

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

December 18, 1992

To: Board of Directors (Legal and Claims Committee--Action)

From: General Manager

Subject: Resolution of Necessity Directing the General Counsel to Condemn Property Required for the Domenigoni Valley Reservoir Project in Riverside County, California, Identified as Riverside County Assessor's Parcel Nos. 466-090-004, 005, 007 and 466-080-008 (MWD Right of Way Parcel No. 144-1-29) and Owned by the Francis Domenigoni Family Trust Established December 18, 1978

### Report

The Metropolitan Water District will require the real property described in the Attachments, located in Domenigoni Valley, Riverside County, California, for a portion of the Domenigoni Valley Reservoir Project. The reservoir, the proposed construction, the required property, and the public necessity for the project and for the property are discussed in the attached statement of Metropolitan's Chief Engineer, Gary M. Snyder. The location of the property is shown on the attached drawing designated Exhibit B. An offer to purchase the property required by California Government Code section 7262.2 was made. On November 20, 1992, notice of intention to adopt a resolution of necessity and of an opportunity to appear and be heard before the Land Committee on December 7, 1992, as to the necessity for the Project and for the taking of the property were delivered to the owners of the property identified as Parcel 1 in Exhibit A attached hereto. Under the law, we must have received a written request for a hearing within 15 days after the notice was served in order for a hearing to be required. A request was received from the law firm Berger and Norton to appear on behalf of the property owners. A quorum of the Committee was present and a hearing was held. A written summary of the hearing and a written recommendation by the Land Committee as to whether the Board should adopt a resolution is attached hereto and was provided to the person who appeared before the Committee.

Transmitted herewith is a form of resolution declaring the necessity for the Project and for the acquisition of the property described in Exhibit A attached hereto, and directing the General Counsel to commence condemnation proceedings in Riverside County to acquire the property.

On October 8, 1991, your Board and its Advisory Committees acting on this matter certified that the Final Environmental Impact Report for the Eastside Reservoir Project, herein referred to as the Domenigoni Valley Reservoir Project, had been completed in compliance with the California Environmental Quality Act (CEQA) and the State Guidelines, and that it had reviewed and considered the information contained in that document. Your action on the subject resolution is therefore in compliance with CEQA. No further environmental documentation or review is necessary for your Board to act on this request.

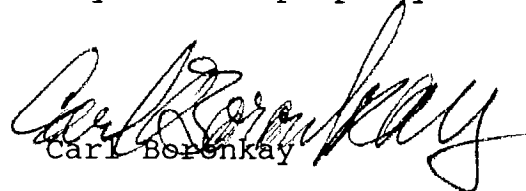
#### Board Committee Assignment

This letter is referred for action to the Legal and Claims Committee because of its authority (1) to advise, study, and make recommendations with regard to litigation brought by the District under Administrative Code section 2461(a).

#### Recommendation

#### **LEGAL AND CLAIMS COMMITTEE FOR ACTION.**

It is recommended that the Board of Directors, by a two-thirds vote, adopt the attached resolution declaring the necessity for the Domenigoni Valley Reservoir Project and for the property described in Exhibit A attached thereto and directing the General Counsel to commence condemnation proceedings in Riverside County to acquire the property.

  
Carl Berenkay

**SUMMARY OF HEARING AND RECOMMENDATION  
OF THE LAND COMMITTEE REGARDING  
WHETHER THE BOARD OF DIRECTORS SHOULD  
ADOPT A RESOLUTION OF NECESSITY TO  
CONDEMN CERTAIN PROPERTY FOR THE  
DOMENIGONI VALLEY RESERVOIR PROJECT**

On December 7, 1992, at Metropolitan Water District of Southern California headquarters, a hearing was held by the Land Committee of the Metropolitan Water District of Southern California Board of Directors. Acting Land Committee Chairman Patrick H. Miller presided. The Committee was called to order at 8:20 a.m. and a quorum was not present.

Mr. Miller requested that Deputy General Counsel Joseph Vanderhorst present the matter to the Committee. Mr. Vanderhorst noted that the agenda item was based on a letter from the General Manager requesting a Resolution of Necessity authorizing the acquisition of property in the Domenigoni Valley. He further noted that no action could be taken in the absence of a quorum, but that the matter would be presented as an informational item.

Mr. Vanderhorst discussed the legal requirements for the adoption of a Resolution of Necessity, including the requirement that the Resolution be adopted by a two-thirds vote of the Board of Directors. The law also requires that notice and the opportunity to be heard be given to the property owner. Metropolitan's Board of Directors has delegated to the Land Committee the authority to hold the hearing required by law. Mr. Vanderhorst reported that the property owner was served with the notice of the hearing on November 20, 1992, and a declaration of service was filed with the Executive Secretary. A written request to be heard was received from Richard Norton on behalf of the property owners and Mr. Norton was present at the hearing. Mr. Vanderhorst then requested that Gary Snyder make the staff presentation regarding the property.

Mr. Gary Snyder, Chief Engineer of Metropolitan Water District, described the project and referred to slides to show the location of the property. The property is located partially under the footprint of the West Dam to be constructed for the project. The entire parcel will be under the dam and the reservoir. A portion of the parcel will also be used for borrow material as part of the construction of the dam. The San Diego canal presently crosses the parcel and will be relocated to be outside of the dam area. In response to questions from Mr. Vanderhorst, Mr. Snyder stated that the proposed project is a necessary project which has been designed and located in the manner which serves the most public good with the least private injury, and the property is necessary for the project.

There were no questions from the Committee, and Mr. Vanderhorst asked Mr. Norton to proceed on behalf of the property owners.

Mr. Norton, from the law firm of Berger and Norton, introduced himself as the representative of the family trust which owns the property and the Domenigoni Partnership which farms it. He raised two issues for the consideration of the Committee. First, he stated it was not certain whether the water resources on the property had been valued by Metropolitan Water District. The property owners use the water to irrigate nearly 3,000 acres of land. Second, the Domenigonis own other property in the area and are not clear as to the impact of the project on the remainder of their property and whether all of the parcels which they own will be handled in one litigation. Mr. Norton indicated that there was a separate parcel owned by the Domenigonis that is to be taken for recreational or environmental mitigation use and a landscape buffer. Finally, he stated that he would like to have further information on the location of the spillway from the West Dam with regard to the Domenigonis' property and the impact on that property shown in the inundation study for the West Dam.

Chairman Miller requested that staff answer as many of the questions posed as possible. Dennis Majors, the Project Planner, responded first. He noted that there was a portion of the Domenigonis' other property that was identified as being necessary for environmental mitigation in the EIR to be used as habitat for endangered species. There is also a 50-foot strip along State Highway 79 to be used for a landscape buffer. He reported that an inundation study had not been prepared for the West Dam because the review, done as part of the environmental review process, found the possibility of catastrophic release of water to be extraordinarily remote. The study will be done as required by the Office of Emergency Services. Finally, Majors stated that the District had committed in the EIR on the project to mitigate for any loss of flow of surface or subsurface water.

Mr. Randy Case stated that the water system which is presently used to transfer water from Parcel 29 to irrigate the Domenigonis' other property will be replaced, so the valuation did not account for removal of the water system. At Mr. Norton's request, Mr. Case indicated that he would confirm that the appraisal did include valuation of the water resources.

Mr. Norton then inquired of Mr. Snyder when the inundation study would be done for the West Dam. Mr. Snyder replied that it was required to be done at the end of construction which would be up to ten years from the present. In response to queries from Mr. Norton, Mr. Majors stated that

the West Dam spillway would be routed around the Domenigoni family property and its capacity is stated in the EIR, but the channel alignment has not yet been engineered. Mr. Norton then inquired whether the West Dam would intercept water that would flow into the aquifer under the remaining Domenigoni family property. Mr. Majors stated that Metropolitan committed in the EIR to instal monitoring wells in the downstream area to determine historic groundwater levels and make sufficient releases of water to maintain those levels. The effect of the Dam on surface and subsurface flows would be fully mitigated in this manner.

Mr. Case pointed out that the subject parcel had been appraised separately from the Domenigonis' remaining property. A separate offer will be forthcoming on the remaining property. Mr. Vanderhorst stated that Metropolitan planned to proceed with acquiring Parcel 29 at this time and would consider consolidating the litigation with the remaining parcel when it reached litigation.

Mr. Norton made the point that the Domenigonis planned to develop the property in the future and the availability of water on the property is important to the development plan. He inquired whether the mitigation proposed was based on current uses or potential uses. Mr. Majors replied that the mitigation was based on existing flow amounts.

Chairman Miller then requested that the Committee reconvene at the end of the meeting of the Engineering and Operations Committee in the hope that a quorum would then be present, and the meeting was adjourned. The meeting was reconvened at 10:20 a.m. at which time a quorum was present.

Mr. Vanderhorst reviewed again the legal requirements for adoption of a resolution of necessity. Chairman Miller then requested that Mr. Norton proceed with his presentation.

Mr. Norton inquired whether the commitment to replace present levels of water resources were transferable or restricted to the present owners. He also inquired whether Metropolitan would provide the Domenigonis with storage to replace their recharge facility. He expressed concern that Metropolitan's commitment not be subject to cutbacks imposed by the State Water Board, and inquired whether the family would have to pay for annexation, and whether the family would be responsible for any fees charged by Eastern Municipal Water District for water delivery.

Mr. Majors then reviewed the location of the subject property in relation to the project. He noted that the EIR commits Metropolitan to make releases of water to maintain the historic groundwater levels downstream, and that monitoring

wells would be installed to measure these levels. The releases would be made through a variety of methods including using the proposed recreational lakes as percolation ponds. If there is a problem with using percolation to maintain the historic levels, Metropolitan would commit to a surface connection to provide the water. The details of any surface connection would have to be worked out with the property owners.

Mr. Norton stated that the Domenigonis were concerned with the loss of their water supply from Parcel 29 and the apparent long delay before any replacement system would be installed. Mr. Majors replied that it was the intent of Metropolitan to maintain the existing water levels prior to construction of the West Dam so that there would be no loss in available water. Mr. Norton reiterated that the owners' concern was with the loss of the wells on Parcel 29 which act as the principal source of water for the entire 3,000 acre ranch.

Director Kenneth H. Witt moved, and it was seconded by Director James H. Blake, that the Land Committee recommend that the Board of Directors adopt the proposed Resolution. The motion carried unanimously. Chairman Miller stated that a written summary of the hearing would be provided to the Board of Directors and to each person who appeared before the Committee, and that such person was entitled to appear and be heard before the Board of Directors on January 12, 1993, at 12:30 p.m.

STATEMENT OF GARY M. SNYDER IN SUPPORT OF  
RESOLUTION OF NECESSITY (DOMENIGONI VALLEY RESERVOIR PROJECT)

I, GARY M. SNYDER, declare:

1. I am chief engineer of The Metropolitan Water District of Southern California.

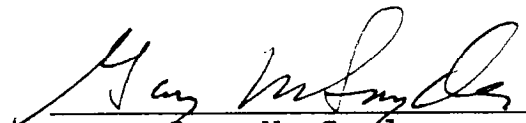
2. In order for Metropolitan to insure reliable delivery of water to its member public agencies for service to the public, it is necessary to construct, operate and maintain a water reservoir at a certain location in Domenigoni Valley, Riverside County, California.

3. The acquisition of the fee interest in the property described in the proposed resolution of necessity is necessary for the construction, operation and maintenance of the reservoir including construction of a portion of the West Dam, and relocation of the San Diego Canal from the property. The property is located within the Metropolitan's boundaries. There are no improvements on the property and it is used for agricultural purposes.

4. Metropolitan will require entry upon the property in order to be able to commence the work.

5. So that it may be assured that Metropolitan will have possession and may proceed with the work, it is necessary that the resolution be adopted in order that an action or actions may be commenced to condemn the property described in the proposed resolution of necessity, and a court order or orders obtained authorizing Metropolitan to take possession of the property.

Executed in Los Angeles, on November 30, 1992.

  
Gary M. Snyder

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  
DIRECTING THE CONDEMNATION OF CERTAIN PROPERTIES SITUATED  
IN RIVERSIDE COUNTY (DOMENIGONI VALLEY RESERVOIR PROJECT)

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

Section 1. The District's Board finds and determines that the public interest and necessity require, for public use, the construction, operation, and maintenance of a reservoir in the County of Riverside, California, for the storage and transportation of water for domestic and municipal uses 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 hereof consists of the fee interest in the parcel of land described in Exhibit A attached hereto and incorporated herein by reference. The property is located within the District's boundaries at the location shown on Exhibit B attached hereto and incorporated herein by reference. The District's Board finds and determines that the property is necessary for the proposed project.

Section 3. The District's Board of Directors hereby declares its intention to acquire the property by proceedings in eminent domain as authorized by the Metropolitan Water District Act (Stats. 1969, Ch. 209, as amended).

Section 4. The proposed 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 offer required by section 7267.2 of the California Government Code has been made to the owners of record of the property.

Section 6. 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 property and to take such steps as may be necessary to secure an order of court permitting the District to take possession of the property for the uses and purposes herein described. He is authorized to take such action and steps as he deems 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 would not



substantially impair the construction and operation of the said 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 12th day of January 1993, 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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Executive Secretary  
The Metropolitan Water District  
of Southern California

JV:mg  
reso\dome-bd.dir

EXHIBIT A

Parcel 1

144-1-29  
Domenigoni

The south half ( $S\frac{1}{2}$ ) and the southeast quarter of the northeast quarter ( $SE\frac{1}{4}NE\frac{1}{4}$ ) of Section 2, Township 6 South, Range 2 West, San Bernardino Meridian, in the County of Riverside, State of California.

EXCEPTING therefrom those portions conveyed to the Metropolitan Water District of Southern California per deeds recorded March 2, 1959 as Instrument No. 17103 and November 7, 1986 as Instrument No. 282492 both of Official Records.

ALSO EXCEPTING therefrom that portion conveyed to the County of Riverside by deed recorded December 5, 1973 as Instrument No. 157420, Official Records.

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**PREPARED UNDER  
MY SUPERVISION.**

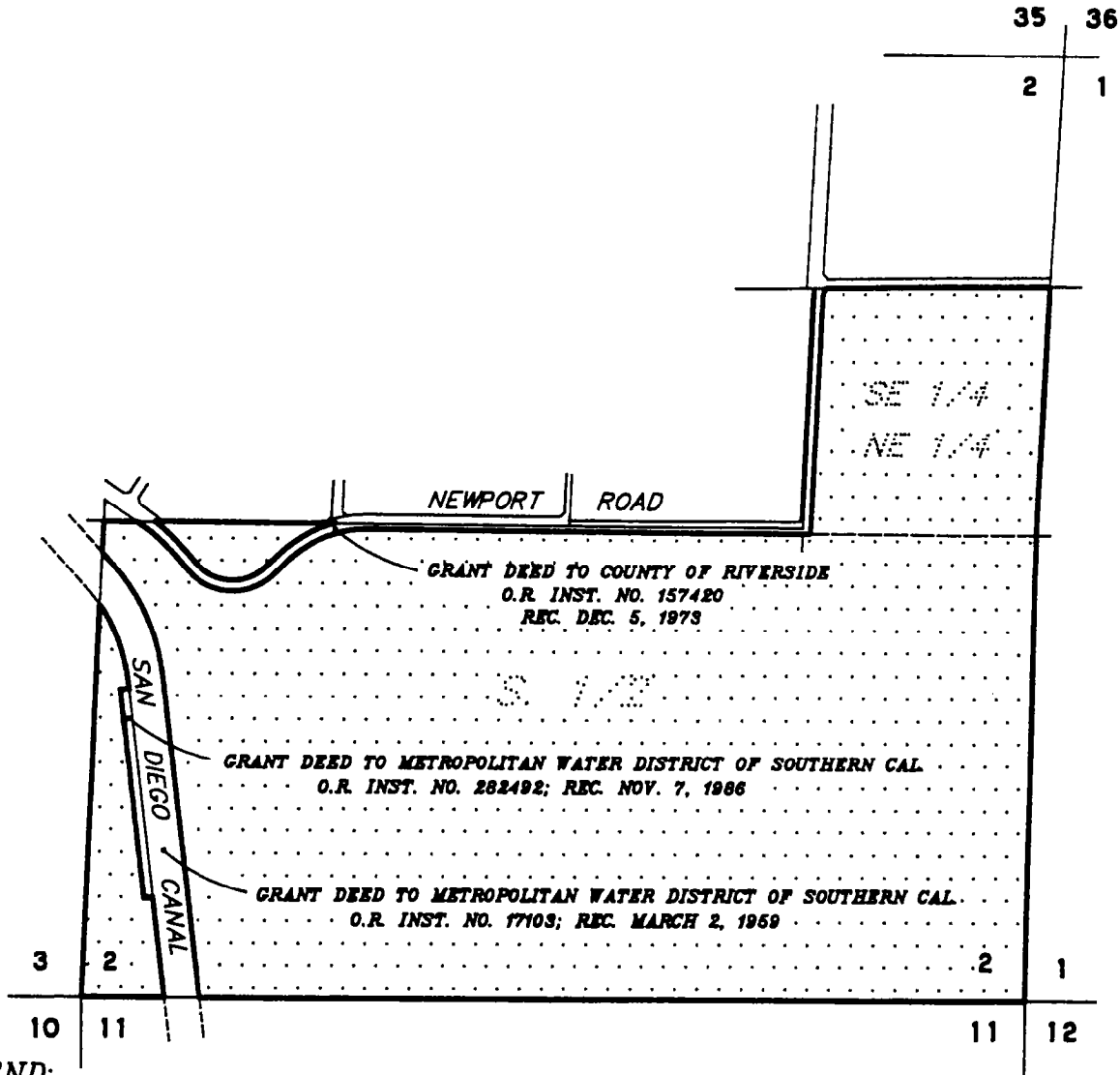
*Gerald L. Van Gompel*  
GERALD L. VAN GOMPEL

10-15-91  
DATE

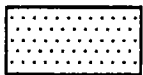
PARCEL 1

EXHIBIT B

SECTION 2, T.6S., R.2W., S.B.M.  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

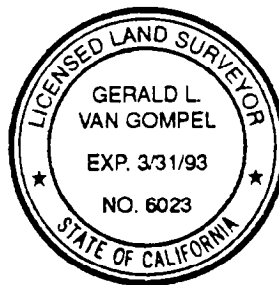
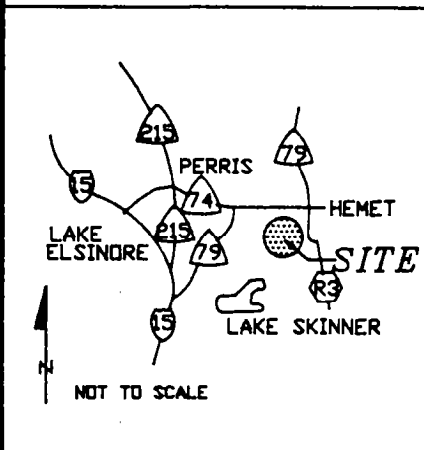


LEGEND:



= FEE PARCEL 144-1-29

VICINITY MAP



**PREPARED UNDER  
MY SUPERVISION.**

*Gerald L. Van Gompel*  
GERALD L. VAN GOMPEL

9-9-92  
DATE

**THE METROPOLITAN WATER DISTRICT  
OF SOUTHERN CALIFORNIA**

**DOMENIGONI VALLEY RESERVOIR PROJECT  
GRANT DEED  
FRANCIS DOMENIGONI, TRUSTEE OF THE  
FRANCIS DOMENIGONI FAMILY TRUST  
TO  
M.W.D.  
PARCEL 144-1-29**