

**Metropolitan Domestic Water Improvement District
Board of Directors Meeting**

November 14, 2012

**Approval of Right of Entry Agreement for Well Monitoring
by the Arizona Department of Environmental Quality**

Synopsis

The Board of Directors is requested to approve a five year Environmental Access Agreement between the Arizona Department of Environmental Quality (ADEQ) and the District completing water quality monitoring work at District wells, as part of the Remedial Investigation work in the Shannon Road-El Camino del Cerro WQARF site. The Board approved an access agreement with ADEQ on March 11, 2002 with a renewal on November 5, 2005 and November 2011. The current FY11/12 agreement expired on June 30, 2012. Staff recommends the new agreement be approved by the District since ADEQ has provided the District with a FY12/13 reimbursement agreement and addressed the District's concerns.

Background

The District began monthly monitoring in early 1994 of its supply wells in the Southwest Wellfield after traces of two volatile organic compounds (VOCs) were found at the South Shannon Well. As a precaution, blending of VOC-free water from the Latamore wells with South Shannon well water began in May 1995. At the December 1995 Board of Directors' meeting, District staff was directed by the Board to find viable water supply options in the South Shannon service area. A local environmental engineering consultant was selected by staff and approved by the Board at their April 8, 1996 meeting for design and specification of a wellhead treatment system.

State legislation was passed in 1996 to enhance the State's Superfund clean-up program. The State Superfund is also called the Water Quality Assurance Revolving Fund (WQARF). The program now has an expanded budget to foster clean up of groundwater contamination sites. Unfortunately, the program was not fully functional in 1996/1997, so in June 1997 the District expended its own funds to install a wellhead treatment system. The system became operational in July 1997 after a public workshop. The treatment system has consistently provided to customers in the South Shannon service area water free of VOCs until its shutdown in April 2004.

The Arizona Department of Environmental Quality (ADEQ) (responding to the District's request) designated the Shannon Road-Rillito Creek area as a State Superfund Site on April 23, 1999. The District prior to the monitoring agreement had voluntarily granted permission to ADEQ for monthly monitoring of VOCs and water levels at South Shannon, Latamore South, Wildwood, Deconcini,

Moore, and Estes wells as part a regional investigation of the Shannon/El Camino Del Cerro WQARF site. The purpose of the monitoring has been to track and understand the movement of VOCs within the aquifer in the project area and to help plan future cleanup efforts. ADEQ's monitoring involves collecting static water levels at the above mentioned District wells, City of Tucson wells, Pima County monitoring wells and some private wells.

Issues

The purpose of the environmental access agreement is to ensure ADEQ is responsible for any damages to the District well sites being monitored, that copies of collected data are transferred to the District in a timely manner, and that ADEQ has reasonable access for the duration of the remedial investigation and clean up. The monitoring data from District wells and the other affected wells will be useful to ADEQ in determining if other nearby District wells are at risk from contamination. The ADEQ monitoring program may also provide documentation on the likely origin of the source of the contamination affecting the wells. Control of the source could eventually help alleviate the need for on-going treatment at our South Shannon well. The ADEQ's monitoring efforts of the District wells has eliminated the need for District staff to monitor some of these wells. ADEQ uses water level monitoring procedures consistent with data collection efforts by the District.

Legal counsel and staff reviewed the new agreement and found no technical or legal reasons to not recommend Board approval. ADEQ's performance regarding the contract terms to date has been acceptable. Staff and counsel had recommended last year to the Board that Amendment No. 2 be renewed annually since ADEQ must abide by a State statute that does not require ADEQ to fund Property restoration to substantially the same condition as existed prior to the conduct of ADEQ's monitoring activities if ADEQ does not have an approved budget from the legislature. The new agreement removes that condition and now includes in Section 8 a Damage clause requiring that ADEQ and its contractors will restore District property to substantially the same condition as existed prior to ADEQ's activities.

By the Board approving the new environmental access agreement, the action keeps the ADEQ as the entity responsible for their consultant's work while on District property. The District does not have the funds to investigate the regional cause of the contamination. For the District to conduct the investigation would require an Intergovernmental Agreement (IGA) and an approved work plan from ADEQ that has been deemed by ADEQ as consistent with State Superfund guidelines. The District would still have to pay the costs and seek reimbursement after completion of the work and approval of the work products as consistent with Superfund guidelines.

At this time, staff believes it more cost efficient to District customers to have the ADEQ complete the groundwater contamination investigation work. Upon the completion of the remedial investigation and feasibility study, the District has the option from ADEQ to complete any water system improvements recommended under the remedial action plan. Staff has reviewed the

regulations and these costs are directly reimbursable on a time and materials basis since the ADEQ will have approved the design and construction plans.

Lastly, approval of the access agreement with ADEQ provides a positive image to our customers in cooperating with the investigation clean up.

Recommendation

Staff recommends that the Board of Directors approve the Environmental Access Agreement between the Arizona Department of Environmental Quality and the District with an expiration date of June 30, 2017.

Suggested Motion

I move to approve the Environmental Access Agreement between the Arizona Department of Environmental Quality and the District with an expiration date of June 30, 2017.

Respectfully submitted,

Warren Tenney
Assistant General Manager

I concur with staff's recommendation.

Respectfully submitted,

Mark R. Stratton, P.E.
General Manager