

APR 12 1994



MWD *Dawn E. Duff*
METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

SUPPLEMENTAL 8-10

April 11, 1994

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.

Report

At its meeting on April 11, 1994, the Land Committee held a hearing on the adoption of a resolution of necessity to authorize the General Counsel to commence condemnation proceedings on the properties listed in the Attachment to the General Manager's letter dated March 21, 1994. At the conclusion of the hearing, the Land Committee voted unanimously to recommend adoption of the resolution of necessity.

In compliance with the provisions of the California Eminent Domain Law, a summary of the hearing and the Land Committee's recommendation is attached hereto.

Board Committee Assignment

This letter is referred for action to:

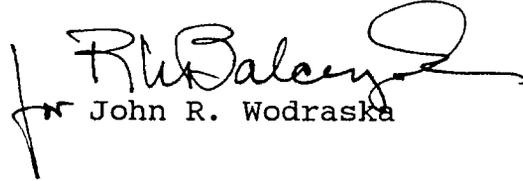
The Legal and Claims Committee because of its authority to advise, study, and make recommendations with regard to litigation brought by the District under Administrative Code section 2461(a).

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 project and for the properties described in Exhibits A and B to the General Manager's letter dated

March 21, 1994, and directing the General Counsel to commence condemnation proceedings in Riverside County to acquire those properties.


John R. Wodraska

JV:ks
KARSCH\JVBOARD\RESNLT17.SP
Attn.

**SUMMARY OF APRIL 11, 1994 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 April 11, 1994, at the offices of The Metropolitan Water District of Southern California, a hearing was held by the Land Committee of Metropolitan's Board of Directors. Land Committee Chairman Bob Kazarian presided. A quorum of the Committee was present.

Chairman Kazarian requested that Deputy General Counsel Joseph Vanderhorst present the matter to the Committee. Mr. Vanderhorst advised the Committee that the eminent domain law makes adoption of a resolution of necessity a prerequisite to the filing of an action to condemn property. The resolution may only be adopted after the property owner has been given notice and an opportunity to be heard on the necessity of taking the property. Metropolitan's Administrative Code provides that such hearings are to be held by the Land Committee. The issues to be determined in the hearing are whether the project is necessary, whether the project has been planned and located in the manner that is most compatible with the greatest public good and least private injury, and whether the property is necessary for the project.

The hearing on April 11, 1994, was held to determine these issues for the properties listed in the Attachment to the General Manager's letter dated March 21, 1994. Notice of the hearing was mailed March 23, 1994, to the owners of record as shown on the County Assessor's records. Written requests to appear and be heard were received from Mr. Alex Mlikotin and Mr. Dennis Massey on behalf of Gwendolyn Fuqua. Mr. Vanderhorst noted that Mr. Mlikotin was present. No other property owners appeared.

Mr. Vanderhorst requested that Mr. Dennis Majors make a presentation regarding the project and the properties which are the subject of the resolution. Mr. Majors explained that the Domenigoni Valley Reservoir is needed to provide storage capacity for drought, emergency use, and to improve the operational capacity of Metropolitan's delivery system.

Construction of the Eastside Pipeline is proposed as a part of the reservoir project. The pipeline will connect the reservoir to the southerly terminus of the Inland Feeder pipeline and allow water to be delivered into the reservoir as well as returned into the system as far as west Los Angeles County.

The Eastside Pipeline will be constructed along the east of the San Diego Canal alignment. The pipeline must be installed a sufficient distance from the Canal to avoid any danger of affecting the Canal's structural integrity. This requires the taking of additional right-of-way. Temporary right-of-way is also needed for the period of construction of the pipeline, and for a period after construction to complete restorative work in areas where endangered species habitat may be affected by the project.

The properties which are the subject of the resolution of necessity will be required for the Eastside Pipeline. Fee interests will be acquired for the areas in which the pipeline is located, to protect it against future development. Temporary easements are also necessary for the construction work.

Mr. Vanderhorst pointed out that one parcel, owned by Edward and Joan Dilginis, is being acquired in full because the Secondary Inlet Pipeline will be constructed through the middle of the property. The Secondary Inlet Pipeline will act as a secondary means for transferring water between the reservoir and Eastside Pipeline.

Mr. Vanderhorst then requested that Mr. Mlikotin make his presentation to the Committee. Mr. Mlikotin stated that he was retired after working over 30 years as a developer. He is presently working on developing a shopping center on the subject property and has received interest from several large retailers who believe this is the best location for them. He expects to complete a biological review of the property in May or June, and he has already received approval from the Fish and Wildlife Service.

Mr. Mlikotin has reviewed the appraisal done for Metropolitan by Richard Fuller. He does not agree that it reflects the compensation to which he is entitled. He contends that the takings covers 42% of the property and will prevent his development for the next five years. Therefore, he should be paid the lease value of the whole property for the five year period. The Committee inquired into the status of his proposed development and he stated that he was ready to commence in the near future. He provided the Committee with a letter stating his position and attaching a copy of the site plan for his development. A copy of the letter is attached hereto.

Mr. Vanderhorst reminded the Committee that the amount of compensation was not an issue for the hearing on resolution of necessity. The issues are whether the project is necessary, the property is necessary, and the project is planned for greatest public good and least private injury.

There were no further questions from the Committee. It was moved and seconded that the Committee recommend that the Board of Directors adopt, by a two-thirds vote, the proposed resolution of necessity. The motion was passed unanimously.

ALEX T. MLIKOTIN

Mailing Address
P.O. Box 1975
Santa Monica, Ca. 90406-1975
Phone (310) 451-8707
Fax (310) 395-9272

April 11, 1994

Land Committee of the Board of Directors
Metropolitan Water District of Southern California
350 South Grand Avenue
Los Angeles, Ca. 90071

Re: Hearing on Resolution of Necessity for acquisition of portion of Assessor's Parcel No. 455-1300-17-2, located north east of the intersection of State Highway 74/79 and Second San Diego Aqueduct, in the City of Hemet, Calif.

Greetings:

My wife and myself are fee owners of the above referenced property.

Metropolitan Water District (Met) is proposing to acquire portion of subject property for the purpose of constructing a pipeline, as follows:

a) acquire in fee, a strip of land 35 feet wide, and consisting of some 1.088 ac. +/-, along Second San Diego Aqueduct (Aqueduct);

b) lease for five years additional strip of land, 90 feet wide and running parallel to the above mentioned 35 foot strip and consisting of some 2.764 ac. +/-.

Total property taken for both of the above purposes would amount to 42% of the entire parcel we own.

Therefore, we claim that the balance of the parcel is not viable for any use by itself, be it sale or development.

Code of Civil Procedure §1240.030 states, among others, that "(b) the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury".

We object to the proposed taking of our property and construction of Eastside Pipeline on the following grounds:

a) Met has not been a good neighbour ever since it constructed the Aqueduct. Construction of that project resulted in creating flooding conditions on our property

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MET

due to change of grade above other properties on the east and west side of the Aqueduct, thus creating a dam. Natural flow of stormwater was prevented from reaching triple culvert running under the highway.

Our efforts to induce Met to re-grade the area have not been successful.

b) Met's offer to purchase and lease, based on the attached Appraisal Summery Statement, is at fault on its face.

1) Price offered for a purchase portion is not representative of the sales history of properties located on Highway 74/79, being Florida Avenue and a main commercial artery in San Jacinto Valley.

2) Rent offered for a leased portion, being \$100.-per ac/year, is less than property taxes even so we have owned the parcel for many years. This would, consequently, require us to subsidize Met for five years!

3) Notwithstanding the fact that your appraiser was fully informed by us as to planning, permitting etc. process and expenses surrounding development of this site, Severance Damages were appraised as "0".

Facts remain that purchase of a 35 foot strip would necessitate redesign of "Hemet Galleria", a shopping center to be developed on this site and on which some \$400,000.- in engineering, planning, fees, etc. has been expended.

Portion to be leased for five years would put on hold the entire 9.34 acres site since the 90 foot strip cuts across 87,816 sq. feet of improvements. (See plan attached).

It is true that most of the parking lot would not be included within the 90 foot leased strip, allowing us to develop a parking lot for customers who would have no stores to go to!

Hardly a lucrative enterprise.

Reasonable person, with no requirement that he or she be qualified appraiser, would instantly see the problem with Met's appraisal by asking a simple question:

What does the condemnee do with only 58% of his parcel for five years when 100% of the site is required for viable development by him - or sale to someone who would want to develop the site?

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MET

At what price would one have to sell subject property while 42% of the same is not available for five years?

There is also the fact that construction will be going on "just next door" for a long time with associated truck and heavy equipment traffic causing noise and dust being made worse due to regular wind conditions coming from the west.

We suggest that you revisit your appraisal in light of the above and consider **all applicable methods of appraising** enumerated in the law of Eminent Domain.

Respectfully submitted,


Alex T. Mlikotin


Elvira M. Mlikotin

Encl.

APPRAISAL SUMMARY STATEMENT

44223

MWD Parcel Nos.: 144-3-16 and 144-3-16TEA1

Property Owner: Alex T. Mlikotin, et ux.

Location: Adjacent to the east line of the San Diego Canal, north of Florida Avenue, City of Hemet.

Abbrev. Legal Descrip.: Portion of the southeast quarter of Section 12, Township 5 south, Range 2 west.

Assessors Parcel No.: 455-130-017

Type of Property: Vacant land.

Highest and Best Use: Speculative investment for future development with potential commercial uses.

Use Interrupted: Agricultural uses

Improvments/Crops Affected: None

Temporary Easement Term: 5 years, commencing mid-1994

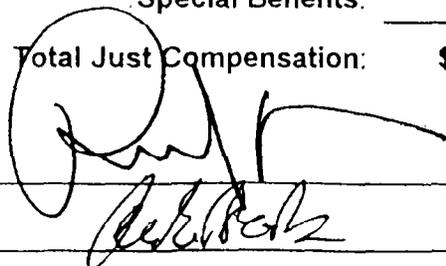
Date of Value: November 15, 1993

Special Limiting Conditions:

1. That, as the appraisal was not prepared for litigation purposes, a complete valuation of the larger ownership and remainder parcels was not made. However, consideration was given to any severance damages and/or special benefits which may result from the proposed taking.
2. That any existing or necessary access to the larger ownership parcel will be allowed so as not to damage the remainder parcel.
3. That upon expiration of the temporary easement, the property will be returned to its original condition.

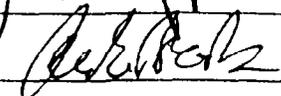
Parcel	Interest	Acres	Value
144-3-16	Fee	1.088	\$27,200
144-3-16TEA1	Temp Esmt.	2.764	1,400
	Total:		\$28,600
	Severance Damages:		0
	Special Benefits:		NA
	Total Just Compensation:		\$28,600

Appraisers: Richard A. Fuller, MAI



12/2/93

Andrew Brooks, MAI



12/2/93

Date

Date

Reviewed by: _____

Date

SUMMARY

LAND AREA	• 1,583,778 SF (36.36 AC.)
BUILDING AREA	• 364,269 SF
LAND/BUILDING RATIO	• 3.3/1 23%
PARKING PROVIDED	• 1,979
PARKING/BUILDING RATIO	• 5.4/1000
PARKING REQUIRED	1,457
LANDSCAPING PROVIDED	96,020 SF 5.5%

PARKING REQUIRED FOR THIS SCHEME IS BASED ON THE FOLLOWING SHOPPING CENTER, 364,269 SF/250 SF = 1,457

VICINITY MAP



A PROJECT FOR

Hemet Valley Galleria
 ALEX T. MLIKOTIN
 P.O. BOX 1975
 SANTA MONICA, CA 90406
 (213) 451-8707

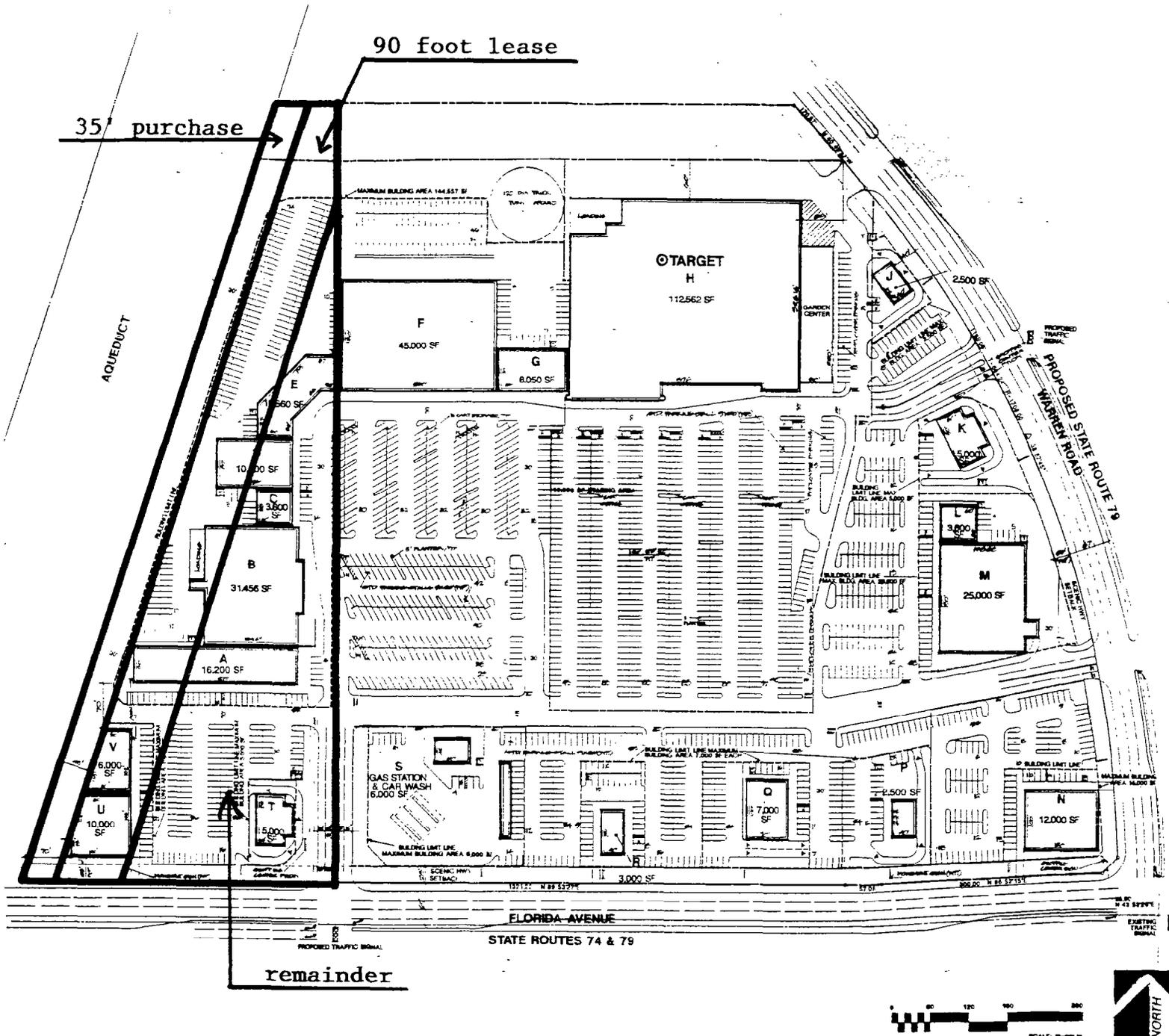
SITE PLAN

A COMMERCIAL PROJECT AT

NWC FLORIDA AVE. & WARREN RD.
 HEMET, CA

6/12/91 BC
 90-365

MusiPerkowitzRuth, inc.



remainder

COURT