

- **Board of Directors**
Legal and Human Resources Committee

November 20, 2007 Board Meeting

8-4

Subject

Hearing on adoption of resolution of necessity directing the General Counsel to condemn interests in real property required for the Perris Valley Pipeline Project in Riverside County, identified by Riverside County Assessor's Parcel No. 294-180-017, Metropolitan's Parcel Nos. PEVAL1-01-400PEA1 and PEVAL1-01-400TEA1, and owner's name, Lewis Street Properties, LP [**Two-thirds vote required**]

Description

The Perris Valley Pipeline Project is being constructed to deliver treated water from the Henry J. Mills Water Treatment Plant located on Alessandro Boulevard in the city of Riverside, with service connections for Eastern Municipal Water District and Western Municipal Water District of Riverside County. The pipeline is required to serve projected water demands in Riverside County and will also improve operational flexibility and system reliability in this portion of Metropolitan's service area.

The pipeline consists of a 96-inch diameter pipe running approximately 6.5 miles from the Mills plant to an Eastern service connection at Oleander Avenue in the city of Perris. The North Reach of the pipeline from the Mills plant to Cactus Avenue is currently under construction. The South Reach of the pipeline, running from Cactus Avenue to Oleander Avenue, is currently in final design and is scheduled to commence construction in early 2008.

The subject property (Assessor's Parcel No. 294-180-017) is located near the southerly terminus of the pipeline's South Reach and consists of 27 acres of vacant land owned by Lewis Street Properties, LP, a California limited partnership. The property is zoned for industrial uses and the owner has recently submitted plans to construct two office buildings and a warehouse on the property.

Metropolitan seeks to acquire permanent and temporary easements across the subject property. The permanent easement (Metropolitan's Parcel No. PEVAL1-01-400PEA1) will be 30 feet wide, encumbering 0.89 acre, and would support the permanent operation and maintenance of the pipeline. The temporary easement (Metropolitan's Parcel No. PEVAL1-01-400TEA1) will be 150 feet wide, covering an area totaling 4.43 acres adjacent to the permanent easement, and will be needed for construction of the pipeline. The temporary easement has a term of three years.

On August 17, 2007, Metropolitan made an offer to the owner to purchase these easements for the appraised value of \$450,000. Staff is continuing to negotiate with the owner, but no agreement for the voluntary acquisition of the easements has been reached. To ensure that Metropolitan has legal possession of the easements in time for construction, it is necessary to commence eminent domain proceedings.

Prior to filing an eminent domain action, Metropolitan's Board must adopt, by a two-thirds vote of all its members, a resolution of necessity stating: (1) the use for which the property is to be taken; (2) the extent of the property to be taken; (3) the project is necessary; (4) the project is in the public interest; (5) the project is located in the manner most compatible with the greatest public good and the least private injury; (6) the property to be taken is necessary for the project; and (7) an offer to purchase the property for the appraised value has been made to the owner. The proposed resolution of necessity for the subject property is [Attachment 1](#). A description of the easements and map of the property to be encumbered is [Attachment 2](#) to this letter.

The owner of the subject property was served on October 11, 2007 with a notice that it may appear before the Board of Directors to be heard on the matter of adopting the resolution of necessity.

Policy

Metropolitan Water District Administrative Code Section 8225: Adoption of a Resolution of Necessity
California Code of Civil Procedure, Title 7, Chapter 4, Article 2: Resolution of Necessity

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

Pursuant to the provisions of CEQA and the State CEQA Guidelines, Western, acting as the Lead Agency, prepared and processed a Final Environmental Impact Report (Final EIR) for the Perris Valley Pipeline Project (project). The Final EIR was certified and the project was approved by the Lead Agency on December 7, 2005. The Lead Agency also approved the Findings of Fact (findings), the Statements of Overriding Considerations (SOC), and the Mitigation Monitoring and Reporting Program (MMRP). On December 13, 2005, Metropolitan, acting as the Responsible Agency under CEQA, certified that it had reviewed and considered the information in the certified Final EIR and adopted the Lead Agency's findings, SOC, and MMRP.

The environmental effects associated with the design, construction, and operation of the Perris Valley Pipeline Project were evaluated in the Final EIR. The present board action is solely based on adopting the resolution of necessity as related to Metropolitan's Parcel Nos. PEVAL1-01-400PEA1 and PEVAL1-01-400TEA1 (Assessor's Parcel No. 294-180-017) and not on any changes to the approved Perris Valley Pipeline Project. 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 2005 Final EIR, the findings, the SOC, and the MMRP, and that no further environmental analysis or documentation is required.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination and the resolution of necessity, by a two-thirds vote, directing the General Counsel to commence an eminent domain proceeding to acquire Metropolitan's Parcel Nos. PEVAL1-01-400PEA1 and PEVAL1-01-400TEA1.

Fiscal Impact: \$450,000 in budgeted and previously appropriated funds, or such other sum as may be awarded by the court through the eminent domain proceedings, and costs of litigating the action

Business Analysis: Acquisition of the easements is necessary for construction of the Perris Valley Pipeline.

Option #2

Do not adopt the resolution of necessity, but continue negotiations for a voluntary acquisition of the easements.

Fiscal Impact: Unknown costs in excess of the appraised value

Business Analysis: Under this option, delays in construction of the Perris Valley Pipeline could occur due to the inability to procure the right of way.

Staff Recommendation

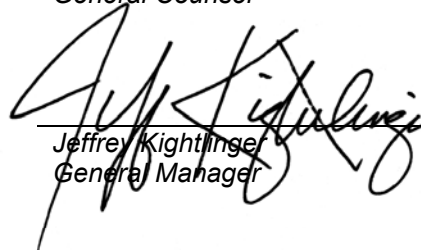
Option #1



Karen L. Tachiki
General Counsel

10/22/2007

Date



Jeffrey Kightlinger
General Manager

10/22/2007

Date

Attachment 1 – Resolution of Necessity

Attachment 2 – Legal Descriptions and Maps

BLA #5695

RESOLUTION _____**A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
DIRECTING THE CONDEMNATION OF CERTAIN PROPERTY
SITUATED IN THE COUNTY OF RIVERSIDE
(PERRIS VALLEY PIPELINE PROJECT)****(Parcel Nos. PEVAL1-01-400PEA1 and PEVAL1-01-400TEA1)**

BE IT RESOLVED by the Board of Directors of The Metropolitan Water District of Southern California (the "District").

Section 1. The District'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 ("Perris Valley Pipeline Project") in the County of Riverside for the transportation and distribution of water for use within the District's boundaries and that certain properties situated in the County of Riverside are necessary therefor.

Section 2. The properties to be acquired for the public use set forth in section 1, above, consist of the interest in the parcels of land described in the Exhibits A attached hereto and incorporated herein by reference and shown on the Exhibits B attached hereto and incorporated herein by reference.

Section 3. The District's Board hereby declares its intention to acquire the temporary and permanent easements in the property described in Exhibits A and B attached, by proceedings in eminent domain as authorized by section 141 of the Metropolitan Water District Act (Stats. 1969, Ch. 209, as amended).

Section 4. The District's Board hereby finds and determines that the Perris Valley Pipeline Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

Section 5. The District's Board hereby finds and determines that the permanent and temporary easements described in Exhibits A and B attached hereto are necessary for the Perris Valley Pipeline Project.

Section 6. The District's Board hereby finds and determines that the offer required by Government Code section 7267.2 has been made to the owner of record of the property described in Exhibits A and B, attached hereto.

Section 7. The District'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 permanent and temporary easements described in Exhibits A and B attached hereto, and to take such steps as may be necessary to secure an order of court permitting the District to take possession of the easements described in Exhibits A and B attached hereto for the uses and purposes herein described. She is authorized to take such actions and steps as she deems necessary in connection with such proceedings, including the amending of the complaint to reduce the extent of the easements 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 public works, and to incur expenses necessary and incidental to the action.

I HEREBY CERTIFY that the foregoing resolution was adopted at the meeting of the Board of Directors of The Metropolitan Water District of Southern California held the 20th day of November, 2007, by 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.

Board Executive Secretary
The Metropolitan Water District of
Southern California

LEGAL DESCRIPTIONS AND MAPS

EXHIBIT A

1. A temporary construction easement for a term of three (3) years commencing on the effective date of an order for possession, in the property described herein as Parcel PEVAL1-01-400TEA1 for the purpose of construction of a water pipeline and related facilities on land other than such Parcel, and reserving to the fee owner the right of reasonable access over and across the easement area. The easement area shall be returned to a condition as near as practicable to the condition that existed prior to Metropolitan's construction work, except that Metropolitan shall not restore vegetation to its prior condition.

2. A permanent easement in the property described herein as Parcel PEVAL1-01-400PEA1 for the purpose of constructing, reconstructing, maintaining, operating, enlarging, removing, and replacing a line or lines of pipe at any time, and from time to time, for water transportation, with every appendage or structure necessary or convenient to be installed at any time in connection therewith, and subject to the following conditions:

a. The fee owner shall not change the existing grade or otherwise modify the topography of the property encumbered by this easement without the prior written consent of Metropolitan.

b. No building or other structure, excepting pavement for road use, shall be constructed or maintained upon any portion of the easement.

c. No trees shall be planted within the easement area.

d. The fee owner shall retain the right of access over and across the easement area to the remainder of the property encumbered by this easement, and Metropolitan shall not unreasonably interfere with such right of access.

EXHIBIT A

PEVAL1-01-400PEA1
Permanent Easement
Lewis Street Properties, LP
to MWD

The westerly 30.00 feet of Parcel 3, as shown on Parcel Map 8698, in the City of Perris, County of Riverside, State of California, on file in book 37, page 90, of Parcel Maps, Records of said County.

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

END OF DESCRIPTION

PREPARED UNDER MY SUPERVISION



Paul M. Ogilvie
Paul M. Ogilvie, P.L.S. 6439

Date: 4-16-2007
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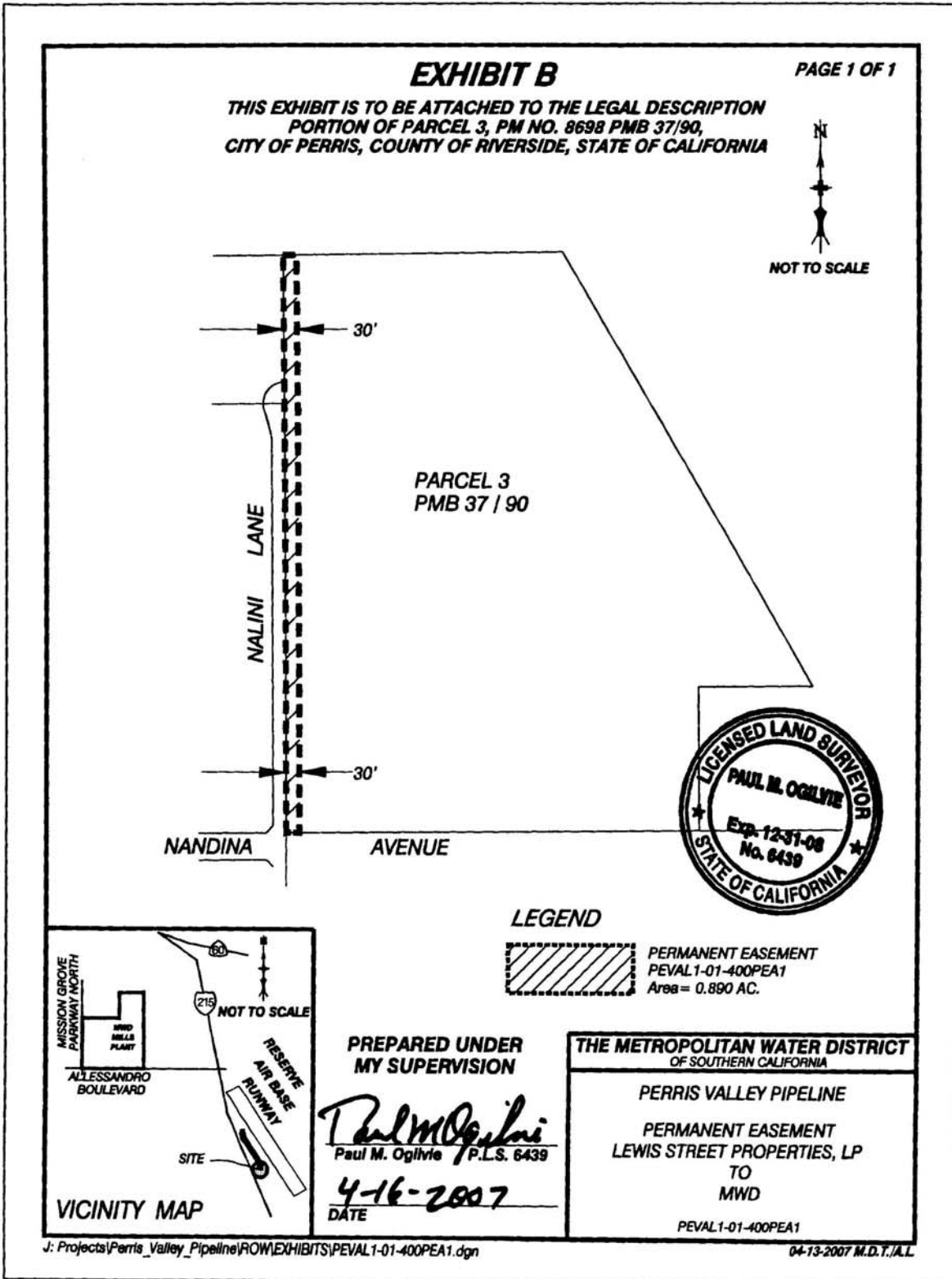


EXHIBIT A

PEVAL1-01-400TEA1
Lewis Street Properties, LP
to MWD

The easterly 150.00 feet of the westerly 180.00 feet of Parcel 3, in the City of Perris, County of Riverside, State of California, as shown on Parcel Map No. 8698, on file in book 37, page 90, of Parcel Maps, Records of said County.

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

END OF DESCRIPTION



PREPARED UNDER MY SUPERVISION

Paul M. Ogilvie
Paul M. Ogilvie, P.L.S. 6439

Date: 4-16-2007
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