement area contains a driveway and landscaping.

Metropolitan had the temporary construction easement and any site improvements appraised at a total value of \$15,065. An offer for the full appraised value has been made to Mr. and Mrs. Colard. The offer has been rejected. In fact, the owners have refused to even discuss the offer with our agents. Since possession is needed by summer 2004 when it is anticipated a construction contract will be awarded, it is necessary to proceed with the acquisition of the required parcel through exercise of Metropolitan's eminent domain power.

On January 15, 2004, a Notice of Intention to Adopt a Resolution of Necessity and for an opportunity to appear and be heard before the Board of Directors on February 10, 2004, as to the need for the project and the taking of the temporary construction easement, was served on the owners. The eminent domain law requires an owner of property to submit a written request to appear and be heard within 15 days after notice was served or that right is waived. A quorum of the Board is required before such a hearing can be conducted and the adoption of the Resolution must be by a two-thirds majority.

Previously, when Metropolitan had a 52-member board, a subcommittee could be delegated authority to conduct the hearing on the resolution of necessity. However, the law requires that any board with less than 40 members cannot delegate that authority. An information presentation will be made before the Asset, Real Estate and Infrastructure Policy Committee.

Attachment 1 to this letter is the form of the resolution of necessity declaring the need for the project and the acquisition of the temporary construction easement described in Exhibits A and B, attached thereto, and directing the General Counsel to commence condemnation proceedings in Riverside County to acquire the temporary construction easement.

Policy

Metropolitan Water District Administrative Code § 8225: Adoption of Resolutions of Necessity

California Civil Code § 1245.235(c): "Notice of hearing, contents; conduct"

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The environmental effects associated with the design, construction, and operation of the proposed modifications to the North Reach of the San Diego Pipeline No. 6 Project were evaluated in the Final Supplemental Environmental Impact Report (Final SEIR), which was certified by the Board on November 18, 2003. During that same meeting, the Board also approved the amended Findings of Fact, the amended Statement of Overriding Considerations, the amended Mitigation Monitoring and Reporting Program, and the proposed modifications to the originally approved project. The present board action is solely based on adopting the resolution of necessity as related to Parcel No. SDSIX1-15-170TEA1 and not on any changes to the approved North Reach of Pipeline 6. Hence, the previous environmental documentation taken by the Board in conjunction with the proposed action fully complies with CEQA and the State CEQA Guidelines. Accordingly, no further CEQA documentation is necessary for the Board to act on the proposed action.

The CEQA determination is: Determine that the proposed action has been previously addressed in the certified 2003 Final SEIR and that no further environmental analysis or documentation is required.

CEQA determination for Option #2:

None required

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and resolution of necessity directing the General Counsel to condemn Metropolitan Parcel No. SDSIX1-15-170TEA1.

Fiscal Impact: \$15,065 or such sums as may be awarded by the court through the condemnation proceedings, plus interest and costs

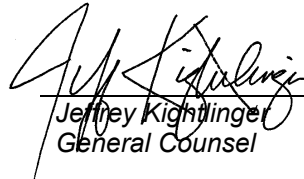
Option #2

Do not adopt the resolution of necessity, which could significantly interfere with the construction of the North Reach of the San Diego Pipeline No. 6 Project.

Fiscal Impact: Unknown

Staff Recommendation

Option #1


 Jeffrey Kightlinger
 General Counsel

1/12/2004
 Date


 Ronald R. Gastelum
 Chief Executive Officer

1/16/2004
 Date

Attachment 1 – Resolution of Necessity

RESOLUTION OF NECESSITY

(MWD Parcel SDSIX1-15-170TEA1)

A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
DIRECTING THE CONDEMNATION OF A TEMPORARY CONSTRUCTION EASEMENT
OVER CERTAIN PROPERTIES SITUATED
IN THE COUNTY OF RIVERSIDE
(San Diego Pipeline No. 6 Project)

BE IT RESOLVED, by the Board of Directors of The Metropolitan Water District of Southern California (“Metropolitan”), as follows:

Section 1. Metropolitan’s Board hereby finds and determines that the public interest and necessity require, for public use, the construction, operation and maintenance of water conveyance facilities (San Diego Pipeline No. 6 Project) (“Project”) in the County of Riverside for the transportation and distribution of water for use within Metropolitan’s boundaries and that a temporary construction easement (“Temporary Construction Easement”) over certain properties situated in the County of Riverside is necessary therefor.

Section 2. The Temporary Construction Easement to be acquired for the public use set forth in Section 1, above, consists of an interest in real property described in Exhibits A attached hereto and incorporated herein by reference and as shown on Exhibit B attached hereto and incorporated herein by reference.

Section 3. Metropolitan hereby declares its intention to acquire the Temporary Construction Easement described in Exhibits A and B attached hereto, by proceeding in eminent domain as authorized by the Metropolitan Water District Act, Section 141 (Stats. 1969, Ch. 209, as amended).

Section 4. Metropolitan hereby finds and determines that the proposed Project is planned or located in a manner which will be most compatible with the greater public good and the least private injury.

Section 5. Metropolitan's Board hereby finds and determines that the Temporary Construction Easement described in Exhibits A and B attached hereto is necessary for the proposed Project.

Section 6. Metropolitan's Board hereby finds and determines that the offers and submittals required by Government Code Section 7267.2 have been made to the owner of record of the Temporary Construction Easement described in Exhibits A and B attached hereto and Metropolitan has made a reasonable good faith effort to acquire the subject Temporary Construction Easement by ways of negotiation.

Section 7. Metropolitan's General Counsel is hereby directed to commence proceedings in the Superior Court of California, County of Riverside, for the purpose of condemning and acquiring the property described in Exhibits A and B attached hereto, and to take such steps as may be necessary to secure orders of court permitting Metropolitan to take possession of the property described in Exhibits A and B attached hereto for the uses and purposes herein described. The General Counsel is authorized to take such actions and steps as are deemed necessary in connection with such proceedings, including the amending of the complaint to reduce the extent of the property to be acquired so as to reduce the compensation payable in the action, where such change could not substantially impair the construction and operation of the subject proposed Project, and to incur expenses necessary and incidental to the condemnation action.

I HEREBY CERTIFY that the foregoing Resolution was adopted at a regular meeting of the Board of Directors of The Metropolitan Water District of Southern California held the tenth day of February, 2004, by a vote of two-thirds of all its members, and I further certify that the foregoing is a full, true and correct copy of the Resolution.

Executive Secretary
The Metropolitan Water District
of Southern California

Attachments: Exhibits A & B

EXHIBIT A

An exclusive Temporary Easement to use the property in the City of Temecula, County of Riverside, State of California, described in Exhibit A, and shown on Exhibit B, both attached hereto and by this reference made a part hereof, for the construction of a capital improvement project by the Grantee on land other than such described property.

Reasonable access to Grantor's property across this Temporary Easement shall be maintained by Grantee at all times during the term of this Easement.

Such right shall be exercised for a period of five years commencing on the date this Temporary Easement Deed is recorded in the Office of the County Recorder of Riverside County.

At the expiration of the Temporary Easement, Grantee shall not be required to restore vegetation to the pre-existing condition, but shall establish vegetation for erosion control on the property at the termination of this Temporary Easement in accordance with the certified 2003 Final Supplemental Environmental Impact Report for the Proposed Modifications to the San Diego Pipeline No. 6 Project and Grantee's specifications.

EXHIBIT A

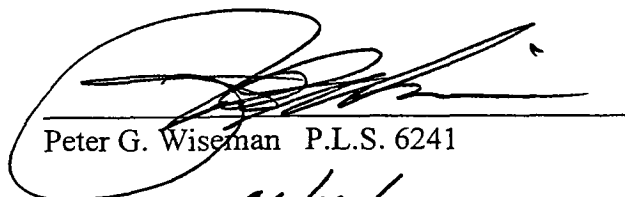
SDSIX1-15-170TEA1
SAN DIEGO PIPELINE NO. 6
(NORTHERN ALIGNMENT)
TEMPORARY EASEMENT
Kevin and Barbara Colard
To
MWD

The easterly 100 feet of Parcel 3, in the County of Riverside, State of California, as shown on Parcel Map 20615, filed in Book 155, pages 69 and 70 of Parcel Maps, Records of said County as measured radially to the easterly line of said Parcel 3, also being the westerly line of Lot A, all as shown on said Parcel Map 20615.

All as shown on Exhibit "B" attached hereto and made a part hereof.

END OF DESCRIPTION

PREPARED UNDER MY SUPERVISION


Peter G. Wiseman P.L.S. 6241

Date

06/10/03

