

## SUPPLEMENTAL 8-8 AND 8-9

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

September 12, 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 September 12, 1994, the Land Committee held a hearing on the adoption of resolutions of necessity to authorize the General Counsel to commence condemnation proceedings on the properties listed in the General Manager's letters dated August 22, 1994. At the conclusion of the hearing, the Land Committee voted to recommend adoption of the resolutions of necessity.

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

It is recommended that the Board of Directors, by a two thirds vote, adopt the resolutions declaring the necessity for the project and for the properties described in Exhibits A and B, attached to the General Manager's letters dated August 22, 1994, and directing the General Counsel to commence condemnation proceedings in Riverside County to acquire the properties.

John R. Wodraska  
General Manager

By:   
Gary M. Snyder  
Chief Engineer

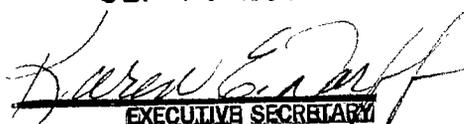
Concur:

  
John R. Wodraska

General Manager  
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Attm.

APPROVED IN CONJUNCTION WITH LETTERS  
DATED 8-22-94  
By the Board of Directors of  
The Metropolitan Water District  
of Southern California  
at its meeting held

SEP 13 1994

  
EXECUTIVE SECRETARY

**SUMMARY OF SEPTEMBER 12, 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 September 12, 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 Vice Chairman Doude Wysbeek presided. A quorum of the Committee was present.

Vice Chairman Wysbeek requested that Deputy General Counsel Joseph Vanderhorst present the matter to the Committee. Mr. Vanderhorst advised the Committee that the two Items (8-8 and 8-9) involved the hearing required by the eminent domain law prior to the commencement of a condemnation action. The issues for determination in the hearing are: 1) Whether the project for which the property is being acquired is necessary; 2) Whether the project is planned and located in the manner calculated to serve the greatest public good with the least private injury; and 3) Whether the property to be acquired is necessary for the project. Mr. Vanderhorst further advised that Metropolitan had made an offer to purchase each of the parcels, and the offer was rejected by the property owners.

Mr. Dennis Majors then made a presentation regarding the project and the property sought to be acquired. Item 8-8 involves Parcels 144-1-30 and 144-1-525. These parcels are 62 feet wide strips along Winchester Road which are being acquired for a landscape buffer to mitigate the aesthetic impacts of the dam. The impacts were identified in the environmental review process as a significant impact and the landscape buffer was adopted as a mitigation measure in the Final Environmental Impact Report to reduce that impact to insignificance. The landscape buffer itself is 32 feet wide and is offset from the Winchester Road right-of-way by 30 feet to accommodate planned widening of the roadway. It is necessary to have the mitigation in place within five years to coincide with the dam construction.

Mr. Majors stated that he had met with the property owners to discuss their request that the landscape buffer be moved easterly to the property line between their property and the reservoir project. Mr. Majors indicated that moving the buffer to the east would greatly increase the height required to screen the view of the dam. At the property line, it would be necessary to have a buffer that is about 200 feet high. This could not be achieved within the five year dam construction period.

Mr. Majors also stated that the screen would only need to be 15 feet high if located adjacent to Highway 79. He has agreed with the property owners that the landscaping can be limited to shrubbery, rather than trees, to reduce the shade impact on agricultural uses of the remaining property. Metropolitan has also performed soil studies which indicate that there will be no problems with the plantings. However, Metropolitan will maintain the plantings for up to five years to replace any landscaping that does not survive and to identify and correct any other problems which may arise.

Members of the Committee inquired about several issues, including whether the dam could be effectively screened at all because of its size. There was a discussion of the aesthetic impact of the dam on any development which may occur on the remaining property, with Mr. Vanderhorst indicating that any such impact would be addressed in the environmental document prepared for that development. The attorney for the property owners, Mr. Richard Norton, advised the Committee that the owners did have development plans which would be affected by the project. A Committee member inquired whether the project impact would be sufficient to justify acquiring the remainder of the property. Mr. Vanderhorst advised that Metropolitan must always consider the impact on a remainder and may attempt to acquire an uneconomic remainder. In this case, the remainder was determined to have sufficient value and it is not an uneconomic remainder.

Mr. Vanderhorst advised the Committee that the property owners had also expressed concern that the acquisition included the area within Holland Road, which is an unimproved public road that provides access to the owners' residence. Mr. Vanderhorst stated that the landscape easement would not be constructed within the public road, and the area was included to avoid creating a remnant in the event of any future abandonment of Holland Road. Mr. Norton stated that the property owners would be more comfortable with that portion of the take deleted. Mr. Majors agreed that this would not be a problem as his landscape buffer design does not include that area because of the existing road. Mr. Vanderhorst advised the Committee that the portion would be deleted prior to commencing the eminent domain action.

Mr. Majors then described Parcel 144-1-269, which is the subject of Item 8-9. This property is located in the southwest corner of the project and is required for the construction and operation activities for the reservoir. Portions of the property will also be used to mitigate the impacts on endangered species habitat caused by the project.

Vice Chairman Wysbeek then invited Mr. Norton to address the Committee on these two Items. Mr. Norton stated that the owners were still opposed to the landscape buffer, but his main purpose was to ensure that the taking did not result in the closing of Holland Road, which is the only access to the residence on the remainder. Mr. Andy Domenigoni, on behalf of the owners, stated that moving the landscape buffer to the east side of their property would still mitigate the visual impact of the dam, even if the dam was not screened completely. The property owners believe that relocating the landscape is the best means of providing the aesthetic mitigation while imposing the least injury on the private property owners.

On Item 8-8, the Committee voted to recommend that the Board of Directors adopt the Resolution of Necessity, with Directors Little and Wright voting "no." On Item 8-9, the Committee voted unanimously to recommend that the Board of Directors adopt the proposed Resolution of Necessity.