

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

June 8, 2004 Board Meeting

9-13

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, identified by Riverside County Assessor's Parcel Nos. 927-100-005, -010, -011, -045, -047, -048, 055, Metropolitan's right-of-way Parcel No. SDSIX1-15-120TEA1, and owner's name: Delson Investment Company

Description

Construction of the North Reach of the San Diego Pipeline No. 6 Project, located within the public road right-of-way, along Anza Road in Temecula in Riverside County, requires temporary five-year construction easements. There are no residences or other structures on the temporary construction easements, although they may be part of a larger parcel containing one or more residences. It is anticipated that ingress and egress to any such residences will be maintained throughout construction. For the most part, the temporary construction easement areas contain driveways and landscaping. The parcel required, denominated Metropolitan right-of-way Parcel No. SDSIX1-15-120TEA1, owned by Delson Investment Company, consists of a strip of land ranging from 80 to 150 feet wide and approximately 1,500 feet long consisting of 4.046 acres. The subject property is part of a larger parcel containing 235 acres improved with a residence, a guesthouse and extensive equestrian facilities. The easement area contains landscaping, fencing, driveway and trash facilities.

Metropolitan has had the temporary construction easement and any site improvements appraised at a total value of \$78,200. An offer for the full-appraised value has been made to Delson Investment Company. Staff and Delson Investment Company are still negotiating acquisition of the property but no agreement has been reached. Since possession is needed by fall 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 May 10, 2004 the owner was served with a Notice of Intention to Adopt a Resolution of Necessity and for an opportunity to appear and be heard before Metropolitan's Board on June 8, as to the need for the project and the taking of the temporary construction easement. Eminent domain law requires a property owner 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 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. The law, however, requires that any board with less than 40 members cannot delegate that authority. An information presentation will be made before the Board's 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 a Resolution 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 (findings), the amended Statement of Overriding Considerations (SOC), the amended Mitigation Monitoring and Reporting Program (MMRP), 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. SDSIX1-15-120TEA1 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, the amended findings, the amended SOC, and the amended MMRP, 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. SDSIX1-15-120TEA1.

Fiscal Impact: \$78,200 or such sums as may be awarded by the court through the condemnation proceedings, plus interest and costs

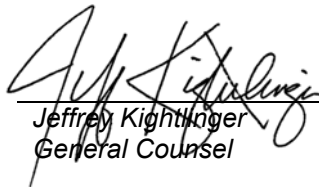
Option #2

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

5/17/2004
Date



Ronald R. Gastelum
Chief Executive Officer

5/18/2004
Date

Attachment 1 – Resolution of Necessity

RESOLUTION OF NECESSITY

(MWD Parcel SDSIX1-15-120TEA1)

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, Parcel No. SDSIX1-15-120TEA1, record owner Delson Investment Company, 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 eighth day of June, 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

SDSIX1-15-120TEA1
San Diego Pipeline No. 6
(Northern Alignment)
Temporary Easement
Delson Investment Company,
a California General Partnership
To MWD

All that portion of Parcel 2 and Parcel 3 as conveyed to Delson Investment Company, a California General Partnership by Grant Deed recorded March 28, 1997 as Instrument No. 103790 of Official Records in the County of Riverside, State of California lying westerly of a line 150 feet easterly of as measured at right angles or radially to, the easterly right of way line of Anza Road, as said Anza Road was accepted by the County of Riverside Board of Supervisors Resolution No. 98-144 recorded November 4, 1998 as Instrument No. 479848 of Official Records of said County and lying southerly of a line 1,506.44 feet northerly of as measured along said easterly right of way line from the southerly line of said Parcel 2.

EXCEPTING therefrom the easterly 70 feet of the northerly 450 feet of the southerly 906.44 feet as measured along said easterly right of way line from the southerly line of said Parcel 2.

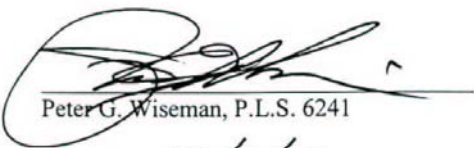
ALSO EXCEPTING therefrom that portion lying within said Anza Road.

ALSO EXCEPTING therefrom that portion lying within De Portola Road.

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



