

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

November 20, 2007 Board Meeting

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8-7

### **Subject**

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Hearing on adoption of resolution of necessity directing the General Counsel to condemn an interest in real property required for the Perris Valley Pipeline Project in Riverside County, identified by Riverside County Assessor's Parcel No. 294-190-038, Metropolitan's Parcel No. PEVAL1-01-200TEA1, and owner's name, FR/Cal Perris II, LLC [**Two-thirds vote required**]

### **Description**

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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. 294-190-038) is located near the southerly terminus of the pipeline's South Reach and consists of 4.7 acres of vacant land owned by FR/Cal Perris II, LLC, a Delaware limited liability company. The subject property is zoned for industrial uses and the owner has submitted pre-development plans to subdivide the property into ten lots with industrial buildings.

Metropolitan seeks to acquire a temporary easement (Metropolitan Parcel No. PEVAL1-01-200TEA1) across the subject property. The temporary easement will be 150 feet wide, covering an area totaling 1.12 acres adjacent to Western Way (formerly, Nalini Lane). The pipeline will be constructed within the street right-of-way so that no permanent easement will be required on the subject property. The temporary easement will be needed only for construction of the pipeline and has a term of three years.

On August 22, 2007, Metropolitan made an offer to the owner to purchase the easement for the appraised value of \$84,250. Staff is continuing to negotiate with the owner, but no agreement for the voluntary acquisition of the easement has been reached. To ensure that Metropolitan has legal possession of the easement 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 full 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

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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)

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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 Parcel No. PEVAL1-01-200TEA1 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

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#### 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 Parcel No. PEVAL1-01-200TEA1.

**Fiscal Impact:** \$84,250 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.

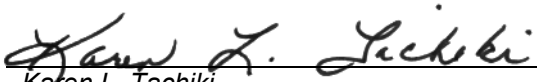
**Fiscal Impact:** Unknown costs in excess of the appraised value

**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**

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Option #1

  
Karen L. Tachiki  
General Counsel

10/11/2007

Date

  
Jeffrey Kightlinger  
General Manager

10/22/2007

Date

**Attachment 1 – Resolution of Necessity**

**Attachment 2 – Legal Description and Map**

BLA #5703

**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 No. PEVAL1-01-200TEA1**

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 property to be acquired for the public use set forth in section 1, above, consists of the interest in the parcel of land described in the Exhibit A attached hereto and incorporated herein by reference and shown on Exhibit B attached hereto and incorporated herein by reference.

Section 3. The District's Board hereby declares its intention to acquire the temporary easement 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 temporary easement described in Exhibits A and B attached hereto is 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 temporary easement 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 easement 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.

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Board Executive Secretary  
The Metropolitan Water District of  
Southern California

**LEGAL DESCRIPTION AND MAP**

**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 PEVAL1-01-200TEA1 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.

EXHIBIT A

PEVAL1-01-200TEA1  
Temporary Easement  
Fr/Cal Perris II, LLC  
to MWD

The easterly 150.00 feet of Parcel 3, as shown on Parcel Map No. 9278, in the City of Perris, County of Riverside, State of California, on file in book 37, page 80, of Parcel Maps, in the Office of the County Recorder 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  
J:/proj/pvp/ROW/LEGALS/PEVAL1-01-200TEA1 4/13/07

